

**EL DORADO COUNTY DEVELOPMENT SERVICES  
STAFF REPORT**



**Agenda of:** September 13, 2007  
**Item No.:** 9  
**Staff:** Tom Dougherty

**SUBDIVISION MAP CORRECTION**

**FILE NUMBER:** TM90-1202C2/Rancho Del Sol, Unit 4

**APPLICANT:** Richard and Choral Engstrom

**REQUEST:** Request to amend approved Subdivision Map H-63 to abandon the 100-foot Non-Building Easement for Drainage Course Nos. 17 and 18 within Lot No. 416 only and replace it with a 15-foot wide drainage easement.

**LOCATION:** On the west side of Puerta Del Sol approximately 1.5 miles west of the intersection with Snows Road in the Camino area, Supervisorial District II (Exhibit A).

**APN:** 077-820-07

**ACREAGE:** 3 acres

**GENERAL PLAN:** Low-Density Residential (LDR) (Exhibit C)

**ZONING:** Single-family Three-acre Residential (R3A) (Exhibit D)

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

## RECOMMENDATION

Staff recommends the Planning Commission forward a recommendation to the Board of Supervisors to:

1. Certify that TM90-1202C2 is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
2. Approve TM90-1202C2 based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

**BACKGROUND:** Subdivision Map H-63 for Rancho Del Sol, Unit 4, was resultant of TM90-1202 which was recorded on June 10, 1992. The cover page lists drainage easements as being 7.5 feet on each side of drainage easements either existing or constructed unless otherwise noted. There was 100-foot non-building easement recorded within the subject parcel created by this map and referred to as Drainage Course Nos. 17 and 18. The setback issue came to light during the review of pending building permit No. 182669 applied for on July 12, 2007, which currently is pending the decision of this application request. During the review of that permit it was determined by Development Services Permit Center staff that the applicants would need to use the map correction application process to attempt to rectify the situation.

Subdivision Map H-63 created Lot 416 as a 4.5-acre parcel. The subject parcel size was changed by Boundary Line Adjustment BLA 07-0004 also involving the parcel to the east by the same owner (Assessor's Parcel Number 077-820-05) and removed 1.5 acres from the subject parcel leaving it 3 acres in size. That BLA was approved by Planning Services on March 22, 2007. The County of El Dorado Office of County Surveyor has recommended, but not required, that in the interest of clarity, it would be best if the Certificate of Correction was recorded concurrently with BLA07-0004.

The actual drainage ditch location is different from that recorded on the original subdivision map location. The submitted site map shows the current location of the drainage channel in Exhibit F. Exhibit J shows the area where the recorded 100-foot non-building easement is located within the parcel.

## STAFF ANALYSIS

**Project Description:** Amend approved Subdivision Map H-63 to abandon the 100-foot non-building easement for Drainage Course Nos. 17 and 18 within Lot No. 416 only, and only from Puerta Del Sol southward to the northern edge of the pond shown in Exhibit F. That easement is proposed to be replaced with a 15-foot wide drainage easement and permit the location of the ditch accurately as it actually exists today on the revised map to be the subject of the certificate of correction.

**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 Planning Commission approve the amendment, a certificate of correction is recommended to affect the relocation of the road and public utility easement.

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

**Site Description:** The three-acre parcel is located approximately 2,560 feet above sea level. The parcel is covered with random aged conifers and black and canyon live oaks spaced apart with very little understory other than blackberries. Willows and cattails are the only wetland indicator plants within the subject parcel, and they are only present within the direct perimeter of the existing spring-fed pond which is below the development area in question and subject of this change in drainage easement location. There are no structures currently on the parcel. The drainage swale shows no evidence by vegetation, high water mark, or a distinctive cut channel that it is anything but a linear depression swale, and it is not marked in any way on the Camino U.S.G.S Quadrangle (Exhibit H).

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	R3A	LDR	Single-family residence
<b>North</b>	R3A/RE-5	LDR	Single-family residence
<b>South</b>	R2A	LDR	Single-family residence
<b>East</b>	R2A	LDR	Vacant
<b>West</b>	R2A	LDR	Single-family residence

**Discussion:** This is a residential subdivision area with single-family residences and supporting accessory buildings. Supporting infrastructure is established.

