

**COUNTY OF EL DORADO PLANNING & BUILDING  
DEPARTMENT  
ZONING ADMINISTRATOR  
STAFF REPORT**



<b>Agenda of:</b>	August 15, 2018
<b>Item No.:</b>	4.a.
<b>Staff:</b>	Aaron Mount

**PARCEL MAP CORRECTION**

**FILE NUMBER:** P79-0129-C/Pelletier Trust

**AGENT:** James Wilson, Site Consulting, Inc.

**APPLICANT:** Leonard Gaudette, Trustee

**OWNER:** Jack E. Pelletier and Mary Ann Pelletier Revocable Trust.

**REQUEST:** Amend Parcel Map 24-126 to reduce a portion of a 100-foot non-building easement from the centerline of Canyon Creek to 50-feet.

**LOCATION:** East end of Odyssey Falls Road, approximately 0.8-miles north of the intersection with Spanish Dry Diggings Road in the Georgetown area, Supervisorial District 4. (Exhibit A)

**APN:** 061-042-49 (Exhibit B)

**ACREAGE:** 13.377 acres

**GENERAL PLAN:** Rural Residential (RR) (Exhibit C)

**ZONING:** Rural Lands Ten-Acres (RL-10) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 (Minor Alterations in Land Use Limitations)

**RECOMMENDATION:** Staff recommends the Zoning Administrator take the following actions:

1. Certify that Parcel Map Amendment P79-0129-C to be Categorically Exempt from the requirements of CEQA pursuant to Section 15305; and

2. Approve Parcel Map Amendment P79-0129-C amending Parcel Map 24-126, based on the Findings and subject to the Conditions of Approval as presented.

## **BACKGROUND**

Tentative Parcel Map P79-0129 was approved April 18, 1979 and resulted in the recording of Parcel Map 24-126 on August 1, 1979 (Exhibit F). Parcel Map 24-126 created two parcels identified as Parcels A and B. Parcel A has a notation stating “Approx. CL of Canyon Creek and a 100’ non-building easement” and symbology displaying the center line of Canyon Creek.

The project site was developed with a single family dwelling in 1980. According to the family, unpermitted improvements were made to the main residence and an existing garage was converted to a second residence. As-built permits were submitted in July, 2017 to correct the unpermitted structures and existing unpermitted retaining walls. Approval of this Parcel Map correction would allow a revision of the 100-foot setback line from the stream running through the eastern portion of the property to 50 feet (Exhibit H&G). This reduction is necessary in order to allow for permitting the as-built construction on the parcel.

A qualified biologist has reviewed the requested reduction of the non-building easement and concluded that, “ the alternative setback would have neither, direct nor indirect potential to cause any impact , conflict with, or disturbance of a) Riparian vegetation; b) Creeks or streams; c) Wetlands or lakes; d) Movement of wildlife and/or any wildlife migration corridor; and e) Candidate, Listed or Special-Status plant or animal species”.

Should the applicant proceed with the finaling of this Map Correction/Amendment, compliance to all applicable building permit processes, applications and standards, including but not limited to consistency with Section 130.30.030.G of the Zoning Ordinance, Protection of Wetland and Sensitive Riparian Habitat, would be required.

**Amending of Parcel Maps:** Chapter 120.72 of the El Dorado County Code and Section 66472.1 of the Subdivision Map Act allow for amending of parcel maps by either filing a Certificate of Correction or amending the map. Should the Zoning Administrator approve the amendment, a Certificate of Correction would be required by the County Surveyor’s Office to effect the removal of the easement.

In order to approve the map amendment, the County must find that the amended map complies with the Government Code and make specific findings pursuant to Section 120.72.040 of the County’s Subdivision Ordinance. These findings are presented in the finding section of this staff report that follows.

**Consistency:** As discussed in the Findings, staff has determined that the proposed project, as conditioned, is consistent with the El Dorado County Subdivision Ordinance, the Rural Residential (RR) land use designation and other applicable policies in the El Dorado County General Plan, as well as the provisions and standards of the Rural Lands Ten-Acres (RL-10) zone and other Zoning Ordinance requirements.

**ENVIRONMENTAL REVIEW:**

The map amendment project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15305 of the CEQA Guidelines which states that minor alterations in land use limitations not resulting in the creation of any new parcel are exempt. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption.

A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional; however not filing the Notice extends the stature of limitations for legal challenges to the project from 35 days to 180 days.

