

# EL DORADO COUNTY DEVELOPMENT SERVICES STAFF REPORT



**Agenda of:** April 19, 2006  
**Item No.:** 6.a.  
**Staff:** Tom Dougherty

## STAFF REPORT – Parcel Map Correction

**FILE NUMBER:** P78-0030 C

**APPLICANT:** Jack and Suzanne Randall

**REQUEST:** Request to amend Parcel Map P78-0030C to abandon the fifty-foot wide non-exclusive road and public utilities easement.

**LOCATION:** On the west side of Perry Creek Road, approximately 0.5 mile northeast of the intersection with Fair Play Road in the Fairplay area. (Exhibit A)

**APN:** 094-070-32

**ACREAGE:** 26 acres

**GENERAL PLAN:** Agricultural Land (AL) (Exhibit C)

**ZONING:** Estate Residential Five-acre (RE-5) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Statutorily Exempt pursuant to Section 15268 (b) (3) of the CEQA Guidelines.

**SUMMARY RECOMMENDATION:** Conditional Approval

**BACKGROUND:** Parcel Map 24-98, recorded July 10, 1979, was created by the approval of Tentative Parcel Map 78-0030. This map created the 50-foot wide road and public utilities easement that begins at Parcel 1 and runs along the west boundaries of Parcel 2 and 3, and then turns east along the southern boundary of Parcel 3 and through the northern portion of Parcel 4 to a cul-de-sac at Perry Creek Road. (See Exhibit E). A condition of that Parcel Map 78-0030 required an alternative access be provided for lots 1, 2 and 3 from the south at Perry Creek Road and an easement to be recorded between the four parcels. That easement was recorded November 10, 1980. (See Exhibits H1, H2, H3 and H4).

The owners of the affected parcels entered into a notarized agreement establishing a fifty-foot wide road and public utility easement that allows access for Parcels 1,2 and 3 and transverses through the northerly portion of Parcel 4 and it was recorded by Document 2001-5405 on February 1, 2001. (See Exhibit G).

All four public utilities, Pacific Gas and Electric (PG&E), El Dorado Irrigation District (EID), American Telephone and Telegraph (AT&T, formerly SBC) and Comcast have all been contacted and have agreed to the abandonment and elimination of above mentioned easement. (See Exhibits F1, F2, F3 and F4).

## STAFF ANALYSIS

**Project Description:** The request for a map correction is for the purpose of removing a fifty-foot wide road and public utility easement from crossing the subject parcel from east to west, from Perry Creek Road to the northwest corner of the property. Said easement has never been improved nor used by anyone, including private parties as well as public utilities. All affected property owners and utility companies have released their interest in said easement.

**Amending of Final Maps:** *Chapter 16.72 of the El /Dorado County Code and Section 66472.1 of the Subdivision Map Act* allows the amending of final maps by either the filing a certificate of correction or amending the map. Should the County determine that the amendment be approved, a certificate of correction is recommended to affect the removal of the road and public utility easement.

Section 16.72.040 of the County Code requires the decision makers make all of the following findings:

- A. That there are changes in circumstances which make any and all of the conditions of such a map no longer appropriate or necessary.
- B. That the modifications proposed do not impose any additional burden on the present fee owner of the property.
- C. That the modifications proposed do not alter any right, title or interest in the real property reflected in the recorded map.
- D. That the map as modified conforms to the provisions of Section 66474 of the Government Code.

**Finding A:** The fifty-foot wide road and public utility easement was approved into the four subject parcels as part of the final approval of Parcel Map 24-98. That approval also required an alternative easement to provide access to parcels 1 thru 3 which are north of the subject parcel. That access is the current access used by all three of those parcels. The subject parcel has access from Perry Creek in the southeast corner of the parcel. The subject easement was never used or developed by any affected parcel owners or utility companies.

**Finding B:** Finding B can be made since the removal of the road and public utility easement being requested would benefit, and not burden, the current owner.

**Finding C:** Finding C can be made since the easement for road and public utility easement access was made for the benefit of the four (4) parcels created by Parcel Map 24-98 and PG&E, AT&T, Comcast and El Dorado Irrigation District all of whom are holders of the easement, and all of whom approve of the request.

**Finding D:** The applicable portion of Section 66474(g) requires that the County find the removal of the road and public utility easement will not conflict with easements for access through or use of, property within the parcel map. Finding D can be made pursuant to the fact no utility company or parcel owner party to the subject easement, nor any public agency solicited for comments, objected to the abandonment and removal of the fifty-foot non-exclusive road and public utility easement subject of this permit request.