**General Plan:** The General Plan designates the subject site as Low-Density Residential (LDR) which establishes that the maximum allowable density shall be one dwelling unit per 5.0 acres. Parcel size shall range from 5.0 to 10.0 acres. The parcel was established as a 4.5-acre parcel prior to the current land use designation established by the 2004 General Plan and thus is considered to be of a legal non-conforming size.

**Policy 7.3.3.4** directs the County to provide buffers and special setbacks for the protection of riparian areas and wetlands. A minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands is required. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil

stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

Staff has visited the site and concluded that County setbacks under Policy 7.3.3.4 do not apply, because there are no wetlands, intermittent or perennial streams, or other water features that would justify applying wetland setbacks. The linear depression does not drain enough of an area to result in the presence of an Ordinary High Water Mark which is required by the U.S. Army Corps of Engineers to determine the boundary of channels that are under the jurisdiction of the Federal Clean Water Act. There are no wetland indicator plants present within the vicinity of the drainage depression that would indicate water is ever present long enough to support their growth which would qualify it as wetlands pursuant to U.S. Fish and Wildlife definitions.

**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 abandonment of the recorded 100-foot non-building easement and replacement with a 15-foot drainage easement legitimizes the real location of the drainage swale. The drainage swale, in its current state could not be recognized as an intermittent stream or wetland by definition, and classifying it as a drainage easement would not adversely impact any public agency or any party with interest in this easement.

**Zoning:** The project site is zoned Single-family Three-acre Residential (R3A). The setbacks required by Zoning Code section 17.28.440 (D) are 30 feet in the front, 30 feet on the sides, and 30 feet in the rear. A single-family dwelling and supporting accessory structures would be permitted by right in the R3A Zone District, and those setbacks would apply to structures over 30 inches tall but would just need to remain out of a drainage easement. Staff finds the proposed map correction request, as conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17 and would not restrict the ability for residential development to occur.

**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:** In order to approve the map correction, 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.

## **SUPPORT INFORMATION**

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

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibits B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Subdivision Map H-63, 2 pages, cover sheet and plat map (H-63A).
Exhibit F	Proposed map correction site plan received June 8, 2007
Exhibit G	Site plan submitted for Building Permit No. 182669
Exhibit H	Camino U.S.G.S. Quadrangle
Exhibits I	Site visit photo from July 6, 2007
Exhibit J	Aerial Photo

## ATTACHMENT 1

### CONDITIONS OF APPROVAL

#### FILE NUMBER P78-0280C2

#### **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 Planning Commission hearing exhibits marked Exhibits A-J dated September 13, 2007, 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:

Certificate of Correction to amend recorded Subdivision Map H-61, Rancho Del Sol, Unit 4 to abandon the recorded 100-foot non-building easement for Drainage Course Nos. 17 and 18 and replace it with a 15-foot drainage easement within Lot 416 only, and only up to the northern edge of the pond, as shown in Exhibit F for the subject parcel, (Assessor's Parcel Number 077-820-07).

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.

4. 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**

5. The applicant shall file a Certificate of Correction, prepared by an appropriately licensed professional with the El Dorado County Surveyor's Office 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 Records Office. The property owners are responsible for all associated processing and recording fees.

**ATTACHMENT 2**  
**FINDINGS**

**FILE NUMBER P78-0280C2**

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 correction 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-Planning Services at 2850 Fairlane Court, Placerville, CA.

**2.0 Map Correction 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 location of the 100-foot Non-building Easement is not accurately portrayed on Subdivision Map H-63, page A and further, the existing swale/liner depression cannot be qualified as a wetland/stream requiring any special setbacks required by County Code. Therefore, the subject easement is not needed and replacing it with a 15-foot wide drainage easement accurately portrayed on a corrected map can be found to be appropriate and necessary.
- 2.2 *That the modifications proposed do not impose any additional burden on the present fee owner of the property.* The removal of the non-building easement being requested 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.* The abandonment of the 100-foot non-building easement created by Subdivision Map H-63 for Lot 416 only does not alter any interest but updates and confirms the current circumstances concerning the drainage area subject of this permit.
- 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 removal of the 100-foot Non-building Easement will not conflict with easements for access through or use of, property within the parcel map. No utility company, public agency, or parcel owner with interest in the easement, objected to the abandonment of the subject easement.