

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



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

PARCEL MAP AMENDMENT

FILE NUMBER: P 82-0024C-1

APPLICANT: Mark A. Smith

PROPERTY OWNER: Mark and Irene Smith

REQUEST: Request to amend Parcel Map 31-40 by removing a 20-foot road and public utilities easement from Parcel D of said map.

LOCATION: On the north side of State Highway 193, approximately 0.25 miles northeast of the intersection with Spanish Dry Diggins Road (Supervisory District IV) (Exhibit A).

APN: 061-511-46 (Exhibit D)

LOT SIZE: 2 Acres

GENERAL PLAN: Commercial (C) (Exhibit B)

ZONING: Planned Commercial (CP) (Exhibit C)

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 July 28, 1982 in book 31 of Parcel Maps on Page 40. There is a 20 foot road and public utilities easement (R & PUE) on the recorded map which extends northward from the southwest corner of the subject parcel, 100 feet along the western property boundary (Exhibit E). The easement was originally placed on the parcel in 1970 by a previous property owner via recorded document 897-314 (Exhibit F). This easement no longer serves any useful purpose as the road portion of the easement does not serve an adjoining parcel, nor would it provide improved traffic circulation. Both the subject parcel and the adjoining parcel are now under common ownership and are/would be accessed by encroachments from State Highway 193.

Georgetown Divide Public Utilities District (GDPUD) American Telephone and Telegraph (AT&T, formerly SBC), Pacific Gas & Electric (PG&E), and Comcast have had the project proposal distributed to their staff. None have expressed concerns with removal of the road portion of the easement and only AT&T has expressed interest in retaining the public utilities portion.

STAFF ANALYSIS

Project Description: Request to amend Subdivision Parcel Map 31-40 by removing a 20-foot road and public utilities easement from Parcel D of said map. An approved map amendment will make the parcel subject only to the setbacks prescribed by the Planned Commercial (CP) zone district.

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 required to remove the easement 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	CP	C	Undeveloped
North	R2A	MDR	Undeveloped
South	R1A	MDR	Single-family residence
East	RE-5	LDR	Single-family residence
West	CP	C	Office space/ Misc. retail and service facilities

General Plan: The General Plan designates the subject site as Commercial (C). The purpose of this land use category is to provide a full range of commercial retail, office and service uses to serve the residents, businesses, and visitors of El Dorado County. As this parcel is found in the Georgetown rural center, this land use designation is considered appropriate.

Conclusion: 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 20-foot easement, would not adversely impact any public agency or any party with interest in this easement.

Zoning: The project site is zoned Planned Commercial (CP). The setbacks required by Zoning Code Section 17.32.160 are ten feet in the front, five feet on the sides and rear, or zero feet with a fireproof wall without opening. As the subject parcel is undeveloped, any future Building Permit request would be subject to the setback requirements of the CP Zone District. 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 the Zoning Administrator take the following actions:

1. Certify that Parcel Map Amendment P 82-0024C-1 is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268(b)(3).
2. Approve Parcel Map Amendment 82-0024C-1 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	Zoning Map
Exhibit D	Assessor's Parcel Map
Exhibit E	Parcel Map 31-40
Exhibit F	Grant Deed (Recorded Document Book 987, Pages 314-316)

ATTACHMENT 1

CONDITIONS OF APPROVAL

FILE NUMBER P 82-0024C

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 31-40, removing a 20-foot road and public utilities easement from Parcel D 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 subdivision, 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 easement have been vacated, and that the easement has 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. It is hereby directed that the property owners shall submit a Certificate of Correction affecting PM 31-40. 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. Then, upon approval by the County Surveyor, the "Certificate of Correction" shall be recorded in the County Recorder's Office. The property owners are responsible for all associated processing and recording fees.

AT&T

7. The following statement shall be included in the Certificate of Correction, "Excepting and reserving therefrom pursuant to the provisions of Section 8340 of the Street and Highway Code and for the benefit of Pacific Bell Telephone Company, a California Corporation dba AT&T, the permanent easement and the right at any time or from time to time to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cable wires, poles and other convenient structures, equipment and fixtures for the operation of telegraph and telephone lines and other communication facilities, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards, in, upon, over and across property identified as APN 061-511-45-110, El Dorado County."

ATTACHMENT 2
FINDINGS

FILE NUMBER P 82-0024C

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.*

The easement was originally placed on the parcel in 1970 by a previous property owner. This easement no longer serves any useful purpose as the road portion of the easement does not serve an adjoining parcel, nor would it provide improved traffic circulation. Both the subject parcel and the adjoining parcel are now under common ownership and are/would be accessed by encroachments from State Highway 193. Interest in the utility portion of the easement has been requested by AT&T, and the project has been conditioned accordingly.

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

Amending Parcel Map 31-40 by removing a 20-foot road and public utilities easement from Parcel D of said 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 easement has 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 31-40 by removing a 20-foot road and public utilities easement from Parcel D 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 easement areas within the subject easement objected to its removal, though AT&T has requested specific language to be included as part of the conditions of approval to protect their interest in the property.