**Site Description:** The 26-acre site has an improved access driveway that begins at Perry Creek Road and travels west towards the existing 1538 square-foot single-family residence and then turns north to a 4320 square-foot barn. The existing trees include black oaks (*Quercus kelloggii*), interior live oaks (*Quercus wislizenii*), and blue oaks (*Quercus douglasii*).

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	RE-5	AL	Single-family residence
<b>North</b>	RE-5	RR	Single-family residence
<b>South</b>	RE-5	MDR	Single-family residence
<b>East</b>	RE-5	AL	Single-family residence
<b>West</b>	RE-5	AL/MDR	Winery

Discussion: The three other parcels (1, 2, and 3), which are also party to the easement subject of this permit, and to prior approved Parcel Map 78-0030, all have access and public utilities via Perry Creek Road such that this proposed map correction will not affect any of the surrounding parcels, nor the project parcels in any negative way, nor conflict with their ability to be developed into single-family residences. All four owners of the above mentioned parcels have previously entered into an agreement to abandon and eliminate the easement subject to this permit. Said easement had historically never actually been improved or used by any of the four parcel owners.

**General Plan:** The project area is designated on the General Plan land use map as Area Plan (AL). This designation is suitable for single-family residences, and the approved Parcel Map 78-0030 is consistent with this designation as well.

**Policy 6.2.3.2:** “As a requirement of new development, the applicant must demonstrate that

*adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.”*

**Discussion:** Pioneer Fire District and El Dorado County Department of Transportation were asked for comments and both responded with no concerns with the abandonment of easement. The abandonment and elimination of the fifty-foot wide road and public utility easement placed on the four subject parcels of Parcel Map 24-98 will not affect the potential agricultural uses allowed by the General Plan Designation of AL, nor will eliminate any potential for adequate access and exiting during emergency situations.

**Conclusion:** Staff finds the proposed project, as conditioned, is consistent with the above requirements of the 2004 General Plan and thus also Section 65402 of the Planning, Zoning, and Development Laws, 2005 because there is no concern addressed from any public agency nor any party to the subject easement about the abandonment and removal of the fifty-foot wide road and public utility easement.

**Zoning:** The project site is zoned Estate Residential Five-Acre (RE-5). No new conflicts with setbacks or easements relative to structures under construction, or any other development standards or requirements of the Zoning Code will be created by the elimination of the fifty-foot non-exclusive easement as proposed by this project.

**2004 Subdivision Map Act: 66474.** A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(g) “That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. (Amended by Stats. 1982, Ch. 518.)”

**Discussion:** There are alternative easements and access points for all affected parcel owners and utility companies.

Accordingly, based on comments received from public agencies, as discussed below, and the analysis contained within this report, staff finds that the project would not be detrimental to the public health, safety and welfare and nor be injurious to the neighborhood.

**Agency and Public Comments:** All agencies that commented on the proposed project are listed below. Copies of their written comments are available at Planning Services office. If an agencies

comment was *no comment* or *not applicable*, no further discussion of the agencies comment is presented.

El Dorado County, Office of the County Surveyor: Requested the property owners submit a Certificate of Correction to their office and, upon approval, would be recorded in the El Dorado County Recorder's Office and a condition to name the road. Required that the alternative easement included as Exhibits H1-H4 be surveyed and an exhibit be attached to the Certificate of Correction recorded upon the final parcel map. Their specific conditions are numbers 2, 3 and 4 in the *Conditions of Approval*.

El Dorado County Department of Transportation (DOT) and El Dorado County Department of Transportation, Right of Way Unit: The Right of Way Unit stated they were satisfied that the recorded Agreement Abandoning Easement, *Document #2001-5405* and recorded *February 1, 2001* sufficiently releases the easement interests that may have existed, as shown on Parcel Map 24-98 and no DOT conditions are needed for the approval of this map correction request.

American Telephone and Telegraph (AT&T): AT&T responded that they had no objection to the abandonment and removal of the subject fifty-foot wide road and public utility easement.

Pacific Gas & Electric Company (PG&E): PG&E responded that they had no objection to the abandonment and removal of the subject fifty-foot wide road and public utility easement.

Comcast: Comcast responded that they had no objection to the abandonment and removal of the subject fifty-foot wide road and public utility easement.

El Dorado Irrigation District (EID): EID responded that they had no objection to the abandonment and removal of the subject fifty-foot wide road and public utility easement.

