

Agenda of: September 6, 2006
Item No.: 4.a.
Staff: Jonathan Fong

STAFF REPORT – CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC 06-0037

PROPERTY OWNER: Betty J. Meulpolder

AGENT/APPLICANT: Sherri Bales

REQUEST: Request for certificate of compliance on Assessor’s Parcel Number 079-160-52 created by grant deed on October 15, 1973.

LOCATION: The subject site is located on the east side of Overland Way, approximately 350 feet south of the intersection with Sly Park Road in the Sly Park area. (Exhibit A)

APN: 079-160-52

ACREAGE: 1.00 acre

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

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

ENVIRONMENTAL DOCUMENT: Negative Declaration prepared

SUMMARY RECOMMENDATION: Conditional approval (issue conditional certificate of compliance)

BACKGROUND and Project Description: The applicant is requesting a certificate of compliance on a parcel created by deed after March 4, 1972. The parent parcel was created in 1970 by Deed recorded in Book 1010 at page 377. On October 15, 1973, the project parcel was created by Grant Deed recorded in Book 1227 at Page 630.

In compliance with the Subdivision Map Act (SMA) and Chapter 17.76 of the County Subdivisions Ordinance, the County must issue certificates of compliance for parcels created in violation of the SMA. The County may issue a conditional certificate of compliance which would impose conditions that were applicable to the development at the time the property owner(s) acquired their interest.

The issuance of a certificate of compliance will acknowledge the County’s acceptance of the parcel as a legally created parcel in accordance with the *Subdivision Map Act* and local subdivision ordinances. The County’s issuance of a certificate of compliance for the subject parcel will only allow development of the property consistent with the Single-family Two-acre Residential (R2A) Zone District, which allows a single-family residence and accessory structures on the parcel. All development will be subject to any limitations and conditions required under Single-family Two-acre Residential (R2A) Zone District Standards (*Chapter 17.28 of the County Code*).

On March 6, 2006 the County Surveyor’s office determined that they were unable to process the certificate of compliance pursuant to *Section 16.76.090* of the *Subdivisions Ordinance* which requires that Planning Services process a certificate of compliance for parcels created without the benefit of a parcel or final map.

STAFF ANALYSIS

Site Description: The project parcel is located at approximately 3,400 feet elevation on the east side of Overland Way 350 south of Sly Park Road in the Sly Park area. The parcel is currently undeveloped with native vegetation covering nearly the entire site. Brush and small bushes are characterized primarily by whiteleaf manzanita (*Arcostaphylos viscida* Parry) and coffeeberry (*Rhamnus californica*). Existing trees on site are California black oak (*Quercus kelloggii*), canyon live oak (*Quercus chrysolepis*), incense cedar (*Calocedrus decurrens*), and ponderosa pine (*Pinus ponderosa*).

The project parcel is located within Mitigation Area 2. Mitigation Area 2 includes lands outside of Mitigation Areas 0 and 1, but located within the El Dorado Irrigation District (EID) service area. As discussed in the *Zoning* section below, the project parcel is subject to payment of the Mitigation 2 fee for residential development at the time of building permit issuance.

Access to the site is provided by Overland Way which is a paved road, approximately 20 feet wide that runs along the west side of the property. An unimproved dirt road intersects Overland Way at the northwest corner of the property and runs along the north and east property lines. The Department of Transportation (DOT) has reviewed the existing road improvements along Overland Way and has determined that no further road improvements are necessary as a condition of approval prior to issuance of a certificate of compliance.

Adjacent Land Uses:

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

West	R2A	MDR	Single-family Residences
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General Plan: The subject parcel is designated Medium Density Residential (MDR) on the General Plan Land Use Map. This land use designation establishes areas for single-family residential development in a rural setting. Parcel size shall range from one to five acres.

Discussion: The subject parcel is 1.00 acre. This parcel size is consistent within the MDR land use designation.

Policy 5.3.1.2: *Creation of lots less than five acres in Medium-Density Residential Areas relying on on-site septic systems shall only occur when a public water supply is available for domestic use.*

Discussion: As listed in the conditions of approval, the applicant will be required to submit a Facilities Improvement Letter (FIL) from the El Dorado Irrigation District (EID). The FIL will provide documentation that there is adequate public water to service the parcel.

