

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



**Agenda of:** September 15, 2010  
**Item No.:** 4.a.  
**Staff:** Michael C. Baron

**PARCEL MAP AMENDMENT**

**FILE NUMBER:** P76-0593-C

**PROPERTY OWNER:** Peter J. Kielty

**AGENT:** Wayne Swart, El Dorado Land Surveying

**REQUEST:** A request to amend Parcel Map 7-68, removing an existing 56-foot wide non-exclusive road and public utilities easement from Parcel 3.

**LOCATION:** On Wegotta Way Road, 1,000 feet northeast of the intersection with Marrybelle Lane in the Shingle Springs area, Supervisorial District II (Exhibit A).

**APN:** 090-240-28 (Exhibit D)

**ACREAGE:** 11.52 Acres

**GENERAL PLAN:** Rural Residential-Important Biological Corridor (RR-IBC) (Exhibit B)

**ZONING:** Estate Residential Ten-acre (RE-10) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Statutorily Exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is exempt from CEQA review based on Section 15061(b)(3); and
2. Approve Parcel Map Amendment P76-0593-C amending Parcel Map PM7-68, subject to the Conditions in Attachment 1, based on the Findings in Attachment 2.

**BACKGROUND:** The subject parcel map was recorded on August 29, 1977 in Book 9 on Page 45 of parcel maps. On June 1, 1976, a subsequent parcel map was filed in Book 17, Page 8 which reflected a division of Parcel A into four lots, hereafter referred to as Parcels 1, 2, 3, and 4. The subject road and public utilities easement is 56-feet wide and currently connects to another 56-foot wide road and public utility easement at the eastern property located entirely within the boundaries of Parcel 3.

The subject parcel has been developed with a primary residence, mobile home (unpermitted), and a barn. The map amendment is to remedy a code enforcement case on the existing unpermitted mobile home. If the current county policy of enforcing 30-foot setbacks from the edge of recorded road easement is enforced, the mobile home would be located within that setback as it is also located within the easement. As such, the applicant was notified of the need to abandon the easement, thus requiring consistency with the RE-10 zone district development standard setback of 30 feet from the property lines or edge of road easements. The code enforcement file #188033 is currently suspended, pending the outcome of this map correction.

## **STAFF ANALYSIS**

**Project Description:** A request to amend Parcel Map 7-68, removing a portion of an existing 56-foot wide non-exclusive road and public utilities easement. The portion to be removed is found on 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 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:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-10	RR	Improved Single-family Residence
<b>North</b>	RE-10	RR	Improved Single-family Residence
<b>South</b>	RE-10	RR	Improved Single-family Residence
<b>East</b>	RE-10	RR	Improved Single-family Residence/Vacant
<b>West</b>	RE-10	RR	Improved Single-family Residence/Vacant

**General Plan:** The General Plan designates the subject site as Rural Residential with an Important Biological Corridor overlay (RR-IBC). This land use designation establishes areas for residential and agricultural development. These lands will typically have limited infrastructure and public services and will remain for the most part in their natural state. This category is appropriate for lands that are characterized by steeper topography, high fire hazards, and limited or substandard access as well as “choice” agricultural soils. The RR designation shall be used as a transition between LDR and the Natural Resource (NR) designation. The allowable density for this designation is one dwelling unit per 10 to 160 acres.

**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 56-foot road and public utility easement, would not adversely impact any lands with “choice” agricultural soils, limit access, or increase fire hazard.

**Zoning:** The project site is zoned Estate Residential Ten-acre (RE-10). The setbacks required by Zoning Code Section 17.28.210 are 30 feet for front and rear yards and 30 feet on the sides with one additional foot required for each additional foot required for each additional foot of building height in excess of 25 feet. These setbacks distances are applied from the respective property lines or the edge of any recorded road easement. The subject parcel has been developed with an illegal single-family mobile home which, by current standards, would be inconsistent with this provision. Approval of this map amendment would subject future building permits to the 30 foot standards of the zone district measured from the property lines. This would effectively bring the previously built structure into compliance. As such, staff finds the proposed map correction request, as conditioned, consistent with all applicable provisions of County Zoning Ordinance Title 17.

**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 amendment, the County must find that the amended 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.

**Agency and Public Comment:** The Department of Transportation and the El Dorado County Fire District reviewed the new proposal, and have conditioned the project accordingly. El Dorado Irrigation District (EID), AT&T, and Pacific Gas & Electric (PG&E) have expressed no concerns with removal of the 56-foot wide road and public utilities easement.

## **ENVIRONMENTAL REVIEW**

The map amendment has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15061(b)(3) stating that the approval of final subdivision maps is presumed to be ministerial and is exempt from further environmental review. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

## **SUPPORT INFORMATION**

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

Attachment 1.....	Conditions of Approval
Attachment 2.....	Findings
Exhibit A.....	Location Map
Exhibit B.....	Assessor's Parcel Map
Exhibit C.....	General Plan Land Use Map
Exhibit D.....	Zoning Map
Exhibit E.....	Proposed Abandonment
Exhibit F.....	Parcel Map 7-64

**ATTACHMENT 1  
CONDITIONS OF APPROVAL**

**PARCEL MAP AMENDMENT  
FILE NUMBER P76-0593-C  
Zoning Administrator Hearing September 15, 2010**

**Planning Services**

1. The subject map amendment for APN 090-240-28 is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits A-F dated September 15, 2010, 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 7-68, removing an existing 56-foot non-exclusive road and public utilities easement from said map. The portion to be removed is found on Parcel 3.

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 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 amendment project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15061(b)(3) stating that the approval of final subdivision maps is presumed to be ministerial and is exempt from further environmental review. 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.

**El Dorado County Surveyor**

6. It is hereby directed that the property owners shall submit a “Certificate of Correction” effecting PM 17-08. The certificate shall be prepared and submitted by an appropriately licensed professional, 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 Recorders Office. The property owners are responsible for all associated processing and recording fees.

**El Dorado County Fire Protection District**

7. Applicant shall provide, in compliance with El Dorado County Fire District Driveway Standard, a minimum 12-foot driveway.

**ATTACHMENT 2  
FINDINGS**

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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 15061(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 subject easement does not serve any useful purpose as the affected road portion of the easement does not serve an adjoining parcel. Further, the easement does not provide improved traffic circulation as it currently meets another 56-foot wide road and public utilities easement on the subject parcel.

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

Amending Parcel Map 7-68 by removing a 56-foot non-exclusive road and public utilities easement found only on Parcel 3 of Parcel Map 7-68 would benefit, 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 to Parcel Map 7-68, removing an existing 56-foot non-exclusive road and public utilities easement from said map and found specifically on Parcel 3 only of subsequent recorded Parcel Map 7-68, 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.