

Agenda of: July 5, 2006
Item No.: 4.a.
Staff: Tom Dougherty

STAFF REPORT – Certificate of Compliance

FILE NUMBER: COC 02-0095

APPLICANT: Ellis and Barbara Christensen

REQUEST: A certificate of compliance on the designated remainder of Parcel Map 47-33 (P93-19). (Exhibit A)

LOCATION: On the east side of Arundel Road, approximately 0.4 mile south of the intersection with Starks Grade in the Sly Park area. (Exhibit B)

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

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

APN: 042-680-30 (Exhibit E)

ACREAGE: 14.08 acres

ENVIRONMENTAL DOCUMENT: Negative declaration

SUMMARY RECOMMENDATION: Conditional approval

BACKGROUND: The subject parcel is the designated remainder of Parcel Map 47-33, the result of Tentative Parcel Map P93-19, which was approved by the Zoning Administrator on July 3, 1996. That decision was appealed to the Board of Supervisors, who on September 17, 1996, denied the appeal in part with modifications to Conditions of Approval 3, 26, and 28. As required by Condition 23 and as noted on Parcel Map 47-33, a Notice of Restriction was recorded stating the following:

“Notice is hereby given that a development limitation is imposed on the parcel designated as the remainder parcel of Parcel Map Book 47, Page 33 of the Official Records of the County of El Dorado. This Notice of Restriction is imposed as a result of Condition 23 placed on that Tentative Parcel Map P93-19. Said development limitation states: *A Notice of restriction on the designated remainder shall be filed with the map, pursuant to Government Code Section 66424.6.* No building permits shall be issued until a certificate of compliance, parcel map, or final map is approved and filed with the County Recorder.”

Parcel Map 47-33, which created four (4) lots plus the 14.08-acre remainder parcel that is the subject parcel of this application, was recorded on September 29, 1999.

Project Description

A request for a certificate of compliance on Assessor’s Parcel Number 042-680-30, which will acknowledge the County’s acceptance of the subject parcel as a legally created parcel in accordance with the Subdivision Map Act and local Subdivision Ordinances. While no development is proposed as part of this project, approval of the certificate of compliance would allow potential development of the property that is consistent with the Single-family Three-acre Residential (R3A) Zone District. Without the certificate of compliance, the County cannot approve any development permits, including building permits.

STAFF ANALYSIS

Site Description: The subject parcel is 14.079 acres in size, with elevations ranging between approximately 3,760 and 3,890 feet MSL. Slope characteristics of the parcel range from 0 percent to over 20 percent, with the topography steeper in the eastern portions of the parcel. There is a dry swale running through the western portion that shows no indications either by vegetation, debris or water flow patterns that water has flowed here for many years. Based upon information contained in the Soil Survey of El Dorado County, the subject parcel contains the following soil types: CoC (Cohasset cobbly loam, 3 to 15 percent slopes and CmD (Cohasset loam, 15 to 30 percent slopes). Both soils are characterized as having medium surface runoff and the erosion hazard is slight to moderate. The property is heavily forested with incense cedars (*Calocedrus decurrens*), Douglas fir (*Pseudotsuga menziesii*), white fir (*Abies concolor*), ponderosa pines (*Pinus ponderosa*), and black oak (*Quercus kelloggii*). Shrubs in the limited openings in the tree canopy include deer brush (*Ceanothus integerrimus*), white-leaf manzanita (*Arctostaphylos viscida*) mountain misery (*Chamaebatia foliolosa*) and blackberries (*Rubus vitifolius*). The future proposed driveway location was previously rough graded and cleared of trees and the future proposed building envelope area consists of juvenile oak saplings, white-leaf manzanita with an understory of mountain misery.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
North	R3A	MDR	Woodlands, Single-family Residences
South	RE-10	LDR	Single-family Residences
East	R3A	MDR	Single-family Residences
West	R3A	MDR	Single-family Residences

Discussion: The surrounding uses are the same as those allowed under current zoning for the project parcel.

