

ITEM NO. **8**

MEETING DATE: 12/8/16

APPLICATION NO. P-07-27

**TRINITY COUNTY PLANNING COMMISSION
STAFF REPORT**

APPLICANT: Darrell & Marilyn Marlin
(filed under Lane, Richard)

REPORT BY: John Jelichich

AGENT: Joan Carr

APN: 015-440-39

PROJECT DESCRIPTION:

One year time extension of tentative map approval to create two parcels of approximately 2.5 acres each (Exhibit A)

LOCATION: Located at 60 New Road (off of Union Hill Road), Douglas City (Exhibit B)

PROJECT INFORMATION:

- A) Planning Area: Douglas City
- B) Existing General Plan Designation: Rural Residential (RR)
- C) Existing Zoning: Rural Residential, 2.5 acre min.
- D) Existing Land Use: residential
- E) Adjacent Land Use Information:

	<u>Adjacent Uses</u>	<u>Zoning</u>	<u>General Plan</u>
North:	residential	RR 2.5	Rural Residential
South:	BLM land	AF-160/Open Space	Resource
East:	residential	RR 2.5	Rural Residential
West:	BLM/vacant res.	RR 2.5	Rural Residential

Background Information:

In April 2016 planning staff met with the project engineer and discussed issues regarding the road access to proposed Parcel 2 and the intended off-site cul-de-sac for fire equipment turn-around. After completing on-site review and preparing additional engineering, it became clear that the off-site improvement would be difficult to construct. The subdivider has been meeting with County engineering staff to possibly construct a hammer-head turnaround at the end of Parcel 2. Due to the time necessary to work out the details, an additional construction season will be necessary to complete the road work. The need for the map extension was discussed at various times between April and September when the previous planner left the department and the interim planner had not arrived.

The tentative map was approved by the Planning Commission on August 9, 2007 (Resolution PC-2007-06, attached as Exhibit C) and included a modification to the road standard to meet fire safe standards at that time, but also to reduce the amount of earth disturbing activity.

Tentative Map Extensions:

A tentative map is initially approved for twenty-four (24) months, and can be extended for an additional 12 months upon approval by the county. (Other time lines can apply, but for this four parcel division the standard would be 24 months, plus 12 months.) The subject subdivision was originally approved by the Planning Commission, with conditions, on August 9, 2007. The applicant is still eligible for an extension because the state legislature granted "special" extensions to maps during the recession. Those extensions have now ended. The applicant is requesting the one year extension of the map using the normal provisions of the Subdivision Map Act and the County Subdivision Ordinance. It took some research, but staff has traced back the time and the "special" legislative extensions. This subdivider (Lane, now Marlin) is still eligible for the county extension of tentative map approval of up to twelve (12) months.

Commission Authority:

The Subdivision Ordinance (Trinity County Code, Chapter 16; adopted March 4, 1986) identifies the Planning Commission as the Advisory Agency having the authority to approve subdivisions and other actions. By resolution 86-01, adopted on March 27, 1986, the Planning Commission delegated some authority to approve parcel maps and some other more routine actions to the Subdivision Review Committee (refer to definition of "Advisory Agency" in the Subdivision Ordinance for the authority to delegate). It is the Subdivision Review Committee (SRC) that approved the Adams Subdivision before you tonight. The reason it is scheduled for Planning Commission review is that there is no business before SRC, so rather than call a special meeting for the purpose of this extension it is being placed on the Commission's agenda.

The Commission can do the following:

- Approve a time extension of tentative map approval for up to 12 months.

- Deny the request for a time extension. This will result in a map expiration date of August 9, 2016.

Despite language suggesting otherwise in the Subdivision Ordinance, the county cannot modify, add or delete conditions of approval. (The process for the subdivider to do that would be a post subdivision modification.)

In *El Patio v. Permanent Rent Control Bd*, 110 Cal. App. 3d (1980), the Court determined that new conditions could not be added. The only condition allowed would pertain directly to the length of time for the map extension. There has been some debate regarding adding conditions based upon findings that pertain to health and safety issues, but generally adding or changing conditions is not a good idea because it affects due process and because the county has other methods available to the applicant to seek relief from a condition, such as the post subdivision modification process. In any case, such changes would require notice and public hearing. The applicant, neighboring property owners and possibly review agencies may have an interest in participating in the discussion.

