

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of:	August 4, 2021
Item No.:	4.a.
Staff:	Melanie Shasha

MINOR USE PERMIT

FILE NUMBER: MUP21-0001/Liberty Utilities Security Fencing

APPLICANT: Kelley Kelso, Ascent Environmental

OWNER: Liberty Utilities

REQUEST: Minor Use Permit request to allow the replacement of a security fence around the Liberty Utilities Meyers Substation perimeter, consisting of: 11 foot 6 inch high chain-link fence with a foot of barbed wire above. The barbed wire will be at a 45 degree angle to the fence facing the exterior of the substation yard. Total height of the finished fence will be 12 feet 6 inches.

LOCATION: The project site is located at 2548 Garbage Dump Road, on the north side of Garbage Dump Road, approximately 0.6 miles northeast of the intersection with Pioneer Trail, in the South Lake Tahoe area, Supervisorial District 5. (Exhibit A)

APN: 081-031-002 (Exhibit B)

ACREAGE: 9.59 acres

GENERAL PLAN

LAND USE DESIGNATION: Approved Plan (AP) (Exhibit C)

ZONING DESIGNATION: Forest Resource, 160 acre minimum (FR-160) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to 15301(b) (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines involving minor alteration of existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services.

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is Categorical Exempt pursuant to CEQA Section 15301(b); and
2. Approve Minor Use Permit MUP21-0001 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Approval of this Minor Use Permit would allow the installation of replacement security fencing around the perimeter of the Liberty Utilities, Meyers Substation in the South Lake Tahoe Area. The fence will consist of an 11 foot, 6 inch high chain-link fence with a foot of barbed wire above. The barbed wire will be at a 45 degree angle to the fence facing outside the substation yard. Total height of the finished fence will be 12 feet 6 inches.

Installation of a security fence requires a minor use permit to ensure evaluation of site design and compatibility with adjacent land uses. Staff has determined that the proposed project is consistent with the El Dorado County General Plan policies and Zoning Ordinance requirements, as discussed in the Findings.

BACKGROUND / HISTORY

EXISTING CONDITIONS

The project site is located at 2548 Garbage Dump Road, on the north side of Garbage Dump Road, 0.6 miles northeast of the intersection with Pioneer Trail in the South Lake Tahoe area. It is surrounded by vacant land on all sides within the FR-160 zoning designation. The parcel lies at approximately 7,500 feet above mean sea level. The property is approximately 9.59 acres. The site includes an electric substation, equipment storage and pine tree forest.

PROJECT DESCRIPTION: The project would allow the replacement of an existing 6 foot tall security fence consisting of a 5 foot tall chain link fence topped by three strands of barbed wire. The fence is around the perimeter of the Liberty Utilities service center located at 2548 Garbage Dump Road in the South Lake Tahoe area. Liberty Utilities is attempting to address concerns of vandalism, theft of metal and/or equipment, and unauthorized access. The current fence does not protect against unauthorized access during winter months when snowfall can exceed 6 feet. The replacement fencing will consist of an 11 foot, six inch tall chain link fence topped by three strands of barbed wire (for a total height of 12 feet, six inches) and installed in the location of the existing fence around the electrical substation. Total length is approximately 1,272 linear feet (lf) of chain link style fencing coated with a dark color.

STAFF ANALYSIS

As discussed in the Findings section below, the project conforms to the General Plan policies regarding land use compatibility, site adequacy, as well as all Zoning Ordinance provisions including consistency with applicable development standards.

The project was found to be consistent with the FR-160 land use description defined by the Zoning Ordinance. The project is consistent with the FR-160 zoning designation, minimum lot size, dimensions, building height, and building setbacks. General Plan and Zoning consistency are described in the Findings section of this report.

The application was reviewed by several jurisdictional agencies, including the: El Dorado County Department of Transportation, The El Dorado County Museum, the North Central Information Center, and the Tahoe Regional Planning Agency (TRPA).

TRPA: TRPA requires a discretionary approval to install a fence more than 6 feet in height.

General Plan: The subject parcel is in the Tahoe Regional Planning Agency Adopted Plan. This use is consistent with the TRPA Code of Ordinances and the General Plan.

Zoning: The subject parcel is zoned FR-160, which allows Public Utility Infrastructure, accessory uses and structures.

