

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**

Agenda of:	March 7, 2007
Project continued to:	April 18, 2007 May 2, 2007
Item No.:	5.a. 4.a.
Staff:	Jonathan Fong

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC 06-0054

OWNER / APPLICANT: Thomas and Kamilla Mant

REQUEST: Request for certificate of compliance (COC) on Assessor's Parcel Number 317-040-01 created by grant deed on August 13, 1985.

LOCATION: The property is located on the west side of Gold Strike Drive, approximately one mile south of the intersection with Gold Hill Road in the Gold Hill area (Board of Supervisors District IV).

APN: 317-040-01

ACREAGE: 1.9 acres

GENERAL PLAN: Rural Residential (RR) (Exhibit C)

ZONING: Estate Residential Five-acre (RE-5) Zone District (Exhibit D)

ENVIRONMENTAL DOCUMENT: Negative Declaration prepared

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND and PROJECT DESCRIPTION: The applicant is requesting a certificate of compliance on a parcel created by deed after March 4, 1972. The project parcel was created in 1985 by Grant Deed recorded in Book 2518 at Page 635. The current property owners acquired interest in the property on November 22, 2003.

In compliance with the *Subdivision Map Act (SMA)* and *Chapter 17.76* of the County Subdivision Ordinance, the County must issue certificates of compliance for parcels created in violation of the SMA. The County may issue a 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 SMA and local subdivision ordinances. The County's issuance of a certificate of compliance for the subject parcel will allow development of the property consistent with the Estate Residential Five-acre (RE-5) Zone District, which allows a single-family residence and accessory structures on the parcel.

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 (4) parcels were created by the same owner from the same original parcel.
- b. The parcel was 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 August 13, 1985 recorded in Book 2518 at Page 635. Pursuant to *Section 16.76.090* of the *County Subdivisions Ordinance*, because the parcel was created after March 4, 1972, Planning Services has the authority to process the certificate of compliance.

STAFF ANALYSIS: Staff has reviewed the project for compliance with County regulations and requirements. Review of the permit request and issues for Zoning Administrator consideration are provided in the following analysis.

Site Description: The project parcel is located at approximately 1,500 feet elevation. The parcel is relatively flat with slight slopes to the west. The parcel is undeveloped with native trees covering 85 percent of the site.

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 a requirement of the Zoning Code, the project parcel is subject to payment of the Mitigation 2 fee for residential development at the time of building permit issuance.

Access: The project is accessible through a 900 foot long 50 foot wide, non-exclusive road and public utilities easement which intersects with Gold Strike Drive. Gold Strike Drive is a non-County maintained road which continues in a northerly direction for approximately 4,100 feet and intersects with Gold Hill Road which is part of the County Maintained Road System. The Department of Transportation (DOT) has requested conditions be placed on the certificate of compliance to improve Gold Strike Drive as well as the access road to *Standard Plan 101 C* (Condition 2).

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	RR	Undeveloped
North	RE-5	RR	Single-family Residence
South	RE-10	RR	Undeveloped
East	RE-5	RR	Single-family Residence
West	RE-10	RR	Single-family Residence

No development is proposed in conjunction with the certificate of compliance. However, issuance of a certificate of compliance will authorize development on the project parcel consistent with the RE-5 Zone District. The residential development allowable within the RE-5 Zone District is compatible with the surrounding land uses and will not generate new conflicts in the existing land use pattern.

General Plan: The subject parcel is designated Rural Residential (RR) on the General Plan Land Use Map which allows for residential and agricultural land uses. Additionally, the parcel is subject to the Important Biological Corridor (IBC) and Agricultural District (Ag District) Overlays.

The RR land use designation establishes a minimum parcel area of 10 acres. The project site is approximately two acres which is not consistent within the RR designation. As discussed in the Zoning Section below, due to the legal non-conforming status of the parcel, future development would be subject to the development standards of the Single-family Two-acre Residential Zone District.

General Plan Policy 7.4.2.9 establishes that parcels located within the IBC and an Agricultural District are exempt from the IBC limitations. *General Plan Policy 8.1.3.2* establishes agricultural setbacks for parcels adjacent to agriculturally zoned lands and parcels within an Agricultural District. Pursuant to the *Interim Interpretative Guidelines for General Plan Policy 8.1.3.2*, because

the project parcel is not located adjacent to agriculturally zoned lands, no additional setbacks are required.

General Plan Policy 7.4.4.4 requires retention and replacement provisions for removal of oak canopy. No development is proposed in conjunction with the certificate of compliance. However, during the building permit stage the parcel will be required to demonstrate compliance with this policy.

Issuance of a certificate of compliance for the project parcel will allow development which is consistent with applicable general plan policies.

Zoning: The subject parcel is zoned Estate Residential Five-acre (RE-5). The RE-5 Zone District allows residential and accessory uses. The parcel size is approximately 1.89 acres, which does not meet the minimum parcel size within the RE-5 Zone District.

Because of the substandard parcel size, 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 in which they are located shall be deemed legal non-conforming parcels. The parcels shall be subject to the zoning provisions of the district which is the closest to the parcel size.