**These agencies had no specific concerns regarding the proposed special use permit:**

Pioneer Fire Protection District  
El Dorado County Environmental Management, Environmental Health Division  
El Dorado County Environmental Management, Hazardous Materials Division  
El Dorado County Pioneer Cemeteries  
El Dorado County Air Quality Management District  
El Dorado County Assessor's Office  
LAFCO

New issues may arise as a result of the public notice of the hearing which will be discussed at that time. At the time of the preparation of this report, staff had not received any comments from the public.

**ENVIRONMENTAL REVIEW**

This project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to *Section 15268 (b)(3)* stating that *the approval of final subdivision maps is presumed to be ministerial and is exempt from further environmental review*. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

## **RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Certify that the Certificate of Map Correction is statutorily exempt from the requirements of CEQA pursuant to *Section 15268 (b)(3)*.
2. Approve P78-0030-C based on the findings contained in Attachment 1 and the Condition of Approval contained in Attachment 2.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Attachment 1	Findings
Attachment 2	Conditions of Approval
Exhibit A	Vicinity Map
Exhibit B	Assessor's Parcel Page
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E1	Parcel Map 24-98
Exhibit E2	Applicant's Proposed Map Correction Amending PM 24-98
Exhibits F1, F2, F3, F4	Letters from Comcast (January 9, 2006), AT&T (1/30/06), EID (January 12, 2006), and PG&E (January 11, 2006) respectively
Exhibit G	Agreement Abandoning Easement Recorded February 1, 2001
Exhibits H1, H2, H3 and H4	Easement Grant Deed for Alternative Access for Parcels 1, 2, and 3, dated February 1, 2001
Exhibit I	Aerial Photo

**ATTACHMENT 1**  
**FINDINGS**

**FILE NUMBER P78-0030 C**

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 FOR APPROVAL**

**Finding A:** Finding A can be made because all four parcels crated by PM 24-98 have alternative access easements. The subject easement was never used or developed by any affected parcel owners or utility companies.

**Finding B:** Finding B can be made since the removal of the road and public utility easement being requested would benefit, and not burden, the current owner.

**Finding C:** Finding C can be made since the easement for road and public utility easement access was made for the benefit of the four parcels created by Parcel Map 24-98 and PG&E, AT&T, Comcast and EID all of whom are holders of the easement, and all of whom approve of the request.

**Finding D:** The applicable portion of Section 66474(g) requires that the County find the removal of the road and public utility easement will not conflict with easements for access through or use of, property within the parcel map. Finding D can be made pursuant to the fact no utility company or parcel owner party to the subject easement, nor any public agency solicited for comments, objected to the abandonment and removal of the fifty-foot non-exclusive road and public utility easement subject of this permit request.

**Findings for Section 66474**

- A. The amended map maintains the same density as the original approval, which is consistent with the current General Plan designation of Agricultural Land (AL)..
- B. The improvements and design of the amended map is consistent with the General Plan.
- C. The site is physically suitable for the construction of a single-family residence as allowed by right pursuant to the project parcel's zoning and general plan designation as approved in the Parcel Map 24-98.
- D. The site is suitable for the density of the development.
- E. The design of the amended map will not cause substantial environmental damage or substantially injure fish or wildlife or their habitat.
- F. The amended map will not result in serious public health problems.
- G. The amendment to the final map will not conflict with any public lands.

## **ATTACHMENT 2**

### **CONDITIONS OF APPROVAL**

#### **FILE NUMBER P78-0030 C**

#### **Planning Services**

1. Pursuant to Resolution No. 240-93, a \$35.00 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 Department within five days of the approval of this application by the El Dorado County Zoning Administrator.

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

2. The applicant shall file a Certificate of Correction with the El Dorado County Surveyor's Office pursuant to the Subdivision Map Act and County Code for review and approval prior to recordation at the County Recorders Office. The property owners are responsible for all associated processing and recording fees.
3. The unnamed road and public utilities easement that gives access to lots 1, 2 and 3 from the south side of Perry Creek and Perry Creek Road crossing shall be named by completing a Road Name Petition that includes the signatures of the effected landowners. The completed and approved Road Name Petition shall be filed with the County Surveyor's Office. The applicant shall be responsible for all associated processing fees, including the fees associated with the correcting the existing addressing.
4. The Easement Grant Deed for alternative access for Parcels 1, 2, and 3, dated February 1, 2001 and attached to this staff report as Exhibits H1, H2, H3 and H4 shall be surveyed and an exhibit of the survey be attached to the Certificate of Correction referenced in Condition 2.