Building Department: A building permit is required to install the fence.

ENVIRONMENTAL REVIEW

The project has been found to be Categorical Exempt from the requirements of CEQA pursuant to 15301(b) (Existing Facilities) involving minor alteration of existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. The project entails replacing an existing security fence at a Liberty Utilities service center in order to improve security protection measures of the facility.

A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption (NOE). The filing of the NOE is optional; however, not filing the NOE extends the statute of limitations for legal challenges to the project from 35 days to 180 days.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....Location Map

Exhibit B.....Assessor's Plat

Exhibit C.....General Plan Land Use Map

Exhibit D.....Zoning Map

Exhibit E.....Aerial Map

Exhibit F.....Project Site Plan and Fence Elevations

FINDINGS

Minor Use Permit MUP21-0001/Liberty Utilities Security Fencing Zoning Administrator/August 4, 2021

1.0 CEQA FINDINGS

- 1.1 The project has been found to be Categorically Exempt from the requirements of CEQA pursuant to 15301(b) (minor alteration of existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services), because the project entails replacing existing fencing at a Liberty Utilities service center.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

2.1 The proposed use is consistent with General Plan Policy 2.2.5.2.

“All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.”

Rationale: The project has been reviewed in accordance with General Plan Policy 2.2.5.2. This project has been found to be consistent with all applicable policies of the General Plan. Findings have been found.

3.0 ZONING FINDINGS

3.1 The project is consistent with Section 130.52.020: Special Findings for Minor Use Permits

Section 130.52.020 in addition to findings of consistency with the requirements and standards of the El Dorado County Ordinance Code, the review authority shall make the following findings before approving a Minor Use Permit application:

1. The proposed use is consistent with the General Plan;
2. The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood; and

3. The proposed use is specifically allowed by a minor use permit pursuant to the Ordinance Code.

Rationale:

1. As discussed above in Section 2.0, General Plan Findings, the Minor Use Permit is consistent with the applicable policies and requirements in the El Dorado County General Plan.
2. The use will not conflict with surrounding uses. The proposed use will comply with the Development Standards of the Forest Resource, 160 acre minimum zone designation. The proposed use is consistent with the surrounding land uses which includes vacant, publically owned lands, and a retired garbage dump. The project is not expected to result in any changes to the current condition of the site. As conditioned, the project is not anticipated to result in significant environmental, visual, or noise impacts to the surrounding area.
3. Security fencing around a utility substation is allowed as an accessory use pursuant to Section 130.40.250: Public Utility Infrastructure. Section 130.40.250.B: Allowed by Right, states that “Public utility infrastructure is allowed by right when said facilities do not exceed the height limit of the zone by more than 15 feet and do not create potential safety and health hazards to adjacent property owners, present or future.”

CONDITIONS OF APPROVAL

Minor Use Permit MUP21-0001/Liberty Utilities Security Fencing Zoning Administrator/August 4, 2021

Conditions of Approval

1. This Minor Use Permit is based upon and limited to compliance with the project description, the Site Plan and Elevations (Exhibit F) and the Conditions of Approval set forth below.

The project description is as follows:

Minor Use Permit request to allow the replacement of a security fence around the Liberty Utilities Meyers Substation perimeter, consisting of: 11 foot 6 inch high chain-link fence with a foot of barbed wire above. The barbed wire will be at a 45 degree angle to the fence facing the exterior of the substation yard. Total height of the finished fence will be 12 feet 6 inches.

Any deviations from the project description, conditions, or exhibits shall 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.

2. **Hold Harmless:** 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 proceeding 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.

El Dorado County shall notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense.

- 3 **Fish and Wildlife Fee:** The applicant shall submit to Planning Services a \$50.00 recording fee and the current Department of Fish and Wildlife fee prior to filing of the Notice of Determination by the County. Please submit check for the total amount to Planning Services and make the check payable to El Dorado County. No permits shall be issued or parcel map filed until said fees are paid.

- 4 **Archeological Resources:** In the event of the discovery of human remains, all work shall cease and the County coroner shall be immediately notified pursuant to subdivision(c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or in his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

5. In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a “unique archaeological resource”, contingency funding, and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archaeological mitigation takes place. If the find is determined to be a “unique archeological resource”, the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a “nonunique archeological resource”.