Policy 6.2.3.2: *As a requirement of new development, the applicant must demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.*

Discussion: The El Dorado County Fire Protection District reviewed the request and determined that adequate emergency access exists. The Fire District has conditioned the project with the requirement that future driveway improvements are to be a minimum of 12 feet wide with a 13.5 feet vertical clearance and capable of supporting a 40,000 pound load.

Conclusion: As discussed above, staff finds that the issuance of a conditional Certificate of Compliance is consistent with the General Plan.

Zoning: The subject parcel is zoned Single-family Two-acre Residential (R2A). The R2A Zone District allows for the orderly development of suburban single-family residential land use. The project parcel size is 1.00 acre, which does not meet the minimum parcel size within the R2A Zone District. Because of the substandard parcel size, the following sections of the Zoning Ordinance regarding non-conforming parcels are applicable:

Section 17.20.095 of the Zoning Ordinance establishes that lots created prior to October 10, 1983 which do not meet the minimum lot area for the zone they are located, shall be legal non-conforming parcels. The parcels shall be subject to the zoning provisions of the district which is the closest to the parcel size.

Section 17.20.105 establishes that the setbacks for non-conforming parcels shall be determined by the Zone District which prescribes the parcel size closest to the size of the subject parcel.

Discussion: The subject parcel was created prior to October 10, 1983 by grant deed. Although *Section 17.20.095* of the Zoning Ordinance requires non-conforming parcels to be created by gift deed, the subject parcel can still be deemed a nonconforming parcel. Pursuant to *Section 17.20.105*,

the subject parcel shall conform to the development standards required within the One-acre Residential (R1A) Zone District. The setbacks for the R1A Zone District are as follows: front, 30 feet, sides 15 feet, rear 30 feet.

Due to the project location within Mitigation Area 2, the following zoning provision is applicable:

Section 17.71.220 A of the Zoning Ordinance requires payment of the appropriate fee in lieu of Ecological Preserve Mitigations. The fee of \$386.00 shall be collected at the time of building permit issuance.

Conclusion: As discussed above, staff finds issuance of a conditional certificate of compliance to be consistent with the applicable provisions in the Zoning Ordinance.

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 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 that meet any of the following creation test statements of fact:

- a. The parcel was created by gift deed where more than four parcels were created by the same owner from the same original parcel.
- b. The parcel sold for delinquent taxes owed.
- c. The parcel is a final or parcel map remainder created after December 31, 1979.
- d. The parcel was created by a court partition.
- e. The parcel was created as a result of a conveyance to or from a governmental agency or public entity, under *Subdivision Map Act Section 66428a.2*.
- f. The parcel was created by foreclosure.
- g. The parcel is any other parcel created without the benefit of a parcel or final map that has not been specifically cited in this chapter.

The subject parcel was created by grant deed on October 15, 1973 recorded in Book 1227 at page 630. Because the parcel was “*created without the benefit of a Parcel or Final Map,*” as listed in 16.76.090 (g), Planning Services has the authority to process the certificate of compliance.

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

County Surveyor: The County Surveyor had no additional comments beyond the original research performed stating that the Surveyor could not process the certificate of compliance application.

Environmental Management: The Environmental Management Department requested that an adequate area for sewage disposal be identified for the parcel. A sewage disposal site evaluation shall be performed which includes a percolation test and soils test prior to issuance of a building permit.

Department of Transportation (DOT): Department of Transportation reviewed the project and supplied the following comments. The applicant shall pay the traffic impact fees at the time a building permit is issued. Overland Way shall be irrevocably offered for dedication. Applicant shall provide road signage as necessary at the intersection of Overland Way and Sly Park Road.

El Dorado County Fire Protection District: The El Dorado County Fire Protection District reviewed the request and determined that the project would require documentation from El Dorado Irrigation District to demonstrate that adequate fire flow exists to serve the parcel. Projects that do not meet the required fire flow may be approved with a fire sprinkler system.

No public comments were received prior to the preparation of this staff report.

ENVIRONMENTAL REVIEW

Staff has prepared an initial study (Exhibit E) 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.

NOTE: 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. Issue a conditional certificate of compliance for Assessor Parcel 079-160-52 based on the findings in Attachment 2, and the conditions of approval in Attachment 1.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2Findings

Exhibit AVicinity Map
Exhibit BGeneral Plan Land Use Map
Exhibit CZoning Map
Exhibit DAssessor Map Page
Exhibit EEnvironment Checklist and Discussion of Impacts

ATTACHMENT 1

CONDITIONS OF APPROVAL

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Deletions of conditions are shown as ~~striketrough~~ and additions are underlined.

