

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: July 19, 2006
Item No.: 5.b.
Staff: Michael C. Baron

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC 06-0026

APPLICANT: Mark and Stacia Theissen

REQUEST: Request for a certificate of compliance for one parcel identified by Assessor's Parcel Number 085-600-02, created by Grant Deed October 2, 1975. Current owners acquired title to property September 27, 1989.

LOCATION: On the south side of Audubon Drive approximately 6,000 feet southwest of the intersection with North Canyon Road in the Camino area.
(Exhibit A)

APN: 085-600-02

ACREAGE: 1.63 acres

GENERAL PLAN: Medium Density Residential-Agriculture District Overlay-Platted Lands Overlay (MDR-A-PL) (Exhibit B)

ZONING: Residential Two-acre (R2A) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Negative Declaration

SUMMARY RECOMMENDATION: Approval of a Conditional Certificate of Compliance

BACKGROUND: This application is a request for a certificate of compliance on Assessor's Parcel Number 085-600-02, which will acknowledge the County's acceptance of the subject parcel as legally created parcel in accordance with the Subdivision Map Act and local subdivision ordinances. The County's issuance of a certificate of compliance on the parcel would allow development of the

property consistent with the Residential Two-acre (R2A) Zone District, which allows a single-family residence and limited horticultural and agricultural pursuits.

Without the certificate of compliance the County cannot issue any development permits, including building permits. In this instance, the parcel would be issued a conditional certificate of compliance requiring specific conditions and/or mitigation measures be completed prior to the issuance of an unconditional or *clear* certificate of compliance. The parcel cannot be developed until such time as a *clear* certificate of compliance is recorded.

The subject parcel was created as a result of a Grant Deed filed October 2, 1975 (Deed 1350 813), a conveyance from David and Matilda Lund to Kenneth and Patricia Kraft, which was a violation of the Subdivision Map Act and County Ordinance. A Quit Claim Deed was recorded May 17, 1978 (Deed 1630 327). As such, the County may issue a conditional certificate of compliance and impose any conditions that would have been applicable to the division of the property at the time the applicant acquired interest in the properties pursuant to *Government Code Section 66499.35(b)*. Applicant’s Mark and Stacia Theissen acquired their interest in APN 085-600-02 by purchasing the property on September 27, 1989.

STAFF ANALYSIS

Project Description: Request for a certificate of compliance for one parcel identified as Assessor’s Parcel Number 085-600-02, created by Grant Deed October 2, 1975. Current owners acquired title to property September 27, 1989.

Site Description: The subject parcel is at an average elevation of approximately 4,000 feet above mean sea level. Vegetation is predominately Bristle Cone Pine, Japanese maple, and Dogwood. No structures or improvements exist on the subject parcel. Access to the parcel is from Audubon Trail which is a non-County maintained road with a developed width of 15 to 25 feet.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R2A	MDR-A-PL	Undeveloped
North	R2A	MDR-A-PL	Single-family Residence
South	R2A	MDR-A-PL	Single-family Residence
East	R2A	MDR-A-PL	Single-family Residence
West	R2A	MDR-A-PL	Single-family Residence

General Plan: The subject property is designated as Medium Density Residential (MDR) on the General Plan Land Use Map. This land use designation establishes areas for single-family residential development and is considered appropriate only within Community Regions and Rural

Centers. Standard residential subdivisions shall maintain a density range from one dwelling units per 1 to 5 acres.

Policy 2.2.2.2 states that: *The purpose of the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County's federally designated prime, State designated unique or important, or County designated locally important soils (collectively referred to as "choice" agricultural soils) and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. This designation does not imply any restrictions on agricultural uses in areas not designated specifically as an Agricultural District but only serves to identify agriculture as the principal activity and to discourage incompatible uses such as higher density residential use.*

Policy 2.2.2.3 states that: *The purpose of the Platted Lands (-PL) overlay designation is to identify isolated areas consisting of contiguous existing smaller parcels in the Rural Regions where the existing density level of the parcels would be an inappropriate land use designation for the area based on capability constraints and/or based on the existence of important natural resources. The -PL designation shall be combined with a land use designation which is indicative of the typical parcel size located within the Platted Lands boundaries. The existence of the -PL overlay cannot be used as a criteria or precedent to expand or establish new incompatible land uses.*

Discussion: The subject parcel is 1.63 acres in size. This acreage is consistent with the Medium Density Residential Land Use Designation.