There are provisions that could allow the county to add conditions, but only if the subdivider agrees to the change. (*Rosco Holdings, Inc. v. State of Cal.*, 212 Cal. App. 3d 642 (1989). Why would a subdivider agree to a new or modified condition? Because when faced with the alternative of having the map extension denied or adding a new condition, the subdivider may find that the added condition is preferable to starting the map approval process over again.

STAFF RECOMMENDATION:

Staff recommends that the Commission:

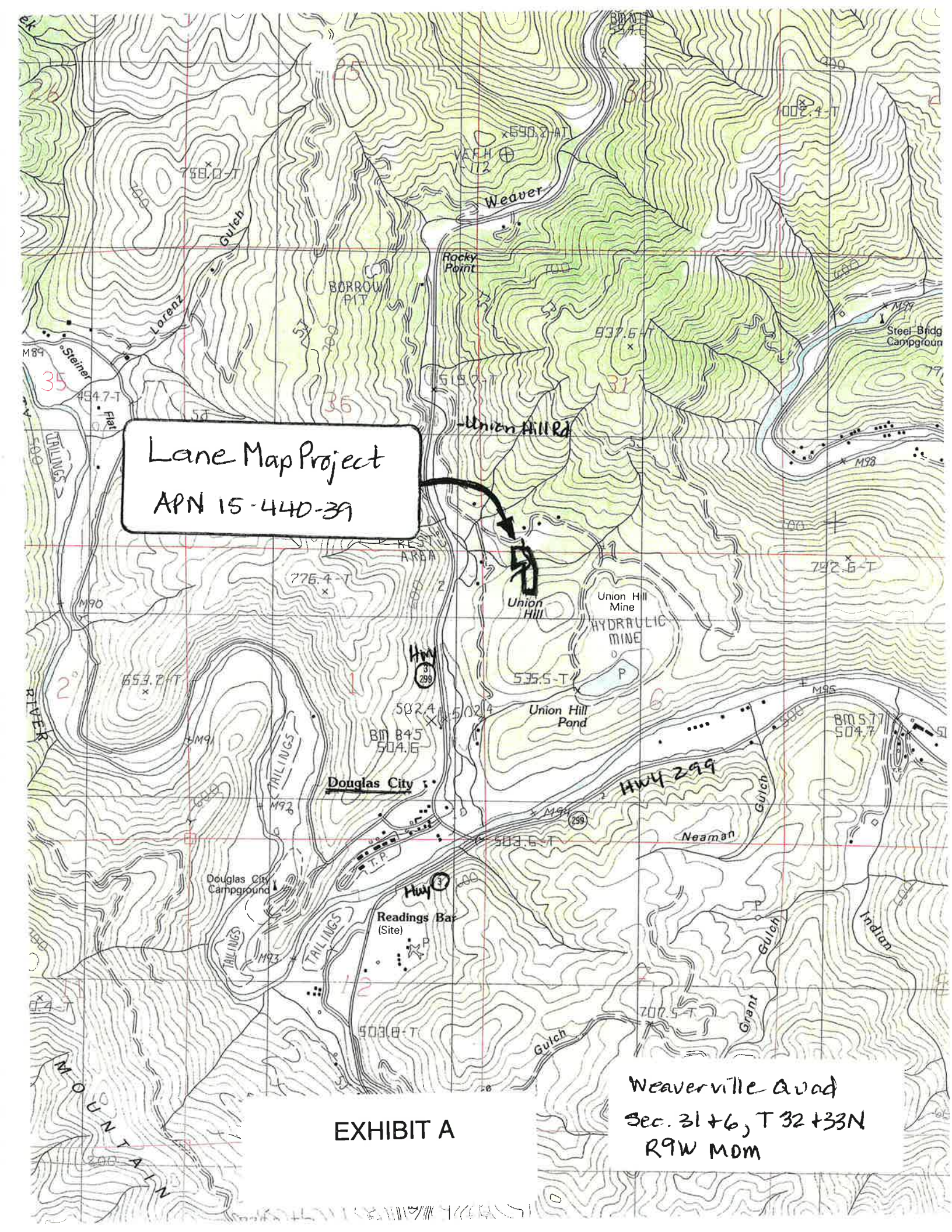
Grant a twelve (12) month time extension for the Lane (Marlin) subdivision, APN: 015-440-39 (file: P-07-27). The new expiration date shall be **August 9, 2017**.

