

**Butte County Department of Development Services**

TIM SNELLINGS, DIRECTOR | PETE CALARCO, ASSISTANT DIRECTOR

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ADMINISTRATION \* BUILDING \* PLANNING

**MEMORANDUM**

**TO:** Planning Commission  
**FROM:** Mark Michelena, Senior Planner  
**SUBJECT:** APN 056-410-032 (Ulsh)  
**DATE:** October 28, 2010

**ATTACHMENTS:**

1. Resolution
2. Exception Request
3. Caltrans Response
4. CCOC 88-00930
5. Plat

At the September 23, 2010 Planning Commission meeting, staff was directed, based on support by Caltrans, to prepare a resolution approving an exception request to a previously approved Conditional Certificate of Compliance.

A Conditional Certificate of Compliance (CCOC 88-00930. for Jerry Hardy) was granted by the Butte County Subdivision Violation Committee on December 16, 1987. One of the conditions of approval was to verify legal access. Legal access requires a 60-foot easement to a county or state road and that it is two-way traversable by a two-wheel drive sedan. In order for the condition of legal access to be satisfied, an exception to the 60-foot easement is required. Staff did receive support of the exception from Caltrans for the 30-foot easement at State Highway 32.

Staff recommends the Planning Commission approve the exception request to allow a 30-foot easement at State Highway 32 right-of-way.

**RESOLUTION No.**

**A RESOLUTION OF THE BUTTE COUNTY PLANNING COMMISSION APPROVING  
AN EXCEPTION TO BUTTE COUNTY SUBDIVISION STANDARDS**

WHEREAS, a previously approved Conditional Certificate of Compliance (CCOC 88-00930) was approved by the Butte County Subdivision Violation Committee on December 16, 1987, in accordance with Chapter 20, Article VII, Violations and Certificates of Compliance, of the Butte County Code relative to Assessor's Parcel Number 056-410-032; and

WHEREAS, the Planning Commission has considered an exception request on the previously approved Conditional Certificate of Compliance (CCOC 88-00930), in accordance with Chapter 20, Section 4 of the Butte County Code on Assessor's Parcel Number 056-410-032; and

WHEREAS, said exception request was referred to various affected public and private agencies, County departments, and referral agencies for review and comments; and

WHEREAS, a public meeting was held on October 28, 2010; and

WHEREAS, the Planning Commission has considered a report from the Planning Division.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission:

- I. Finds that the previously approved Conditional Certificate of Compliance was categorically exempt from the California Environmental Quality Act (CEQA) provisions under 14 CCR Section 15303(a). Section 15303(a) exempts limited uses including one single-family residence and a second dwelling unit.
- II. Approves the exception request to Butte County Code Section 20-134, allowing a point of encroachment width of thirty (30) feet at Highway 32 for the subject property (APN 056-410-032), based on the following:
  - A. That there are special circumstances or conditions of existing development affecting the subject property (APN 056-410-032), which circumstances, conditions or development existed at the time the application for the map was determined or deemed to be complete.

*Staff finds the aforementioned November 1984 CAHA between Caltrans and the Butte County Board of Supervisors that restricts the point of encroachment width to the current width of 30 feet to be a valid special circumstance affecting the project site.*
  - B. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

*Caltrans commented that the current opening is 30.00 feet wide and by reviewing the deeds which created this opening, it is clear that the intent of this opening was to provide access to SR 32 for the separate land owners both north and south of the section line. Caltrans commented that*

*the proposed new residence in conjunction with permitted development on existing parcels using this point of access to SR 32 would not be too much for this opening to absorb from a right of way engineering standpoint.*

DULY PASSED AND ADOPTED this 28<sup>th</sup> day of October, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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CHUCK NELSON, Chair  
Planning Commission  
County of Butte, State of California

ATTEST:

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KIM MCMILLAN, Secretary  
Planning Commission  
County of Butte, State of California

**BUTTE  
COUNTY  
SEP 02 2010  
DEVELOPMENT  
SERVICES**

September 1, 2010

CCOC 88-000930  
APN 056-410-032

To Whom It May Concern:

We are requesting an exception to the access requirement of a 60-foot right-of-way easement from our property to a county or state maintained road. We do have a 60-foot easement from our property to the State Highway 32 right-of-way. At the State Highway 32 Caltrans has a restricted access road right-of-way to 30 feet. Our exception request is to allow for a 30-foot right-of-way at State Highway 32.

Respectfully,

Dale Ulsh and Sharon Ulsh



## Michelena, Mark

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**From:** Dave Thibeault [dave\_thibeault@dot.ca.gov]  
**Sent:** Tuesday, October 19, 2010 1:56 PM  
**To:** Michelena, Mark  
**Cc:** Richard Schwyn  
**Subject:** Re: FW: Exception Determination on 056-410-032

**Attachments:** status of the access control opening at But 32 PM 29.5 - Caltrans 8-20-10.msg; Plat - 056-410-032.pdf



status of the  
access control o... -410-032.pdf (25 Ki



Plat -  
-410-032.pdf (25 Ki

Hi Mark,

In regards to your request as to the status of the access control opening at But 32 PM 29.5, I have prepared the attached exhibit below showing the current configuration of the opening to SR 32.