General Plan: The General Plan designates the subject site as Medium Density Residential. This designation permits development consistent with the overlying Single-family Three-acre Residential (R3A) Zone District. The single-family development that would result from this certificate of compliance is consistent with this land use designation.

Policy 5.2.3.5: *The average residential density shall not be greater than one dwelling unit per five-acres in proposed groundwater dependent developments except in areas known to have groundwater supply limitations. In those areas, a minimum parcel size of ten acres or larger may be required if it is demonstrated such larger parcels are necessary to limit the impact on groundwater supply in the area.*

Discussion: The granting of this certificate of compliance will not create a parcel that would conflict with this policy and the 14.079-acre parcel would be considered large enough to potentially support a well by current County standards.

Policy 5.3.1.2: *The creation of lots less than five acres in size in Medium-Density Residential areas relying on on-site septic systems shall only occur when a public water supply is available for domestic use. If public water is not available, such lots shall not be less than five acres.*

Discussion: The granting of this certificate of compliance will not create a parcel that would conflict with this policy.

Policy 5.7.1.1: *Prior to approval of new development, the applicant will be required to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or will be provided concurrent with development.*

Discussion: A fire hydrant exists on the west side of Arundel Road directly across from the subject property. A *Fire Safe Plan* for all parcels created by Tentative Parcel Map P99-0013 applies to this parcel and is enforced by the CC&Rs involving the said parcels.

Conclusion: Residential development on-site will need to conform to all applicable General Plan policies. As discussed above, staff finds that the project as proposed/conditioned, conforms to the General Plan.

Zoning: Single-family Three-acre Residential (R3A) Zone District provides for “the orderly development of single-family residential land consistent with conditions conducive to a desirable residential density and environment and to protect from the encroachment of unrelated uses tending to have an adverse effect on the single-family residential development of the area.”

Discussion: As a 14.08-acre parcel, consistency with the minimum size requirement of three acres is met.

Access: Access has been provided through Parcel Map 47-0033 with existing frontage of approximately 107-feet along Arundel Road which is part of a 60-foot wide road and public utility easement. Arundel Road currently is paved, has an adequate turnaround adjacent to the

parcel and meets the requirements of the *Design and Improvements Standards Manual*. The driveway that is to provide access to the potential dwelling site is existing and was graded years ago. A development plan would require the driveway to be graveled and even though there has not been water flowing through the drainage swale for years, as a precaution a culvert will be required by Department of Transportation to be installed where the existing driveway currently crosses the dry swale.

Authority to Issue a Certificate of Compliance: Board of Supervisors (BOS) Ordinance 4632, passed May 20, 2003, establishes the review and approval process for certificates of compliance. *Sections 16.76.070 and 16.76.080* authorizes the County Surveyor's Office to process unconditional and conditional certificates of compliances meeting the requirements of the sections identified. *Section 16.76.090* authorizes Planning Services to process and issue both unconditional and conditional certificates of compliance for all other potentially questionable land division projects such as grant deed parcels, historic parcels, administrative parcel, or subdivision violations (creation of five (5) or more parcels by gift or grant deed). Specific to this application, *Section 16.76.090.(c)* authorizes the issuance of certificate of compliances on remainder parcels of final or parcel maps created after December 31, 1979.

Subdivision Map Act and Local Ordinances: *Section 66424.6 (d)* of the Subdivision Map Act establishes that:

“A designated remainder or any omitted parcel may be subsequently sold without any further requirement of the filing of a parcel map or final map, but the local agency may require a certificate of compliance, or a conditional certificate of compliance.”

Section 66499.35 (b) of the Subdivision Map Act provides the following direction regarding the imposition of conditions:

“If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance. A local agency may, as a condition to granting a condition certificate of compliance, impose any conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and that had been established at that time by this division or local ordinance enacted pursuant to this division”..., “then the local agency may impose any conditions that would be applicable to a current division of the property.”

