

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

|                   |                   |
|-------------------|-------------------|
| <b>Agenda of:</b> | September 5, 2007 |
| <b>Item No.:</b>  | 6.c.              |
| <b>Staff:</b>     | Tom Dougherty     |

**PARCEL MAP CORRECTION**

**FILE NUMBER:** P78-0280C

**APPLICANT:** Kenneth Teague

**REQUEST:** Request to amend Parcel Map 25-143 to abandon the 100 foot Non-building Easement and replace it with a 15 foot wide drainage easement.

**LOCATION:** On the east side of Rainbow Trail approximately 0.25 mile northeast of the intersection with Speckled Road in the Pollock Pines area, Supervisorial District II. (Exhibit A).

**APN:** 042-280-34

**ACREAGE:** 1.12

**GENERAL PLAN:** Medium-Density Residential (MDR) (Exhibit C)

**ZONING:** Single-family Two-acre Residential (R2A) (Exhibit D)

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

**RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Certify that P78-0280C is statutorily exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
2. Approve P78-0280C based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

**BACKGROUND:** Parcel Map 25-143 was resultant of Tentative Parcel Map P78-0280 which was recorded on December 20, 1979. There is 100 foot Non-building Easement recorded within the subject parcel created by this map. A gazebo, concrete driveway/patio and carport with a flat roof were built without permits and within this setback. The resultant Building Code and Zoning Ordinance violations came to light from a complaint filed with Building Services during that construction which resulted in *Code Compliance file #178538*. That complaint led to the applicants filing for County *Building Permits #179056* for the gazebo, and *#179098* for the carport in February of 2007. Both permits are pending the decision of this application request. During the review of those permits it was determined by Development Services Permit Center Staff that the applicants would need to file a *Map Amendment for Parcel Map* application to attempt to rectify the situation.

For undeterminable reasons, the actual drainage ditch location is different from that recorded on the original map and there is no physical evidence from vegetation or slope that it was altered. The submitted site map shows the current location of the drainage channel in Exhibit F. Exhibit J4 shows the area where the recorded 100 foot Non-building Easement is located in the real world on-site.

**STAFF ANALYSIS**

**Project Description:** Request to amend the recorded Parcel Map 25-143 to abandon the 100 foot Non-building Easement setback line and the applicant seeks to replace it with a 15 foot wide drainage easement for Parcel B only.

**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 Zoning Administrator 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 1.12 acre parcel is located at approximately the 3,600 foot elevation above sea level. The parcel is covered with random aged conifers spaced apart with very little understory. There is an existing 2,290 square foot single-family dwelling built in 2001 as well as various accessory structures. The drainage swale in question shows no evidence by vegetation, high water mark or a distinctive cut channel that it is anything but a linear depression swale. The swale is fed by a spring just past the subject parcel boundary on the south side and that is where the intermittent portion of the stream shown on the Sly Park U.S.G.S. Quadrangle begins. (Exhibit H).

**Adjacent Land Uses:**

|       | Zoning | General Plan | Land Use/Improvements   |
|-------|--------|--------------|-------------------------|
| Site  | R2A    | MDR          | Single-family residence |
| North | R2A    | MDR/LDR      | Single-family residence |
| South | R2A    | MDR/HDR      | Single-family residence |
| East  | R2A    | MDR/LDR      | Single-family residence |

|      |     |     |                         |
|------|-----|-----|-------------------------|
| West | R2A | MDR | Single-family residence |
|------|-----|-----|-------------------------|

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

**General Plan:** The General Plan designates the subject site as Medium-Density Residential (MDR) allowing parcel sizes between one to five acres with a maximum allowable density of one dwelling unit per one acre. This designation establishes areas for detached single-family residences with larger lot sizes which allow structures such as the subject deck/carport and gazebo as accessory structures to a residential use, pursuant to the underlying Zone District designation.

**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. 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.

The applicants submitted an *Analysis of General Plan Policy 7.3.3.4 Regarding Construction at 4871 Rainbow Trail, El Dorado County, CA.*, from Sycamore Environmental Consultants, Inc. and dated *February 1, 2007* that analyzes the potential wetland classification of the swale, (Exhibit I). The study concludes 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 within 50 feet of the concrete pad or carport.” During a site visit, Planning Services staff confirmed the gazebo, which is the closest structure in question, was 7.5 feet from the centerline of the existing drainage swale as it exists today.

**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 legitimizing 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 Two-acre Residential (R2A). The setbacks required by Zoning Code Section 17.28.340 are 30 feet in the front, 20 feet on the sides and 30 feet in the rear. Outside of the Non-building Easement infringements, a gazebo as well as a deck/carport would be permitted by right in the R2A Zone District. Neither encroaches into any Zoning Code required setback. Staff finds the proposed map correction requests, as conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

**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 Guidelines, pursuant to Section 15268 (b) (3) stating that the approval of final subdivision map 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                   | Parcel Map 25-143   |
| Exhibit F                   | Proposed map correction site plan dated April 15, 2007  |
| Exhibit G                   | Site plan submitted for Building Permits 179098 and 179056  |
| Exhibit H                   | Sly Park U.S.G.S. Quadrangle  |
| Exhibit I                   | “Analysis of General Plan Policy 7.3.3.4...,” Sycamore Environmental Consultants, summery pages, dated February 1, 2007, 2 pages. |
| Exhibits J1, J2, J3, J4, J5 | Site visit photos   |
| Exhibits K                  | Aerial Photo  |

# ATTACHMENT 1

## CONDITIONS OF APPROVAL

File Number P78-0280C – Teague Map Correction  
September 5, 2007 Zoning Administrator Hearing

### 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-K dated September 5, 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 Parcel Map 25-143 to abandon the recorded 100 foot Non-building Easement and replace it with a 15 foot drainage easement within Parcel B only, as shown in Exhibit F for the subject parcel, (Assessor's Parcel Number 042-280-34).

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. 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**

4. 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 P78-0280C**

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 Guidelines 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 Parcel Map 25-143 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 Parcel Map 25-143 for Parcel B 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.