

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: May 7, 2008
Item No.: 4.a.
Staff: Thomas A. Lloyd

PARCEL MAP AMENDMENT

FILE NUMBER: P74-0360-C-1

APPLICANT: Michael J. Nuss

AGENT: David Waddell

REQUEST: Request to amend Parcel Map 10-65 by removing a 25-foot road and public utilities easement and a ten-foot wide access easement from Parcel 3 of said map.

LOCATION: On the north and east sides of Elkhorn Mill Road, approximately 700 feet northeast of the intersection with Pony Express Trail in the Pollock Pines area, Supervisorial District II (Exhibit A).

APN: 101-141-82 (Exhibit D)

LOT SIZE: 2.1 Acres

GENERAL PLAN: High Density Residential (HDR) and Multifamily Residential (MFR) (Exhibit B)

ZONING: One-family Residential (R1) and Limited Multifamily Residential- Design Sierra Overlay (R2-DS) (Exhibits C-1, C-2)

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

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: The subject parcel map was recorded on March 19, 1976 in book 10 of Parcel Maps on Page 65. There is a 25 foot, non-exclusive, road and public utilities easement (R & PUE) on the recorded map which extends from the southwestern corner to the southeastern corner, along what was once the southern property boundary (Exhibit E). Adjacent to the southern boundary of the R & PUE is a ten-foot access easement. Subsequent to this proposed map amendment, the property was modified through two separate boundary line adjustments (BLA 01-0068 and BLA 06-0058), the latter of which merged former parcels 101-141-78 and -79, and created the current configuration. This merger also created the dual zoning and General Plan designations of the parcel, as discussed below.

The subject parcel has been developed with numerous structures, including an un-permitted carport. This carport, among other things, triggered a code compliance case (#154635) when it was found to be encroaching into the required 30-foot front yard setback from the road and public utilities easement (R&PUE) proposed for removal with this map amendment. The removal of this easement, along with the adjacent ten-foot access easement, will allow proper permitting of the carport structure, thus satisfying the code compliance issue. Any future Building Permit request would be subject to the "Fire Safe" setback requirements.

El Dorado Irrigation District (EID), American Telephone and Telegraph (AT&T), Pacific Gas & Electric (PG&E), and Comcast have had the project proposal distributed to their staff. None have expressed concerns with removal of the subject easements.

STAFF ANALYSIS

Project Description: This project is a request to amend Parcel Map 10-65 by removing a 25-foot road and public utilities easement and a ten-foot wide access easement from Parcel 3 of said map.

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 filing a certificate of correction or amending the map. Should the Zoning Administrator approve the amendment, a certificate of correction would be recorded to remove the easements from the recorded map.

Section 16.72.040 of the County Code requires the approving authority make specific findings as set forth in Attachment 2.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R1/R2	MFR/HDR	Single-family residence
North	TPZ/AE	LDR/HDR	Harris Tree Farm, single family residence
South	R2	MFR/HDR	Single-family residence
East	R1	MFR/HDR	Single-family residences

West	R1	HDR	Single-family residence
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General Plan: The General Plan delineates the subject site with two land use designations. The northern section of the parcel is comprised of the High Density Residential (HDR) designation. The purpose of this land use category is to identify those areas suitable for intensive single-family residential development, at densities from one to five dwelling units per acre, and with structures such as condominiums, townhouses, detached dwellings, and manufactured homes. The southerly portion of the parcel is designated as Multifamily Residential (MFR). This designation is suitable for high-density, multifamily structures such as apartments and mobile home parks. Both of these designations are considered appropriate within Community Regions and Rural Centers. As this parcel is located in the Camino/Pollock Pines Community Region, this land use designation is considered consistent.

Conclusion: The Department of Transportation was originally opposed to the project, instead recommending the applicant to move, rather than remove, the subject easements. Upon further investigation, however, DOT reversed their original position, and offered the following explanation:

After researching the subject Parcel Map PM 10-65, and the adjacent Parcel Map, PM 5-69, it appears Elkhorn Mill Road and Heath Court to the east were intended to join at some point in the future. However, the road and public utilities easements recorded on these maps were never offered to the County for dedication, nor do they align properly. Furthermore, the parcels to the east are fully developed with two homes, and it appears from observation that the homes are built within the road and public utilities easements. Additionally, the widths of the easements (25-ft and 30-ft) do not lend themselves to development of a County road to minimum standards (typically, a 50-ft width is the minimum road right of way accepted by the County). Finally, the General Plan and Circulation Maps do not indicate any anticipated roadway development or need for greater circulation in the area. Therefore, DOT is supportive of the easement abandonment. (Interoffice Memorandum, March 17, 2008)

Staff finds that the proposed project, as conditioned, is consistent with the above requirements of the 2004 General Plan and Section 66472.1 of the California Government Code, (Subdivision Map Act) because the amendment of the subject parcel map, and the subsequent removal of the recorded 25-foot and ten-foot easements, would not adversely impact any public agency or any party with interest in this easement.