As shown in the exhibit, the current opening is 30.00 feet wide and straddles the section line for sections 21 and 16, T24N, R3E. By reviewing the deeds which created this opening, (Caltrans deed nos.10668 & 10669) it is clear that the intent of this opening was to provide access to SR 32 for the separate land owners both north and south of the section line. I feel that the proposed new residence on APN 56-410-032 would not be too much for this opening to absorb from a Right of Way Engineering standpoint.

To expand this access control opening to 60 feet would require the involvement of the land owners affected, the California Transportation Commission (CTC) and Caltrans. Some of the issues that would need to be addressed are;

The larger opening would benefit all of the land owners currently using this site which would add value to their property. This added value would probably need to be appraised by Right of Way and then paid for by the affected land owners.

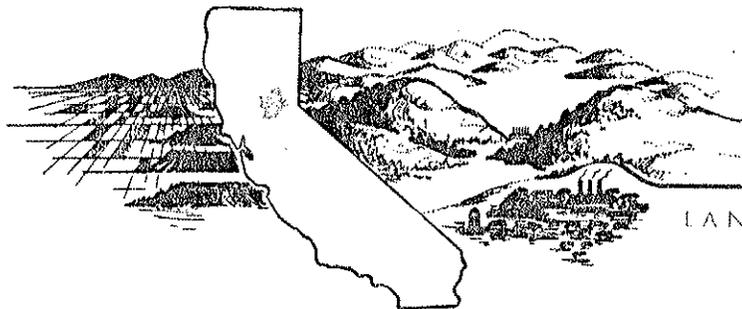
Since the State is giving up some rights to this right of way, (decertifying the access control), this would have to go before the CTC. This would require the party requesting the decertification to post a deposit to cover the State's cost of doing the research and preparing the documents to be circulated to the different Caltrans departments and presented to the CTC.

Depending on the comments from the other departments and the CTC, it may be necessary to evaluate such traffic safety issues as sight distance and turning lanes.

If you would like to pursue this further or have any questions give me a call.

Rick Schwyn  
Right of Way Engineering, Caltrans  
530 741-7885

(See attached file: But32 PM 28.pdf)



# Butte County

LAND OF NATURAL WEALTH

## DEPARTMENT OF PUBLIC WORKS

WILLIAM (Bill) CHEFF, Director

7 COUNTY CENTER DRIVE - OROVILLE, CALIFORNIA 95965

Telephone: (916) 538-7206

RONALD D. McELROY  
Deputy Director

February 1, 1988

Jerry Hardy  
C/O Sierra West Surveying  
5437 Black Olive Dr.  
Paradise, CA 95969

RE: AP 56-41-03 (ptn)  
Certificate of Compliance

Dear Mr. Hardy:

Enclosed please find the Certificate of Compliance which was issued by the Butte County Department of Public Works and recorded on January 12, 1988 under Document Number 88-00930 in the office of the Butte County Recorder.

If you have any questions regarding this matter, please contact this office.

Very truly yours,

William Cheff  
Director of Public Works

  
\_\_\_\_\_  
John Mendonsa  
Assistant Director

JM/kk  
attachment

cc: Building Department  
Environmental Health Department

RETURN TO:  
Public Works  
Land Development Section

PUBLIC WORKS  
1988 JAN 12 PM 2:43

CERTIFICATE OF COMPLIANCE

CANDACE J. GRUBBS  
CLERK-RECORDER FEE NO FEE

Issued to: Jerry Hardy  
c/o Sierra West Surveying  
5437 Black Olive Drive  
Paradise, CA 95969

88- 930

This Certificate of Compliance is hereby issued by the County of Butte to certify that the land division which created the parcel of property identified below complies with the applicable provisions of the Subdivision Map Act and of Chapter 20 of the Butte County Code.

1

Pages

- Property location: approx. 1000 ft. west of Hwy. 32 and 500 ft. south of Garland Road. Forest Ranch area.
- Assessor's Parcel Number: AP 56-41-03 portion

Description : All that certain property located in the County of Butte, State of California, more particularly described as follows:

A portion of the Southwest quarter of the Northwest quarter of Section 21, Township 24 North, Range 3 East, M.D.B. & M., and more particularly described as follows:

Beginning at the Southeast corner of said southwest quarter of the Northwest quarter of Section 21, thence along the East-West centerline of said Section 21, North 88° 01' 46" West 670.46 feet, thence North 0° 17' 29" East, 325.64 feet, thence South 88° 01' 46" East, 670.46 feet to the East line of the Southwest quarter of the Northwest quarter of said Section 21, thence along said East line South 0° 17' 29" West; 325.64 feet to the Point of Beginning and containing 5.01 acres more or less.