Conclusion: As discussed above, staff finds that the project, as proposed and conditioned, conforms to the General Plan.

Zoning: The subject parcels is zoned Single-family Two-acre Residential. The purpose of the R2A Zone District is to provide for the orderly development of single-family residential land having sufficient space and natural conditions to enable residents to engage in limited horticultural and agricultural pursuits 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. One single-family residence is allowed on a parcel in the R2A Zone District. The minimum parcel size in the R2A Zone District is two acres. All development on the parcels is subject to the development standards contained in *Section 17.28.390 of the County Code.*

Discussion: The project parcel size is 1.63 acres and does not meet the minimum parcel size for the R2A Zone District. However, *Chapter 16.76.090 of the El Dorado County Subdivisions Ordinance* allows for Planning Services to determine if a public hearing will be required and what condition as authorized by the Subdivision Map Act, if any, should be attached to the conditional certificate of compliance. Planning Services has determined that this certificate of compliance will require a public hearing because the parcel only consists of 1.63 acres, which is below the minimum two acre parcel size for the R2A Zone District.

Conclusion: As discussed above staff finds that the project, as proposed and conditioned, does not meet all applicable zoning ordinances and will be required to have a public hearing to make a determination.

Authority to Issue a Certificate of Compliance: On May 20, 2003, the El Dorado County Board of Supervisors passed *Ordinance No. 4632* known as the *Certificate of Compliance Ordinance*. This Ordinance added *Chapter 16.76* to the *County Code*. *Chapter 16.76* governs the process and issuance of unconditional (clear) and conditional certificates of compliance for certain parcels.

Section 16.76.090 establishes that El Dorado County Planning Services is authorized to process, issue and record unconditional and conditional certificates of compliance for parcels created after March 4, 1972. The subject parcel was created by grant deed after March 4, 1972. As such, the County Surveyor referred the application (COC06-0026) to Planning Services.

Subdivision Map Act and Local Ordinances: *Section 66499.35(b)* of the *Subdivision Map Act* provides the following direction regarding the imposition of conditions such that *A local agency may as a condition to granting a Certificate of Compliance, impose any conditions which would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which has been established at that time by this division or by local ordinance enacted pursuant thereto, except where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or local ordinances enacted pursuant thereto, then the local agency may impose any conditions which would be applicable to a current division of property.*

Section 16.76.050 of the *El Dorado County Code* establishes that Planning Services may impose any conditions that would have been applicable to the division of the property at the time the current owner(s) acquired his or her interest, except that where the current owner(s) was involved in the initial land division violation, then the local agency may impose any conditions that would be applicable to a current division of property.

Parcel Creation and Applicable Standards: As stated above, *Section 16.76.050* of the El Dorado County Code establishes that Planning Services may impose any conditions that would have been applicable to the division of the property at the time the current owner(s) acquired his or her interest, except that where the current owner(s) was involved in the initial land division violation, then the local agency may impose any conditions that would be applicable to a current division of property. Applicant/owners Mark and Stacia Theissen received title on September 27, 1989.

Agency and Public Comments: The following agencies provided comments on this application:

- El Dorado County Department of Transportation
- El Dorado County, Office of the County Surveyor
- Pacific Gas and Electric

Copies of their written comments are available at Planning Services office. The above agencies had no specific concerns regarding the proposed project that are not addressed and accounted for by this report's Findings and Conditions.

Additional issues may be raised as a result of the public notice of the hearing, which will be discussed at that time.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) 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.

This project is found to be de minimis (having no effect on fish and game resources). Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Determination and Certificate of Fee Exemption with the State in accordance with State Legislation (California Fish and Game Code Section 711.4).

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff.
2. Based on the findings in Attachment 2, and subject to the Conditions of Approval in Attachment 1, issue a Conditional Certificate of Compliance for Assessor's Parcel Number 085-600-02, noted in Attachment 3.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Attachment 3	Conditional Certificate of Compliance
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Assessor's Map
Exhibit F	Environmental Checklist and Discussion of Impacts

ATTACHMENT 1

CONDITIONS OF APPROVAL

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CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. The property owner shall pay a \$150.00 park-in-lieu fee to the El Dorado County Parks and Recreation Department.

