

**COUNTY OF EL DORADO PLANNING AND BUILDING
DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Date: March 20, 2019
Item No.: 4.a.
Staff: Alex Guilbert

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC18-0002/McGrew Family Trust

APPLICANT: Jim Willson, LS, RCE

OWNER: McGrew Family Trust

REQUEST: Certificate of Compliance for a 0.039± acre parcel created and conveyed by the California Department of Transportation on September 4, 1975.

LOCATION: East side of State Highway 49, approximately 360 feet south of the intersection of State Highway 49 and Southview Court in the Placerville area, Supervisorial District 3. (Exhibit A)

APN: 051-060-18 (Exhibit B)

ACREAGE: 0.039± acre

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

ZONING: Residential, One-Acre Minimum (R1A) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Statutorily Exempt pursuant to Section 15268 (Ministerial Projects) of the CEQA Guidelines

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Certify that the project is statutorily exempt from CEQA pursuant to Section 15268 of the CEQA Guidelines, as a Certificate of Compliance is a ministerial project; and

2. Approve Certificate of Compliance COC18-0002 based on the Findings and subject to the Conditions of Approval as presented.

BACKGROUND: A Certificate of Compliance (COC) was previously processed for this parcel in 1998 (COC98-0099) through the County Surveyor's Office. The request was denied.

A letter (Exhibit G) prepared by the Office of the County Counsel addressed to the County Surveyor dated June 15, 1999 explained that the parcel was created on September 4, 1975 as an unlawful division of land between the State of California and the then property owner of the subject parcel.

Section 120.76.090.E of the El Dorado County Ordinance Code, authorizes the Department of Planning and Building to process, issue, and record conditional certificates of compliance for parcels created after March 4, 1972, that were a result of a conveyance to or from a governmental agency or public entity, under Subdivision Map Act 66428a.2.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the proposal and issues for the Planning and Building Department's consideration are provided in the following sections:

Project Description: This application is a request for a certificate of compliance on Assessor's Parcel Number 051-060-18, which would acknowledge the County's acceptance of the parcel as legally created 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, One-Acre Minimum Zone District.

Without the certificate of compliance the County cannot issue any development permits, including building permits, for the property. In this instance, the parcel would be issued a conditional certificate of compliance requiring specific conditions 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 Certificate of Compliance is for a parcel created and conveyed by the California Department of Transportation on September 4, 1975. The property, identified as Assessor's Parcel Number 051-060-18, consists of 0.039 acre, and is located on the east side of State Highway 49, approximately 360 feet south of the intersection of State Highway 49 and Southview Court in the Placerville area. The current owners have owned the parcel since June 13, 1997. 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 property pursuant to Government Code § 66499.35(b).

Site Description: The subject site lies at an elevation of approximately 2,040 feet above mean sea level and is vacant and undeveloped. It is located approximately 75 feet south of the city limits of Placerville, and is located within the City's sphere of influence.

Access: The project site is located on the east side of the State Highway 49 right-of-way. The site is currently undeveloped and has no existing encroachment. The California Department of Transportation was notified of the project, but provided no response. The El Dorado County Department of Transportation was notified and took no exception to the project and offered no comments or conditions.

Fire: Both the California Department of Forestry and Fire Protection (CalFire) and the El Dorado County Fire Protection District were notified of the project, but provided no response..

Environmental Management: The Environmental Health division responded that when the parcel is developed an onsite sewage disposal system will need to be designed by a design professional and meet the Local Agency Management Plan for Onsite Waste Water Treatment Systems (LAMP) requirements, including all setbacks. The division also stated that the current General Plan requires a parcel to have 5.0 acres or more to have well and septic, and that the Minor Land Division Ordinance No. 1784 also states parcels must be 5.0 acres in size to have a well as a water source.

General Plan Consistency: The project site has a General Plan land use designation of MDR. Sections 2.2.1.2 of the General Plan states that parcel size ranges within MDR are 1.00 to 5.00 acres. The 0.0039 acre subject parcel does not currently comply with this standard; therefore, the project will be conditioned to apply for, and record, a lot line adjustment with the property owners' parcel to the east. Staff has determined that with the proposed condition, the project will be consistent with the applicable policies and requirements in the El Dorado County General Plan.

General Plan policy 2.2.5.21 requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed. No development has been proposed for the project site beyond the conditional Certificate of Compliance. The condition requiring a lot line adjustment would ensure that future development would be consistent with the neighboring MDR designated properties.