Discussion: Pursuant to *Section 66499.35 (b)*, *Ordinance 4632* and *Section 16.76.090 (c)* current conditions of approval may be required for a COC on a remainder parcel. The El Dorado County Department of Transportation reviewed the application and determined that the owners must enter into an agreement with the other owners of parcels created by PM 47-33 for road maintenance and snow removal for the Arundel Road which is a non-County maintained road. CC&Rs were recorded on September 20, 1999 (Doc. 99-0059121) for all lot owners of parcels created by PM 47-33. Applicable conditions from the original parcel maps and conditions resultant from the Initial Study prepared for the project request have been applied in the conditions of approval at the conclusion of this report. The remainder parcel subject of this

permit was included in that initial study. The subject parcel was also included in the Fire Safe Plan for P93-0019 which is also enforced by the CC&Rs. The applicants have submitted a letter dated March 30, 2004 located in the project file that states their intention to participate in the maintenance and snow removal of Arundel Road.

Conclusion: As discussed above, staff finds that conditions placed on the project, as conditioned, conforms to the Subdivision Map Act, *Title 16 of the County Code, and Ordinance 4632.*

Agency and Public Comments: The following agencies provided comments on this application. Copies of the responding agency's written comments are available at Planning Services office:

El Dorado County Environmental Management Department, Environmental Health Division:

The Division reviewed the percolation test for potential of the property to support a septic system, and other materials regarding the potential for a producing well. The Division reviewed the request for a certificate of compliance and based on the information submitted to them, recommended approval.

El Dorado County Department of Transportation:

The Department reviewed the application and noted that the access driveway will be required to have a culvert installed where it crosses the dry drainage swale.

El Dorado County Fire Protection District:

The Fire District has reviewed the project and offered comments or concerns.

County of El Dorado Office of County Surveyor:

The Surveyor's office reviewed the application and had no additional comments.

California Department of Fish and Game (CDFG)

Pursuant to a phone conversation with Kent Smith of CDFG on August 31, 2005 at 10:55 a.m., a streambed alteration permit is not needed to put the Department of Transportation required culvert in the dry drainage swale because that drainage referred to as Clear Creek it is not located on the National Wetlands Inventory Map, the U.S.G.S. Quadrangle for the area, nor deemed significant by the Wetlands Delineation Study done September 25, 2002. A site visit by the project planner on August 30, 2005 during which neither evidence of riparian vegetation nor evidence of past water movement of any kind was observed.

The following public volunteer organizations provided comments on this application:

El Dorado County Indian Council, Inc.
Pleasant Valley/Oak Hill Advisory Committee
Cultural Resources Preservation Commission
El Dorado County Pioneer Cemeteries

New issues may arise as a result of the public notice of the hearing which will be discussed at that time. At the time of the preparation of this report, staff had not received any comments from the public.

There are only five Conditions of Approval since this parcel was originally conditioned by the approval of P 93-0019 as modified by the Board of Supervisors on September 17, 1996.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Exhibit G) to determine if the project has a significant effect on the environment. Based on the Initial Study staff has determined that there is no substantial evidence that the proposed project will have a significant effect on the environment, and a negative declaration has been prepared.

Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Adopt the negative declaration based on the Initial Study prepared by staff; and
2. Issue a conditional certificate of compliance, based on the findings in Attachment 2, subject to the Conditions in Attachment 1.

SUPPORT INFORMATION

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity and A.P.N. Maps
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Parent Parcel Map 47-33
Exhibit E	Conditions of Approval for Parcel Map P93-19
Exhibit F	Notice of Restrictions and Declaration of Covenants and Restrictions
Exhibit G	Initial Study
Exhibit H	Site Photos
Exhibit I	Deer Herd Map

ATTACHMENT 1

CONDITIONS OF APPROVAL

July 5, 2006 Zoning Administrator Hearing
Ellis and Barbara Christensen
File Number COC 02-0095

Conditions of Approval

1. In order to avoid disruption which could potentially interfere with downstream water quality, flood protection, plant and wildlife habitats, a designated non-building area shall be established, 25 feet on either side of the seasonal drainage that traverses this parcel. This setback shall be recorded in a Notice of Restriction and shown on a record of survey.
2. The applicant shall enter into an agreement with the owners of parcels on Arundel Road between the project and Starkes Grade Road, requiring participation in maintenance and snow removal on that portion of Arundel, and be subject to the Covenants and Restrictions included in Document 99-59121 on file with the County Recorder and included as Exhibit F. Further, prior to the issuance of the clear certificate of compliance, said agreement shall be recorded in a separate and unique document with a copy provided to the Deputy Planning Director or designee.
3. In the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified pursuant to *Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code*. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission. The project grading plans shall include this mitigation on the plans. Planning Services shall review the grading plans prior to issuance of a grading permit.