Together with rights-of-way of record recorded under Recorder's Serial Number 87-36497.

Issuance of this Certificate is conditional upon the following conditions which have been imposed pursuant to the Butte County Code Chapter 20-167 and Government Code, Section 66499.35 (b), to protect the public health and public safety:

- Provide satisfactory evidence that the parcel complies with the sewage disposal area requirements of Appendix VII of the Butte county Subdivision Ordinance.
- Provide satisfactory evidence of domestic water available to the parcel.
- Comply with the acreage requirements of the TM-5 zone.
- Verify legal access.

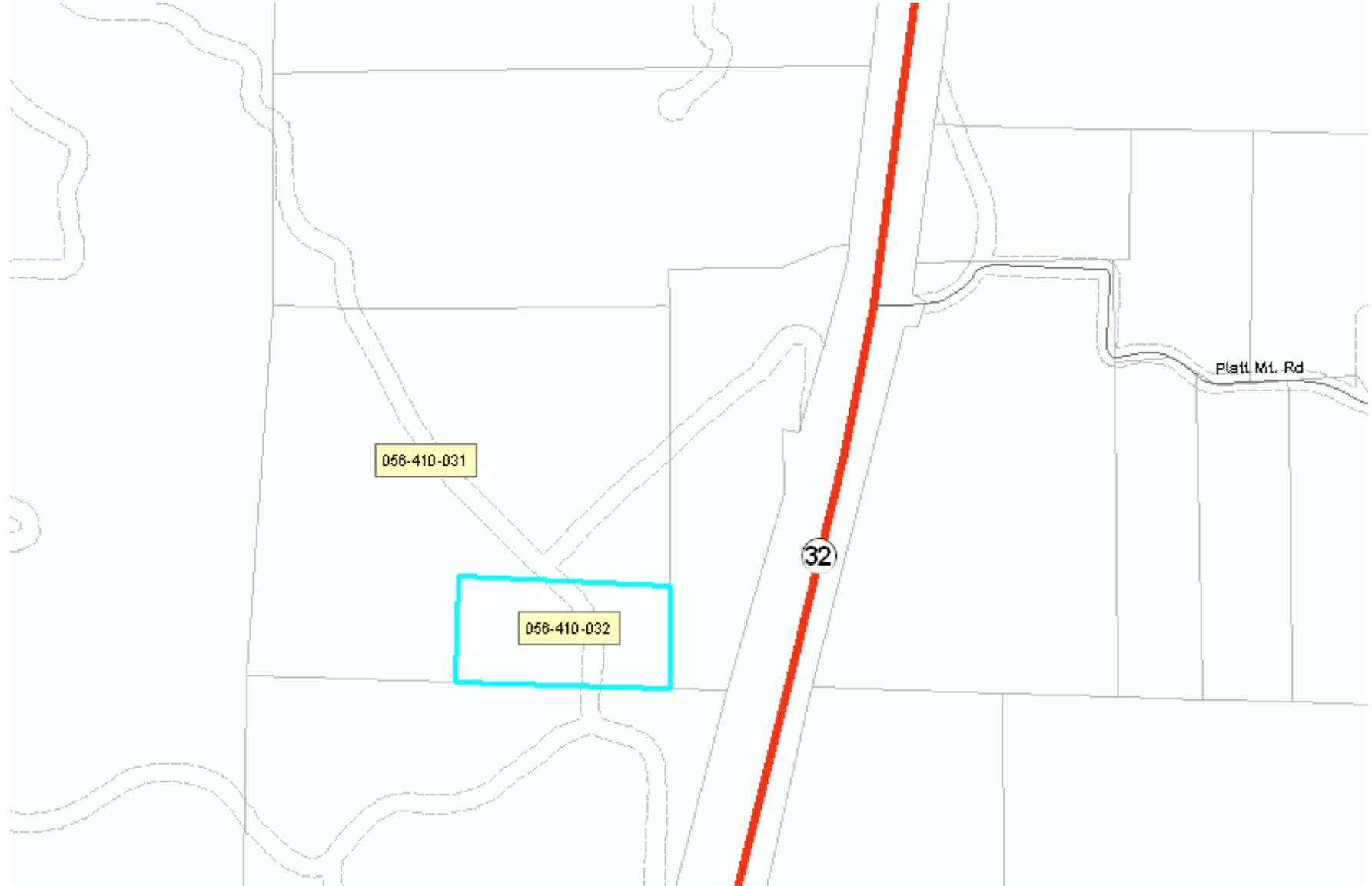
County of Butte  
Subdivision Violation Committee

John Mendonca

Thomas Reid

David R. Kiron

END OF DOCUMENT



056-410-031

056-410-032

32

Platt Ml. Rd