Zoning: The project site is governed by two zone districts, which correspond with the two General Plan designations listed above. The northern portion of the parcel is One-family Residential (R1), while the southern portion is Limited Multifamily Residential (R2). An approved map amendment will make the parcel subject only to the setbacks prescribed by the One-family Residential (R1) and Limited Multifamily Residential (R2) zone districts and, more specifically, the California "Fire Safe" guidelines, as the parcel exceeds one acre in size. Staff finds the proposed map correction request, as conditioned, consistent with all applicable provisions of County Zoning Ordinance Title 17.

2004 Subdivision Map Act Section 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: In order to approve the map correction/amendment, the County must find that the corrected map complies with the Government Code. Accordingly, based on comments received from public agencies, 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.

ENVIRONMENTAL REVIEW

The map correction 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 \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Staff recommends that the Zoning Administrator take the following action:

1. Certify that Parcel Map Amendment P74-0306-C-1, amending recorded map PM 10-65, is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268(b)(3); and
2. Approve Parcel Map Amendment P74-0360-C-1, amending recorded map PM 10-65, based on the conditions of approval contained in Attachment 1 and the Findings contained in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C-1	Zoning Map
Exhibit C-2	Design Control
Exhibit D	Assessor's Parcel Map
Exhibit E	Parcel Map 10-65

ATTACHMENT 1

CONDITIONS OF APPROVAL

FILE NUMBER P74-0360-C-1

Planning Services Site Specific and Standard Conditions

1. The subject Certificate of Correction is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibits A-E dated XXXX, 2008, 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:

An amendment to Parcel Map 10-65, removing a 25-foot road and public utilities easement and a ten-foot wide access easement from Parcel 3 of said map.

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 hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

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. The map correction 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 \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

4. Prior to recordation, the applicant shall provide to Planning Services proof of a quit claim deed, or other such necessary title instrument, sufficiently demonstrating that all interests in said easements have been vacated, and that the easements have been removed from title.
5. All Planning Services fees shall be paid in full prior to recording of the Certificate of Correction.

County of El Dorado Office of the County Surveyor

6. The applicant shall submit a Certificate of Correction affecting PM 10-65. The certificate shall be prepared by an appropriately licensed professional and submitted to the County Surveyor pursuant to the Subdivision Map Act and County Code for review. Upon approval by the County Surveyor, the "Certificate of Correction" shall be recorded in the County Recorder's Office. The applicant shall be responsible for all associated processing and recording fees.

ATTACHMENT 2
FINDINGS

FILE NUMBER P74-0360-C-1

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

1.0 CEQA Findings

- 1.1 The map amendment project is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is base are in the custody of the Development 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.*

Per the Department of Transportation, it appears Elkhorn Mill Road and Heath Court to the east were intended to join at some point in the future. However, the road and public utilities easements recorded on these maps were never offered to the County for dedication, nor do they align properly. Furthermore, the parcels to the east are fully developed with two homes, and it appears from observation that the homes are built within the road and public utilities easements. Additionally, the widths of the easements (25-ft and 30-ft) do not lend themselves to development of a County road to minimum standards (typically, a 50-ft width is the minimum road right of way accepted by the County). Finally, the General Plan and Circulation Laps do no indicate any anticipated roadway development or need for greater circulation in the area.

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

The proposed modifications to the map would benefit, and not burden, the current owner.

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

As a condition of approval, the applicant will provide Planning Services with proof of quit claim or other sufficient device illustrating that all interest in the easements have been dissolved. As such, the modification to the map will not alter any right, title, or

interest in the real property reflected on the map.

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

The applicable portion of Section 66474(g) requires that the County find the amendment of Parcel Map 10-65 by removing a 25-foot road and public utilities easement and a ten-foot wide access easement from Parcel 3 of said map will not conflict with easements for access through, or use of property adjacent or adjoining to, said parcel. No utility company, public agency, or parcel owner with interest in the easements objected to their removal.