The subject parcel was created prior to October 10, 1983 by grant deed. Pursuant to *Section 17.20.105*, the subject parcel shall conform to the development standards required within the Single-family Two-acre (R2A) Zone District. The setbacks for the R2A Zone District are as follows: front, 30 feet, sides 20 feet, rear 30 feet.

Issuance of a certificate of compliance will allow development on the project parcel which is consistent with the RE-5 Zone District and the County Zoning Ordinance.

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

Department of Transportation (DOT): Department of Transportation has required the road improvements as conditions of approval of the certificate of compliance.

El Dorado County Fire Protection District: The District has required fire protection measures for future development of the parcel as conditions of approval of the certificate of compliance.

El Dorado Air Quality Management District: The District has required a Fugitive Dust Plan for any grading would occur as part of the certificate of compliance.

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 will have 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 not located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (*California Department of Fish and Game Code Section 711.4 and Senate Bill 1535*), the project is subject to a fee of \$1,800.00 after approval, but prior to the County filing the Notice of Determination on the project. This fee, plus a \$50.00 processing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The total fee will be forwarded to the California Department of Fish and Game via the County Recorder's Office and is used to help defray the cost of managing and protecting State fish and wildlife resources.

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 Number 317-040-01 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 ESite Plan

Exhibit FEnvironment Checklist and Discussion of Impacts

ATTACHMENT 1

CONDITIONS OF APPROVAL

~~March 7, 2007 April 18, 2007~~

May 2, 2007

**Zoning Administrator Hearing
File Number COC 06-0054 / Mant**

El Dorado County Planning Services

1. This certificate of compliance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibit marked Exhibit E (Site Plan) dated June 16, 2006, Conditions of Approval, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must 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.

The project description is as follows:

The applicant is requesting a certificate of compliance for the parcel identified by Assessor's Parcel Number: 317-040-01.

Two Design Waivers have been requested for the following:

- a. To limit the offsite road improvements to the new access from Gold Strike Drive to the northern portion of the parcel;
- b. The waive the improvement requirement of the encroachment of Gold Strike Drive onto Gold Hill Road.

No development is proposed in conjunction with this certificate of compliance. However, issuance of a certificate of compliance will acknowledge the County's acceptance of the parcel as legally created in accordance with the Subdivision Map Act and the County Subdivision Ordinance. Any subsequent development will be required to demonstrate compliance with the development standards of the Residential Estate Five-acre Zone District.

2. 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.

3. 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.
4. 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. Planning Services will review and approve the access prior to issuance of a clear certificate of compliance.

Department of Transportation

5. The applicant shall improve all off-site access roadways from the project parcel to Gold Hill Road. The improvements shall conform to *Standard Plan 101C* providing for a 24 foot wide gravel surface. The improvements shall be in place and approved by Department of Transportation prior to issuance of a clear certificate of compliance. If the applicant's access to this site will result in a dead end road exceeding 2,640 ft , then the Design and Improvement Standards Manual [Section 3 A) 9) & 12)] requires a secondary access to this site. The primary and secondary accesses shall meet the requirements of El Dorado County Standard Plan 101C as required in Section 3 A) 2) c) ii, of the Design and Improvement Standards Manual. The improvements shall be substantially completed to the approval of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to issuance of a clear certificate of compliance.
6. The applicant shall install signage as necessary. Said signage shall include stop signs at the intersection of Gold Hill Road and Gold Strike Drive. The applicant shall install street name signs at the intersection of Gold Hill Road and Gold Strike Drive. A "Not a County Maintained Road" sign shall be installed at the intersection of Gold Hill Road and Gold Strike Drive. All signage shall conform to *Standard Plan 105B*. All signage shall be installed and approved by Department of Transportation prior to issuance of a clear certificate of compliance.
7. The applicant shall obtain an encroachment permit and improve the Gold Strike Drive driveway connection to Gold Hill Road to ~~*Standard Plan 102C*~~ *103C*. The improvements shall be in place and approved by Department of Transportation prior to issuance of a clear certificate of compliance.
8. The applicant shall enter into an Improvement Agreement with the County and provide security to guarantee performance of the Improvement Agreement as set forth within the County of El Dorado Subdivision Ordinance prior to issuance of a clear certificate of compliance.
9. ~~The applicant shall join and/or form an entity, satisfactory to the County, to maintain all roads not maintained by the County from the project parcel to a State or County maintained road. The maintenance entity shall be reviewed and approved by Department of Transportation prior to issuance of a clear certificate of compliance.~~
10. 9. The applicant shall submit a site improvement/ grading plan prepared by a professional engineer. The plan shall be in conformance with the County of El Dorado *Design and*

Improvement Standards Manual, The Grading, Erosion, and Sediment Control Ordinance, The Drainage Manual, and the Off-Street Parking and Loading Ordinance and the State of California Handicapped Accessibility Standards. The improvements shall be substantially completed and approved by Department of Transportation prior to issuance of a clear certificate of compliance.