Lane Map Project
APN 15-440-39



EXHIBIT A

Weaverville Quad
Sec. 31 + 6, T 32 + 33N
R 9W MDM





OWNER: RICHARD AND VIRGINIA LANE
 PO BOX 1845
 WEAVERVILLE CA 96093
 PHONE: 530-623-4077

SUBDIVIDER: DAVE DUCKWORTH
 PO BOX 2824
 WEAVERVILLE CA 96093
 PHONE: 530-623-5884

SURVEYOR: CARR CONSULTANTS, INC.
 COURTHOUSE SQUARE
 121 FOREST AVE.
 PO BOX 3317
 WEAVERVILLE CA 96093
 PHONE: 530-623-4530
 FAX: 503-623-2816

ASSESSOR'S PARCEL NUMBER: APN 015-440-39
STREET ADDRESS: 60 NEW ROAD

EXISTING GENERAL PLAN: RURAL RESIDENTIAL
PROPOSED GENERAL PLAN: RURAL RESIDENTIAL

EXISTING ZONING: RR 2.5, CWR
PROPOSED ZONING: RR 2.5 CWR

EXISTING USE: RESIDENTIAL
PROPOSED USE: RESIDENTIAL

WATER SUPPLY: WEAVERVILLE COMMUNITY SERVICE DISTRICT
SEWAGE DISPOSAL: INDIVIDUAL SEPTIC SYSTEM
UTILITIES: TPUD

ACCESS: OFF UNION HILL ROAD

TENTATIVE PARCEL MAP

A DIVISION OF PARCEL 1 OF THE MAP FILED FOR RECORD IN BOOK 10 OF MAPS AND SURVEYS, PAGE 26, TRINITY COUNTY RECORDS, BEING A PORTION OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 9 WEST, M.D.B.&M., AND A PORTION OF SECTION 31, TOWNSHIP 53 NORTH, RANGE 9 WEST, M.D.B.&M., TRINITY COUNTY CALIFORNIA

RICHARD AND VIRGINIA LANE
 PREPARED BY
CARR CONSULTANTS, INC.
 LAND SURVEYING AND CIVIL ENGINEERING
 COURTHOUSE SQUARE - 121 FOREST AVENUE
 PO BOX 3317 WEAVERVILLE CA 96093
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0012.01
 MAY, 2007