**SUPPORT INFORMATION**

Findings  
Conditions of Approval

- Exhibit A.....Location Map
- Exhibit B.....Assessor’s Parcel Map
- Exhibit C.....General Plan Land Use Map
- Exhibit D.....Zone District Map
- Exhibit E.....Parcel Map 24-126
- Exhibit F.....Site Plan
- Exhibit G.....Proposed Map Correction

# FINDINGS

## **Parcel Map Correction P79-0129-C/Pelletier Trust Zoning Administrator/August 15, 2018**

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made pursuant to *Section 66472.1* of the *California Government Code*:

### **FINDINGS**

#### **1.0 CEQA Findings**

- 1.1 The map amendment project has been found to be Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines which states that minor alterations in land use limitations not resulting in the creation of any new parcel are exempt.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Division-Planning Services at 2850 Fairlane Court, Placerville, CA.

#### **2.0 Map Amendment Findings**

- 2.1 *That there are changes in circumstances which make any and all of the conditions of such a map no longer appropriate or necessary.*

The subject non-building easement extends 100-feet from the centerline of Canyon Creek. The reduction of the non-building easement will actually increase the use and value of the applicant's property through greater building area allowing the permitting of the as-built structures. The map amendment is sufficient to provide protection to the adjacent sensitive riparian habitat through consistency with Section 130.30.030.G of the Zoning Ordinance as verified by the submitted biological resources assessment.

- 2.2 *That the modifications proposed do not impose any additional burden on the present fee owner of the property.*

The reduction of a portion of the non-building easement would benefit, and not burden, the current owners of the property. The existing non-building easement impedes the owner's ability to more fully develop the site. Removal of a 50-foot portion of the non-building easement would allow the owners to more fully utilize their parcel through the permitting of construction that expands existing structures. The removal of this portion of the easement would not negatively impact any adjacent parcels.

- 2.3 *That the modifications proposed do not alter any right, title or interest in the real property reflected in the recorded map.*

The 100-foot non-building easement was created solely to reduce impacts to Canyon Creek within Parcel A of Parcel Map 24-126 and would increase the developable area

within the parcel. The modification of said easement does not impact or impede any other parcels in the vicinity. As such, the modification to the map will not alter any right, title, or interest in the real property reflected on the map.

### **3.0 Subdivision Map Act Findings**

- 3.1 *The amending map or certificate of correction certified by the county surveyor shall be filed or recorded in the office of the county recorder in which the original map was filed.*

The parcel map was approved as P79-0129 by El Dorado County on April 18, 1979. Approval of this parcel map correction will require that a Certificate of Correction be filed with the El Dorado County Surveyor's Office and the El Dorado County Recorder's Office.

- 3.2 *That the map as modified conforms to the provisions of Section 66474 of the Government Code.*

The provisions of Section 66474 of the Government Code (Subdivision Map Act) list the findings for approval or denial of a parcel map. The findings include consistency with the General Plan, suitability of the site for the type and density of development, significant environmental effects or public health problems, and conflicts with public access easements. The proposed removal of a portion of a non-building easement does not affect any of the provisions of findings for approval of the Parcel Map. The amended Parcel Map remains suitable for the type and density of development, no physical change to the environment will occur that are inconsistent with ministerial development, and the Parcel Map remains consistent with the General Plan. A report prepared by a qualified biologist concluded that reduction of the non-building easement would have no negative affect on any of the existing flora and fauna on site or impacts to Canyon Creek.

# CONDITIONS OF APPROVAL

## **Parcel Map Correction P79-0129-C/Pelletier Trust Zoning Administrator/August 15, 2018**

### **Planning Services**

1. The subject map amendment is based upon and limited to compliance with the project description, the Zoning Administrator Hearing exhibits marked Exhibits F and G (Exhibit G dated November, 2017), and Conditions of Approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Amend Parcel Map 24-126 to remove 50-feet from a 100-foot non-building easement from the centerline of Canyon Creek along the eastern portion of the subject parcel (Parcel A of Parcel Map 24-126), as shown in Exhibit G.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the development standards and processes of the El Dorado County Zoning Ordinance and General Plan, including but not limited to the El Dorado County Oak Resources Conservation Ordinance (adopted October 24, 2017).

2. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in *Section 66474.9(b)* of the *California Government Code*.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a map amendment, which action is brought within the time period provided for in *Section 66499.37*.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

3. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee must be delivered to the El Dorado County Planning Services prior to the issuance of any development permit being issued on the project parcel.

**County of El Dorado Office of the County Surveyor**

4. The property owners shall submit a “Certificate of Correction” amending Parcel Map 24-126 prepared for recording. The property owner(s) or authorized representative must have a Professional Land Surveyor prepare a legal description and plat of the easement area(s) proposed to be abandoned as required by Section 120.52.140 of the County Ordinance. The legal description should be labeled “Exhibit A”, and the plat should be labeled “Exhibit B”. Both exhibits must bear the seal and signature of a Professional Land Surveyor. The surveyor should provide closure calculations, if applicable.