- ~~11.~~ 10. The applicant shall provide a soils report at the time of site improvement / grading plan application. The report shall address grading practices, compaction, slope stability of existing and proposed cuts and fills, erosion potential, ground water, pavement section based on TI and R values and recommended design criteria for any retaining walls. The report shall be reviewed and approved prior to issuance of a grading permit.
- ~~12.~~ 11. Any import or export to be deposited within El Dorado County shall require an additional grading permit for the off-site grading. DOT shall review and approve the grading permit prior to commencement of any work.
- ~~13.~~ 12. The applicant shall provide a drainage report at the time of site improvement/ grading plan application. The report shall be consistent with the *Drainage Manual and Storm Water Management Plan*. The report shall be reviewed and approved by Department of Transportation prior to issuance of a grading permit.
- ~~14.~~ 13. Upon completion of the required improvements, and prior to acceptance of the improvements by the County, the applicant will submit a compact disk to Department of Transportation with the approved drainage and geotechnical reports in .PDF format and the approved record drawings in .TIF format.
14. The applicant shall pay the traffic impact fees in effect at the time a building permit is issued.
15. All on and off-site road improvement requirements required as conditions of approval and/or mitigation measures shall be analyzed in the environmental document for this development project to the appropriate extent under CEQA . Any improvements that are not thoroughly analyzed shall include a discussion and justification under that particular impact analysis within the CEQA document as to the circumstances preventing such analysis along with a method and time frame for any future analysis. Mitigation measures that are included in the 5 year CIP must have the CEQA processing completed to fulfill this condition as funded and programmed per the 2004 General Plan Policy TC-Xf.
16. As specified in the Conditions of Approval, the subdivider is required to perform off-site improvements. If it is determined that the subdivider does not have or cannot secure sufficient title or interest of such lands where said off-site improvements are required, the County may, at the subdivider's expense and within 120 days of filing the Final Map, acquire by negotiation or commencement proceedings to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property. In such cases, prior to filing of any final map or parcel map, the subdivider shall submit the following to the Department of Transportation Right of Way Agent, and enter into an agreement

pursuant to Government Code Section 66462.5 and provide acceptable security to complete the offsite improvements, including costs of acquiring real property interest to complete the required improvements, construction surveying, construction management and a 20 percent contingency:

- a. A legal description and plat, of the land necessary to be acquired to complete the offsite improvements, prepared by a civil engineer or land surveyor.
- b. Approved improvement plans and specifications of the required off-site improvements, prepared by a civil engineer.
- c. An appraisal prepared by a professional appraiser of the cost of land necessary to complete the off-site improvements.

El Dorado County Fire Protection District

- ~~15:~~17. The applicant shall pay the site plan review fee of \$120.00 to the Fire District prior to commencement of any work performed.
- ~~16:~~18. The required fire flow for this project is 1,000 gpm at 20 psi for two hours.
- ~~17:~~19. The applicant shall install an additional fire hydrant on Gold Strike Drive within 500 feet of the parcel. The fire hydrant shall be installed and approved by the Fire District prior to issuance of a clear certificate of compliance.
- ~~18:~~20. The applicant shall obtain documentation from the El Dorado Irrigation and the Fire District to show that the fire system will meet the required fire flow. The documentation must be submitted to the Fire District prior to issuance of a clear certificate of compliance.
- ~~19:~~21. In lieu of a fire hydrant, the applicant may install a Fire District approved NFPA 13 D residential sprinkler system with 3,000 gallons of water storage. The sprinkler system and water storage shall be reviewed and approved by the fire district prior to building permit issuance.
- ~~20:~~22. The applicant shall record a deed restriction on the parcel. The restriction shall require installation of a fire hydrant or residential sprinkler system and water storage prior to construction of any structures on the parcel. The deed restriction shall be recorded and submitted to Planning Service prior to issuance of clear certificate of compliance.
- ~~21:~~23. Any gates not shown on the site plan will require Fire District approval.

Air Quality Management District

- ~~22:~~24. The applicant shall make applications and pay the appropriate fees for a Fugitive Dust Plan. The District shall review and approve the Plan prior to commencement of any construction.
- ~~23:~~25. The applicant shall comply with all District air quality rules during project construction.

ATTACHMENT 2

FINDINGS OF APPROVAL

~~March 7, 2007, April 18, 2007~~

May 2, 2007

**Zoning Administrator Hearing
File Number COC 06-0054 / Mant**

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 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.~~ In accordance with State Legislation (California Department of Fish and Game Code Section 711.4 and Senate Bill 1535), the project is subject to a fee of \$1,800.00 after approval, but prior to the County filing the Notice of Determination on the project.
- 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 General Plan Findings

2.1 The project is consistent with the El Dorado County General Plan

The requested COC is consistent with the applicable policies in the 2004 El Dorado County General Plan because issuance of the certificate of compliance will allow development consistent within the Rural Residential land use designation.

3.0 Administrative Findings

3.1 The project is consistent with the El Dorado County Zoning Ordinance

The project parcel is located within the Estate Residential Five-acre (RE-5) Zone District. Due to the substandard parcel size, issuance of the certificate of compliance will recognize the parcel as legal non-conforming. The parcel is consistent with the development standards of the Single-family Two-acre Residential (R2A) Zone District.