El Dorado County Transportation Department (DOT)

4. Access to the subject property shall be provided. Improvements to the access driveway shall consist of placing a culvert of a diameter approved by Department of Transportation, across the Clear Creek drainage way and constructing a 12-foot wide gravel (4 inch compacted aggregate base) driveway onto the property.

El Dorado County Fire Protection District

5. Requirements for a clear certificate of compliance are as follows: The applicant shall demonstrate the available fire flow is greater than 1,000 gallons per minute at 20 pounds for 2 hours for dwellings less the 3,600 square-feet and shall be available within a maximum of 500 feet from the subject parcel boundary. If no public water is available, a Notice of Restriction shall be recorded requiring installation of a NFPA 13 D sprinkler system within any new dwelling, to be supplied by a 3,000-gallon tank which has appropriate discharges for fighting wild land fires. Prior to issuance of a clear certificate of compliance; a letter from El Dorado County Fire Protection District stating compliance with above said Condition 5 and a copy of the above said Notice of Restriction shall be reviewed and approved by Planning Services.

ATTACHMENT 2

FINDINGS

July 5, 2006 Zoning Administrator Hearing
Ellis and Barbara Christensen
File Number COC 02-0095

1.0: CEQA FINDING

- 1.1: The proposed project will not have a significant effect on the environment, based on the analysis contained in the staff report, environmental questionnaire, initial study and site visit. Further, the project will not affect wetlands, water courses, riparian lands, unique plant or animal life and habitats, or other terrestrial matters under the jurisdiction of the State Department of Fish and Game. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption
- 1.2: The Zoning Administrator finds that the proposed project will not have the potential to cause any impact that was considered and analyzed in the staff report and Initial Study and thus will not have a significant effect on the environment.
- 1.3: The documents and other materials which constitute the record of proceedings upon which this decision is base are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0: ADMINSTRATIVE FINDINGS

- 2.1: Issuance of a certificate of compliance on Assessor's Parcel Number 042-680-30, which will acknowledge the County's acceptance of the subject parcel as a legally created parcel in accordance with the Subdivision Map Act and local subdivision ordinances.
 - 2.1.1: The proposed project, as mitigated and conditioned, is consistent with the policies in the 2004 El Dorado County General Plan, and the El Dorado County Zoning Ordinance, as discussed in the General Plan and Zoning sections of this staff report.
 - 2.1.2: The proposed project, as conditioned, complies with the requirements of the Single-family Three-acre Residential (R3A) Zone District, does not allow any use not typical of the surrounding parcels, and is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report and the analysis of potential impacts in the Initial Study.

2.2: General Plan Consistency

- 2.2.0: The General Plan designates the subject site as Medium Density Residential. This designation permits development consistent with the overlying Single-family Three-acre Residential (R3A) Zone District. The single-family development that would result from this certificate of compliance is consistent with this land use designation

- 2.2.1: The granting of this certificate of compliance will not create a parcel that would conflict with *Policy 5.2.3.5* and the 14.079-acre parcel would be considered large enough to potentially support a well by current County standards.
- 2.2.2: The granting of this certificate of compliance will not create a parcel that would conflict with *Policy 5.3.1.2* because the 14.079-acre parcel is larger than five-acres.
- 2.2.3: The granting of this certificate of compliance will not create a parcel that would conflict with *Policy 5.7.1.1* because a fire hydrant exists on the west side of Arundel Road directly across from the subject property and Fire Safe Plan for all parcels created by P99-13 applies to this parcel and is enforced by the CC&Rs involving said parcels.