The project site is located within the Placerville sphere of influence (SOI). Policy 2.2.7.4 requires the County to coordinate with the incorporated cities to ensure that compatible development occurs with each city's sphere of influence, which is consistent with the County's and each city's respective General Plans, that the development which is incompatible shall not be permitted by the County. The City of Placerville's General Plan identifies the project site as having a land use designation of Rural Residential (RR). This designation is consistent with 1 to 5 acre parcel sizes. The City has zoned the property Estate Residential (RE). The minimum parcel size in the RE district is five acres, with a minimum parcel width of 150 feet, and the following setbacks for a dwelling 50 foot front, 29 0 foot sides, and 30 foot rear. The subject parcel currently does not comply with the City's RR General Plan land use designation or the RE zoning standards. A condition requiring the parcel to apply for, and record, a lot line adjustment resulting in a parcel of a minimum of five acres in size would result in a parcel consistent with the City's zoning and General Plan, and provide consistency with El Dorado County General Plan Policy 2.2.7.4. The City of Placerville was notified of the project and provided no comment.

General Plan Policy 6.2.3.2 requires new development to 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. The project site is undeveloped and currently has no encroachments onto State Highway 49. Access to the site is a requirement prior to any development on the project site, which shall be verified during building permit review.

General Plan Policy 5.2.3.5 states that the average residential density shall not be greater than one dwelling unit per five acres in proposed groundwater dependent developments. General Plan Policy 5.3.1.2 states that 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. The El Dorado Irrigation District (EID) has indicated that there is a water main adjacent to the property. Therefore, the parcel would be consistent with both General Plan Policies 5.2.3.5 and 5.3.1.2.

Zoning Ordinance Consistency: The 0.039 acre parcel is inconsistent with the Residential, One-Acre (R1A) Zone District, which requires a minimum one acre lot size. The parcel is also undevelopable as is, because the required building setbacks are as follows: 30-foot front, 15-foot sides, and 30-foot rear. The front and rear setbacks would overlap on the narrow parcel. Therefore, the project will be conditioned to require the property owner to apply for, and record, a lot line adjustment with their neighboring parcel to the east. The neighboring parcel, Assessor's Parcel Number 051-060-19, is zoned Residential Estate, Five-Acre (RE-5), and the adjusted parcels would be required to be no smaller than 5.0 acres.

Subdivision Ordinance Consistency: The subject parcel was created by mutually exchanged deeds between the State of California and John Simpson with the deed from the State to John Simpson being recorded on September 4, 1975. Section 120.76.090.E of the Ordinance Code, authorizes the Department of Planning and Building to process, issue, and record conditional certificates of compliance for parcels created after March 4, 1972, that were a result of a conveyance to or from a governmental agency or public entity, under Subdivision Map Act 66428a.2.

Section 120.44.020 of the Ordinance Code requires compliance and consistency with the General Plan. As discussed above in General Plan consistency, the parcel is not consistent with the General Plan, unless the project is conditioned to apply for, and record, a lot line adjustment with the property owners' parcel to the east resulting in parcels that would be no smaller than 5.0 acres.

Section 120.44.030 of the Ordinance Code lists findings that require disapproval. As presented, the lot line adjustment meets the following findings that would require disapproval:

- A. That the proposed map is not consistent with applicable general and specific plans;
- C. That the site is not physically suitable for the type of development;
- D. That the site is not physically suitable for the proposed density of development.

To address and eliminate the findings that would require disapproval, the project will be conditioned to require the property owner to complete a lot line adjustment with their parcel to the east resulting in parcels that would be no smaller than 5.0 acres.

Environmental Review: This project has been found to be statutorily exempt from the requirements of CEQA pursuant to Section 15268 of the CEQA Guidelines stating that “ministerial projects are exempt from the requirements of CEQA.” In its 1993 decision, Findleton v. Board of Supervisors, the California Appeals Court said that a certificate of compliance is a "ministerial project" requiring no exercise of discretion in the course of its approval (Findleton v. El Dorado Co. Board of Supervisors (1993) 12 Cal. App. 4th 709).