Planning Services

1. 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.
2. Prior to the recording of a clear certificate of compliance, a \$150.00 fee shall be paid to the El Dorado County Airports, Parks, and Grounds Division pursuant to *Section 16.12.090 (C) (3)* of the El Dorado County Subdivisions Ordinance.
3. The applicant shall provide a letter issued from a title company showing proof of access to a State or County Maintained Road as defined in Section 16.44.120(B)(2) with the legal right to improve that access as required by the County Design Manual.

Department of Transportation

4. The applicant shall pay the traffic impact fees in effect at the time a building permit is issued.
5. Overland Way, within the project boundaries, shall be irrevocably offered for dedication if they have not been previously offered.
6. Applicant shall provide road way signage as necessary prior to issuance of a building permit. A *STOP* sign, pursuant to Standard Plan 105-A, shall be placed at the intersection of Overland Way and Sly Park Road. A *Not A County Maintained Road* sign, black on white 24 inches by 30 inches, shall be placed on Overland Way at the intersection with Sly Park Road.

El Dorado County Fire Protection District

7. Fire flow for this project is 1,000 gallons per minute 9gpm) at 20 pounds per square inch (psi) for two hours (no new hydrant is required).
8. Obtain a Facilities Improvement Letter (FIL) from the El Dorado Irrigation District (EID) to demonstrate that the system will meet the required fire flow for this project.

9. ~~Projects that do not meet the required fire flow may use an approved residential sprinkler system. If a sprinkler system is necessary for lack of fire flow; a deed restriction for a NFPA 13D fire sprinkler system will be required for all new structures built on this parcel. All sprinkler systems are subject to Fire District approval~~
10. Driveways to the home to be 12 feet wide, have 13 feet 6 inch vertical clearance and capable of supporting a 40,000 load. Any gates not shown will require Fire District approval.

El Dorado Environmental Management Department

- 11 ~~An adequate area for sewage disposal shall be identified for the parcel. A sewage disposal site evaluation shall be prepared included a percolation test and soils test.~~

ATTACHMENT 2

FINDINGS

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1.0 CEQA FINDING

- 1.1 The Zoning Administrator has considered the negative declaration together with the comments received and considered during the public hearing process. The negative declaration reflects the judgment of the Zoning Administrator and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The proposed project will not have a significant effect on the environment, based on the analysis contained in the initial study and the mitigation measures identified therein, and a negative declaration has been filed. 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. Therefore, the project has a de minimis impact on the environment and a Certificate of Fee Exemption (*DFG 753.5-5/91*) is applicable.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 Issuance of a certificate of compliance on Assessor's Parcel Number 079-160-52 acknowledges the County's acceptance of the subject parcel as a legally created parcel in accordance with the Subdivision Map Act and local subdivision ordinances.

Discussion: As discussed in the *Background* section of this staff report, issuance of a certificate of compliance will allow the County to impose conditions on the parcel that are consistent with the development requirements applicable at the time the property owner(s) acquired their interest.

- 2.2 The request is found to comply with the requirements of *Chapter 16.76* and 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.

Discussion: The Conditions of Approval as listed in Attachment 1 will ensure that issuance of a certificate of compliance for the project parcel and subsequent residential development is not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.

2.3 The requested certificate of compliance is consistent with the applicable development standards of the Single-family Two-acre Residential (R2A) Zone District.

Discussion: As discussed in the *Zoning* section of this staff report, the project parcel is a one-acre parcel in a Single-family Two-acre Residential (R2A) Zone District that requires two-acre minimums. The project parcel is a non-conforming lot and is subject to the development standards required in the One-acre Residential (R1A) Zone District.

2.4 The requested certificate of compliance is consistent with the applicable policies in the *2004 El Dorado County General Plan*.

Discussion: As discussed in the General Plan section of this staff report the project is consistent with applicable General Plan policies. Prior to issuance of a certificate of compliance, the applicant shall obtain a Facilities Improvement Letter (FIL) demonstrating that public water exists. The responsible fire district has reviewed the project and has determined that adequate emergency access exists to the project parcel.