El Dorado County Department of Transportation

2. The on-site road width shall be a minimum of 20 feet per the 101F Road Improvement Standard in effect (1989) at the time the parcel was created. The off-site portion of Audubon Drive fronting the property to the intersection with Waxwing Road shall be widened to a minimum of 18 feet per California Fire Safe Regulations.
3. Grading plans shall incorporate appropriate erosion control measures as provided in the El Dorado County Grading Ordinance and El Dorado County Storm Water Management Plan. Appropriate runoff controls such as berms, storm gates, detention basins, overflow collection areas, filtration systems, and sediment traps shall be implemented to control siltation, and the potential discharge of pollutants into drainages.
4. Grading plans shall be prepared and submitted to the El Dorado County Resource Conservation District (RCD) and the Department Of Transportation. The RCD shall review and make appropriate recommendations to the County. Upon receipt of the review report by the RCD, the Department of Transportation shall consider imposition of appropriate conditions for reducing or mitigating erosion and sedimentation from the project. The County shall issue no building permits until the Department of Transportation approves the final grading and erosion control plans and the grading is completed.
5. The timing of construction and method of revegetation shall be coordinated with the El Dorado County Resource Conservation District (RCD). If grading activities are not completed by September, the developer shall implement a temporary grading and erosion control plan. Such temporary plans shall be submitted to the RCD for review and recommendation to the Department of Transportation. The Department of Transportation shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.

6. Construction activities shall be conducted in accordance with the County noise regulation or limited to the following hours and days: 7:00 a.m. and 5:00 p.m. on any weekday; 8:00 a.m. and 5:00 p.m. on Saturdays, and prohibited on Sundays and holidays.
7. Should asbestos-containing rock be exposed during grading, construction of roads, excavation for underground utilities, buildings foundations, or any construction related activity, *County Ordinance No. 4548* shall apply.
8. Grading and Improvement Plans shall incorporate protective measures toward existing oak trees pursuant to *Volume IV, Design and Improvement Standards Manual, Oak Tree and Wetlands Preservation Requirements and Specifications (County Resolution # 199-91)*.
9. If blasting activities are to occur in conjunction with subdivision improvements, the subdivider shall ensure that such blasting activities are conducted in compliance with state and local regulations.
10. If burning activities are to occur during the construction of the subdivision improvements, the subdivider shall obtain the necessary burning permits from the California Department of Forestry and air pollution permits from the County prior to said burning activities.
11. The location of fire hydrants, systems for fire flows, and fire protection access are to meet the requirements of the responsible Fire Protection District. The location of hydrants shall be shown on the improvement plans which shall be subject to the approval of the Fire Protection District.
12. If human remains are discovered at any time during the sub division improvement phase, the County Coroner and the Native American Heritage Commission shall be contacted per *Section 7050.5 of the Health and Safety Code* and *Section 5097.89 of the Public Resources Code*. If archeological artifacts are discovered, the developer shall retain and archeologist to make recommendations for the treatment of the artifacts. Treatment of Native American remains or archeological artifacts shall be the responsibility of the developer and shall be subject to the review and approval of the County Planning Director.

El Dorado County Fire Protection District

13. Applicant shall provide documentation from El Dorado Irrigation District that the water system will meet the required fire flow for this project.
14. If a sprinkler system is necessary for lack of fire flow; a deed restriction for a NFPA 13 D fire sprinkler system will be required for all new structures built on this parcel and

approved by the Fire District.

ATTACHMENT 2 FINDINGS

File Number COC 06-0026
Mark and Stacia Theissen
July 19, 2006 Zoning Administrator Hearing

1. The proposed project will not have a significant effect on the environment, based on the analysis contained in the Initial Study and a Negative Declaration has been filed. This project is found to be de minimis (having no effect on fish and game resources).
2. The proposed use is consistent with the policies in the El Dorado County General Plan, as adopted July 19, 2004, as discussed in the General Plan section of this staff report.
3. The proposed project 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.
4. The issuance of the conditional certificates of compliance for APN 085-600-02 meets the requirements of the *Subdivision Map Act* and *County Code Title 16*.