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....Location Map

Exhibit B.....Site Plan

Exhibit C.....Property Description

Exhibit D.....Assessor’s Map Book 51, Page 6

Exhibit E.....General Plan Map

Exhibit F.....Zone District Map

Exhibit G.....Letter from the Office of the County Counsel to the
County Surveyor dated June 15, 1999

FINDINGS

Certificate of Compliance COC18-0002/McGrew Family Trust Zoning Administrator/March 20, 2019

FINDINGS FOR APPROVAL:

1.0 CEQA FINDINGS

- 1.1 This project has been found to be statutorily exempt from the requirements of CEQA pursuant to Section 15268 of the CEQA Guidelines stating that “ministerial projects are exempt from the requirements of CEQA.” In its 1993 decision, *Findleton v. Board of Supervisors*, the California Appeals Court said that a certificate of compliance is a "ministerial project" requiring no exercise of discretion in the course of its approval (*Findleton v. El Dorado Co. Board of Supervisors* (1993) 12 Cal. App. 4th 709).
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 The issuance of the Conditional Certificate of Compliance for APN 051-060-18 meets the requirements of the *Subdivision Map Act* and *County Code Title 120* because the County is verifying that the parcel has sufficient access, safety and ability to support residential and commercial uses.

3.0 TITLE 120 SUBDIVISIONS ORDINANCE

- 3.1 The subject parcel was created on September 4, 1975 as an unlawful division of land between the State of California and the then property owner of the subject parcel. Section 120.76.090.E of the El Dorado County Ordinance Code, authorizes the Department of Planning and Building to process, issue, and record conditional certificates of compliance for parcels created after March 4, 1972, that were a result of a conveyance to or from a governmental agency or public entity, under Subdivision Map Act 66428a.2.

The Conditional Certificate of Compliance is consistent with all applicable policies of Title 120 including Sections 120.44.020 (compliance with the General Plan), and 120.44.030 (findings requiring disapproval).

4.0 GENERAL PLAN CONSISTENCY FINDINGS

- 4.1 The proposed Conditional Certificate of Compliance is consistent with the Medium Density Residential (MDR) General Plan land use designations for minimum parcel size, density, and land use.
- 4.2 The Conditional Certificate of Compliance is consistent with all applicable Policies of the General Plan including 2.2.1.2 (land use density), 2.2.5.21 (compatibility with the surrounding neighborhood), 2.2.7.4 (coordination with incorporated cities) and 6.2.3.2 (adequate emergency access). The project provides adequate access and parcel size that ensure compatibility with the surrounding permitted land uses, and is consistent with the General Plan policies identified above.

5.0 ZONING FINDINGS

- 5.1 The Conditional Certificate of Compliance requiring a lot line adjustment to a minimum of 5.0 acres, is consistent with the R1A zoning district of the current parcel, and the RE-5 zoning district of the neighboring parcel.

CONDITIONS OF APPROVAL

Certificate of Compliance COC18-0002/McGrew Family Trust Zoning Administrator/March 20, 2019

I. PROJECT DESCRIPTION

1. This Conditional Certificate of Compliance is based upon and limited to compliance with the project description, the exhibit marked Exhibit B, 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:

Conditional Certificate of Compliance for Assessor's Parcel Number 051-060-18 which will acknowledge the County's acceptance of the parcel as legally created in accordance with the Subdivision Map Act and local subdivision ordinances once the Conditions of Approval are met.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

II. PROJECT CONDITIONS OF APPROVAL

Planning Services

2. In the event that previously unknown cultural resources are discovered during construction, operations shall stop in the immediate vicinity of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The qualified archaeologist shall make recommendations on the measures to be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds, in accordance with § 15064.5 of the CEQA Guidelines. Cultural resources could consist of, but are not limited to, stone, bone, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites.
3. If human remains are encountered during earth-disturbing activities within the project area, all work in the adjacent area shall stop immediately and the El Dorado County Coroner's office shall be notified. If the remains are determined to be Native American in origin, both the Native American Heritage Commission (NAHC) and any identified

descendants shall be notified by the coroner and recommendations for treatment solicited (CEQA Guidelines § 15064.5; Health and Safety Code § 7050.5; Public Resources Code §§ 5097.94 and 5097.98).

4. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County of the Certificate of Compliance.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

5. Prior to development of the property and issuance of a Clear Certificate of Compliance, the applicant shall apply for, and record, a lot line adjustment between the subject parcel and the neighboring parcel to the east (Assessor's Parcel Number 051-060-19). The neighboring parcel is zoned Residential Estate, Five-Acre (RE-5), and the adjusted parcels would be required to be no smaller than 5.0 acres.