



# **RESOLUTION No. \_\_\_\_\_**

## **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

### **RESOLUTION DENYING THE APPEAL FILED BY GLENN CHRIST REGARDING THE PLANNING DEPARTMENT'S SEPTEMBER 15, 2023 LETTER OUTLINING THAT THE APPROVED CHRIST TENTATIVE FINAL MAP (FM07-010; EIS08-053) WAS NOT ELIGIBLE FOR THE STATE AUTOMATIC EXTENSION OF TIME PROVIDED BY ASSEMBLY BILL 1561 AS A MATTER OF LAW**

WHEREAS, on August 28, 2008, the Nevada County Planning Commission approved Mitigated Negative Declaration (EIS08-053) and a Tentative Final Map (FM07-010) proposing to divide a 34.75-acre parcel owned by Mr. Glenn Christ into nine (9) residential lots ranging from 1.06 to 6.73 acres with a 7.4-acre community owned Open Space parcel (Lot A) and a 14.3-acre remainder, on property located at 16210 American Hill Road in Nevada City); and

WHEREAS, the original approval of the project was valid for 36-months from the end of the appeal period (September 8, 2008) and was set to expire on September 8, 2011; and

WHEREAS, following this approval, the State of California passed several legislative actions that automatically extended the expiration dates for approved maps. The project took advantage of several of these State actions, including Assembly Bill 333 (two additional years), Assembly Bill 208 (two additional years) and Assembly Bill 116 (two additional years). These automatic extensions passed by the State extended the expiration date of the project to September 8, 2017; and

WHEREAS, on June 22, 2017, the Planning Commission approved the first available County authorized extension of time (EXT17-0007) for the Tentative Final Map extending the project approval to September 8, 2020; and

WHEREAS, On July 15, 2020, Mr. Christ filed a timely application for a final 3-year County extension of time (EXT20-0007). Pursuant to the California Subdivision Map Act Section 66452.6(e), the map was automatically extended for "60-days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first;" and

WHEREAS, on September 24, 2020, the Nevada County Planning Commission approved the final County extension of time providing a final 3-year timeframe for Mr. Christ to meet the project conditions of approval and record the map; and

WHEREAS, the approval of the final extension of time (EXT20-0007) resulted in a final expiration date for Tentative Final Map FM07-010 of September 3, 2023; and

WHEREAS, pursuant to Land Use and Development Code Chapter IV: Subdivision Ordinance, the County of Nevada has exhausted the eligible map extension for the Christ Tentative Final Map (FM07-010) providing a total of 9-years plus an additional 6-years of state automatic extensions of times, that gave Mr. Christ approximately 15-years to complete the map conditions of approval and record the map; and

WHEREAS, on August 7, 2023, Mr. Christ inquired with the Nevada County Planning Department via email into the potential eligibility for his tentative final map to be further extended because of California Assembly Bill AB1561 (Garcia) approved by the Governor on September 28, 2020 and which became effective January 1, 2021, and due to a perceived four-month moratorium because of a delay in the review of the road improvement plans required for the map to record; and

WHEREAS, the Planning Department provided timely responses, after reviewing the applicable law and researching the timing associated with the review of his improvement plans in 2020, informing Mr. Christ that the map did not qualify for the automatic extension provided by AB1561, citing the law. Through these communications, Mr. Christ was also informed that the amount of time that it took to review the road improvement plans did not constitute a government-imposed moratorium, and that he had ample time through both state and local extensions of time to complete the conditions of approval and record the map; and

WHEREAS, following this communication, Mr. Christ continued to request an extension of time through AB1561 as a result in the delay in the review of his road improvement plans in 2020, formally submitting a County Extension of Time application on September 7, 2023 requesting 22-months via the aforementioned state automatic extension of time (18-months) and as a result of the delay of the review of his improvement plans in 2020 (4-months); and

WHEREAS, the Planning Department prepared a formal written response to Mr. Christ dated September 15, 2023, outlining the Department's findings regarding the FM07-010's eligibility for further extension based on AB1561 and Mr. Christ's claim that the County imposed a development moratorium pursuant to Government Code Section 66452.6(f); and

WHEREAS, pursuant to Section L-II 5.12.D of the Nevada County Land Use and Development Code, any decision of the Planning Agency may be appealed within 10 days after the date of the decision; and

WHEREAS, on September 25, 2023, Mr. Glenn Christ., "Appellant" filed a timely appeal of the Planning Department's September 15, 2023 informational letter; and

WHEREAS, on October 10, 2023, the Board of Supervisors adopted Resolution 23-518 to accept the appeal filed by Mr. Christ and scheduled the appeal for hearing on November 7, 2023 at 1:30 p.m.; and

WHEREAS, on November 7, 2023, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and denied the appeal, upholding that the Christ Tentative Final Map (FM07-010) was not eligible for the 18-month state automatic extension of time provided for by AB1561, due to the fact that the local agency extended the map for a period of 3-years, on or after March 4, 2020, but before the effective date of the bill (September 28, 2020), as a matter of law outlined in Government Code Section 65914.5; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that it hereby finds and determines that:

1. The facts set forth above are true and correct.
2. That the Christ Final Map (FM07-010) has remained eligible to record for a period of 15-years including 9-years as allowed by Land Use and Development Code Chapter IV: Subdivision Ordinance and 6-years through three distinct State of California Automatic Extensions of Time.
3. That Land Use and Development Code Chapter IV: Subdivision Ordinance provide a finite amount of time for tentative maps to meet their conditions of approval and record (9-years); and

4. That the California Subdivision Map Act, specifically Government Code Section 66452(d) and Nevada County Subdivision Chapter IV Section L-IV 2.12.C provide for the expiration of tentative maps as follows: “[t]he expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within such tentative map shall be filed after the expiration date without first processing a new tentative map.”
5. That the County of Nevada does not have the authority to retroactively apply an Automatic State Extension of Time for the Christ Map (FM07-010) because as a matter of law, the Christ Tentative Final Map (FM07-010) is not eligible to be extended by AB1561/Government Code Section 65914.5.
6. That the location and custodian of the documents which constitute the record of these proceedings is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal of the Appellant and upholds the information provided by the Planning Department in a letter to the Appellant dated September 15, 2023, based on the findings as set forth herein.

The Planning Director is hereby directed to work with the Appellant regarding the resubmittal of FM070-010 as allowed for by Nevada County Land Use and Development Code Chapter IV, Section L-IV 2.12.C.

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure section 1094.6.