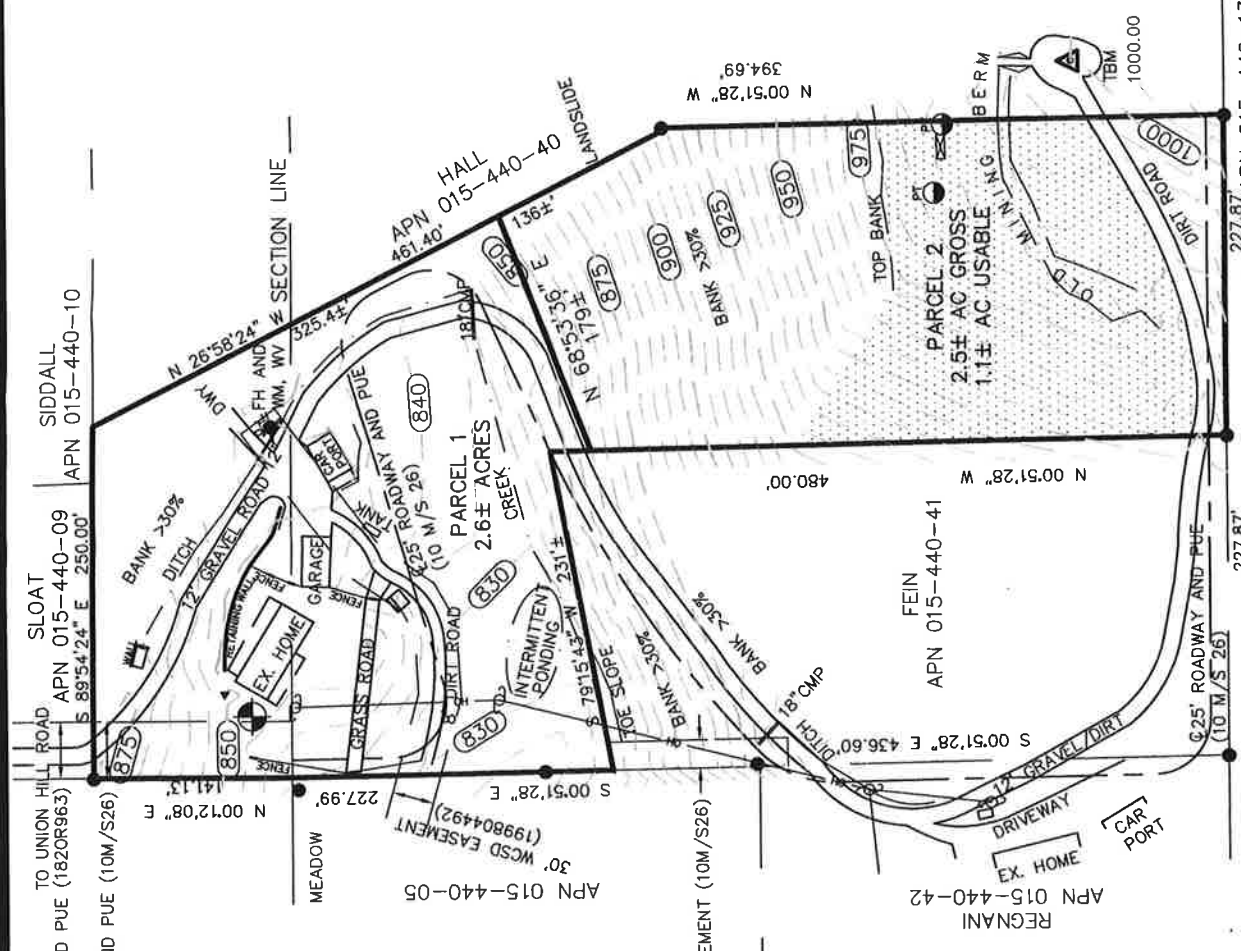


EXHIBIT B

- 1. THE BOUNDARY SHOWN IS RECORD ONLY TAKEN FROM THE RECORD MAP FILED IN BOOK 10 OF MAPS AND SURVEYS AT PAGE 26, TRINITY COUNTY RECORDS
- 2. THE 25' ROADWAY AND PUBLIC UTILITY EASEMENT AS SHOWN ON 10 M/S 26 DOES NOT CLOSE MATHEMATICALLY AND VARIES FROM THE CONSTRUCTED ROADWAY LOCATION
- 3. THE MAPPED PROPERTY LINE BETWEEN PARCELS 1 AND 3 AS SHOWN ON 10 M/S 26 IS NOT COINCIDENT WITH THE CREEK AS IT NOW EXISTS
- 4. A TEMPORARY BENCHMARK (TBM) HAS BEEN SET AT THE ROADWAY TURNAROUND, ASSUMED ELEVATION 1000.00. ALL ELEVATION SHOWN ARE RELATIVE TO THE TBM
- 5. CONTOURS SHOWN ARE TO INDICATE THE ROUGH LAY OF THE LAND ONLY AND ARE NOT PRECISE OR INTENDED FOR DESIGN USE

THE SITE IS IN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 100-YEAR FLOOD PLAIN, AS SHOWN ON THE FLOOD INSURANCE RATE MAP, FIRM MAP No. 06105C0520 B, REVISED AUGUST 16, 1988, PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEMA

NOTES

RESOLUTION NO. PC-2007-06

ADOPTED BY THE TRINITY COUNTY PLANNING COMMISSION
A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING
A TENTATIVE MAP FOR LANE
(P-07-27)

WHEREAS, the Planning Commission, on August 9, 2007, held a public hearing on the request for approval of a tentative map for property located at 60 New Road, Douglas City; and

WHEREAS, all governmental and utility agencies affected by the development of the proposed subdivision have been notified and given the opportunity to respond; and

WHEREAS, the Planning Commission has determined that the proposed project will not have a significant effect on the environment, and has provided notice to the public of the preparation of a Negative Declaration; and

WHEREAS, the Planning Commission has considered the effects that approval of the proposed subdivision would have on the housing needs of Trinity County and has balanced these needs against the public service needs of residents, and available fiscal and environmental resources;

NOW, THEREFORE, BE IT RESOLVED BY THE SUBDIVISION REVIEW COMMITTEE OF TRINITY COUNTY THAT:

1. The Negative Declaration has been prepared in compliance with CEQA, State and County Guidelines, and the Commission has reviewed and considered the information contained therein.
2. None of the conditions described in Government Code Section 66474, subsections (a) through (g) inclusive, exist with respect to the proposed subdivision.
3. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the County General Plan, and Section 16.12.150 of the Subdivision Ordinance, and Fire Safe Ordinance 1162.
4. The discharge of waste from the proposed subdivision will not result in violation of the applicable waste discharge requirements prescribed by the California Regional Water Quality Control Board.
5. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.
6. A Subdivision Modification from the required road design standards is granted based on the following findings:

EXHIBIT C

- a. There are conditions affecting the subject property that makes it impractical and/or undesirable to conform to the strict application of the regulations. The soil type and degree of slope could create unstable slopes if modifications are made to the road. There are already areas available for turnouts that will allow for the passing of vehicles with good line of sight.
 - b. That cost to the subdivider of strict or literal compliance with the regulation is not the sole reason for granting the modification.
 - c. That the modification will not be detrimental to the public health, safety or welfare or be injurious to other properties in the vicinity in that road turnouts will be incorporated to allow for passing of vehicles, and by not cutting into and further disturbing the soils, chances of a landslide are minimized. In addition, it will meet the requirements of Cal Fire as stated in the letter from Lance Berry, CDF (Cal Fire), dated 7/20/2006.
 - d. Granting the modification is in accordance with the intent and purpose of these regulations and is consistent with the General Plan in that this keeps the very rural nature of the area. Also the remainder of the road will be brought to the required width and standard.
7. The tentative map for the proposed subdivision is hereby approved, subject to the following conditions, which must be satisfied prior to the filing of the parcel map unless a different time for compliance is specifically noted:

A. Roads

- 1) New Road (the privately maintained access road) shall be improved to a Category 1 road design standard from its intersection with Union Hill Road (County Road No. 219) to the north boundary line of Parcel 1.
- 2) A modification has been granted on the remainder of New Road, from the north boundary line of Parcel 1 to the east line of Parcel 2, near its terminus. This portion of road shall be improved to a Category D road design standard modified to incorporate recommendations contained in the letter dated July 13, 2007 prepared by Carr Consultants, Inc.
- 3) An easement wide enough to incorporate all aspects of the road geometry shall be provided for access road (New Road) in its existing location and shown on the map, where said road lies within the subject property.

- 4) All existing or proposed encroachments onto Union Hill Road, County Road no. 219, shall conform to Department of Transportation standards. An Encroachment Permit is required.
- 5) The access road (New Road) shall meet all other requirements of the Trinity County Fire Safe Ordinance such as vertical clearance, vehicle weight requirements, and gate widths.

B. Grading Plan

A grading, drainage and erosion control plan shall be prepared prior to any road work that shows and explains the best management practices to be employed to reduce potential for sediment to enter the unnamed creek. All work is to be performed between April 15 and October 15. The Plan shall be subject to the review and approval of the Planning Director, or his/her designee.

C. Utilities

Existing utility lines shall be shown on the parcel with minimum 20 foot wide easements provided.

D. Notice of Environmental Constraint

A Notice of Environmental Constraint shall be recorded which includes the language listed below. The Notice shall be submitted to the Planning Director for review and approval prior to being notarized and recorded.

- 1) A grading, drainage and erosion control plan shall be submitted prior to any soil disturbance on the parcels in preparation for building pads or access roads, and shall be subject to the review and approval of the Planning Director. The Plan shall address grading of the homesite for development of all utilities and structures, and methods for erosion and sediment control. The plan shall include a site plan showing the areas for treatment and the methods to be used.
- 2) In the event that previously unidentified cultural or paleontological resources are encountered during development of the parcel, there shall be no further excavation or disturbance of that area. The owner/developer shall avoid the materials and their contents. The Trinity County Planning Director shall be notified immediately, and an archaeologist consulted to determine if the find is significant and make recommendations for appropriate mitigation. Work shall not continue in the area until mitigations have been implemented and written authorization to resume work has been provided by the Planning Director.

- 3) In the event that previously unidentified evidence of human burial or human remains are discovered, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains. The Trinity County Coroner must be informed and consulted, per state law. If the Coroner determines the remains to be Native American, he/she will contact the Native American Heritage Commission who will contact the most likely descendent who will be given an opportunity to make recommendations for means of treatment of the human remains and any associated grave goods. Work shall not continue in the area until the human remains have been dealt with according to the recommendations of the County Coroner, Native American Heritage Commission and/or the most likely descendent.

AYES: Commissioners Tom McKnight, Ray Bushman, Keith Groves, Chuck Johnson

NOES: None

ABSTAIN: None

ABSENT: Commissioner Jim Jungwirth



for CHAIRMAN - Jim Jungwirth

ATTEST:



Secretary of Trinity County
Planning Commission

CHUCK JOHNSON
VICE-CHAIRMAN

NOTE: Approval of this tentative map will expire on August 9, 2009. Any requests for a time extension must be received by the Trinity County Planning Department 30 days prior to this expiration date.