

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: July 19, 2006

Item No.: 5.a.

Staff: Aaron Mount

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC 06-0008

APPLICANT: Victoria Tagle

REQUEST: Request for a Certificate of Compliance for a parcel identified as Assessor's Parcel Number 084-260-16. (Exhibit B).

LOCATION: On the southwest side of Gravel Court, approximately 0.5 mile northeast of the intersection with Rock Creek Road in the Swansboro area. (Exhibit A)

APN: 084-260-16

ACREAGE: 20.658 acres

GENERAL PLAN: Natural Resources (NR) (Exhibit B)

ZONING: Unclassified (U) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

SUMMARY RECOMMENDATION: Approval of Conditional Certificate of Compliance

BACKGROUND: This application is a request for a certificate of compliance on Assessor's Parcel Number 084-260-16, which will acknowledge the County's acceptance of the subject parcel as legally created parcels 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 Unclassified (U) zoning district, which allows a single-family residence, agricultural accessory structures and agricultural uses.

Without the certificate of compliance the County cannot issue any development permits, including building permits. In this instance, each 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 parcels cannot be developed until such time as a clear certificate of compliance is recorded.

The subject parcel was created as a result of a major land division in December 31, 1986 (Deed 2684-262), a conveyance from Lee McGuire to Hunn and Baron which was a violation of the Subdivision Map Act and County Ordinance. 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 Victoria Tagle acquired his interest in APN 084-260-16 by Grant Deed recorded on August 31, 2004.

STAFF ANALYSIS

Project Description: The applicant is requesting a certificate of compliance for Assessor’s Parcel Number 084-260-16.

Site Description: The subject parcel is at an average elevation of 2,000 feet to 2,200 feet above mean sea level and is 20.66 acres. Vegetation is a mix of interior live oak, annual grasses, and northern mixed chaparral. No improvements exist on the subject parcel but some grading has occurred. Two intermittent streams cross the subject parcel and contain associated riparian vegetation. Access to the parcel is from Gravel Court off of Gravel Road which encroaches onto Rock Creek Road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	U	NR	Undeveloped
North	RA-20	NR	Vineyard/Single-family Residence
South	U	NR	Undeveloped
East	U	RR	Single-family Residence/Undeveloped
West	U	NR	Undeveloped

General Plan: The General Plan designates the subject site as Natural Resources (NR). This designation shall be applied to those lands which are 40 acres or larger in size and contain one or more important natural resource. The purpose of the Natural Resource (NR) designation is to identify areas that contain economically viable natural resources and to protect the economic viability of those resources and those engaged in harvesting/processing of those resources including water resources development from interests that are in opposition to the managed conservation and

economic, beneficial use of those resources. The important natural resources of the County include forested areas, mineral resources, important watershed, lakes and ponds, river corridors, grazing lands, and areas where the encroachment of development would compromise these natural resource values.

Pursuant to the Interim Interpretive Guidelines for *General Plan policies 8.1.3.2 and 8.4.1.2*, development of agriculturally incompatible uses will require a setback of 200 feet on the north, west, and south property lines of the subject parcel. The parcel is adjacent to Residential Agricultural Twenty-acre (RA-20) Zone District and Natural Resources (NR) land use designation parcels. The subject parcel contains adequate acreage to accommodate building areas taking the setbacks into account.

Discussion: The subject parcel is 20.66 acres in size which does not meet the minimum parcel size of 40-160 acres. However, when the parcel was created in 1986 the General Plan designation, 1969 General Plan, was Residential Estate Agricultural which required a 5 acre minimum.

Conclusion: As discussed above, staff finds that the project, as proposed and conditioned, conforms to the General Plan notwithstanding that the subject parcel comprising 20.66 acres is below the 40-160-acre minimum size required by the Natural Resources land use designation.

Zoning: The subject site is zoned Unclassified (U) which permits a minimum parcel size of one acre. The purpose of the Unclassified Districts is to provide for a nominal reservation of use, yet afford protection from encroachment of unrelated uses tending to have an adverse effect on the orderly and homogeneous development of the area. One single-family residence is allowed on a parcel in the Unclassified (U) Zone District. The minimum parcel size in the U Zone District is one acre. The subject parcel, at a size of 20.66 acres, exceeds the minimum acreage.

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 the 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 gift deed after March 4, 1972. As such, the County Surveyor referred the application (COC 06-0008) 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 the 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/owner Tagle received title in August of 2004.

The standards in effect at that time are contained within the El Dorado County Department of Transportation’s *Design and Improvement Standards Manual (DISM)* which was adopted on May 27, 1986. The standard for a rural subdivision and parcel map in 2004 was to provide a Standard Plan 101-C roadway which consists of two 12-foot gravel surface travel lanes and 2-foot shoulders on each side of the roadway.

The property is located on Gravel Court, a non-County maintained roadway, off of Gravel Road. The site is approximately 4,500 feet from the intersection of Gravel Road and Rock Creek Road, the nearest County maintained road. The Department of Transportation completed an on-site inspection of the off-site portion of Gravel Court and Gravel Road from the property to Rock Creek Road. They are currently improved with approximately 15- to 18-foot wide gravel surface and is required to be improved to 18-foot wide pursuant to “Section 3.A).2.c).ii” of the *DISM*; except that the offsite road improvement requirement “shall be limited to the equivalent cost for the on-site improvements” [Section 3.A).2.c).i of the *DISM*].

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

- El Dorado County Environmental Management Department, Environmental Health Division
- El Dorado County Department of Transportation
- El Dorado County, Office of the County Surveyor
- Pacific Gas and Electric
- El Dorado County Resource Conservation District
- LAFCO

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 Mitigated 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 Mitigated 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 and Mitigation Measures in Attachment 1, issue Conditional Certificate of Compliance for Assessor's Parcel Number 084-260-16 / Tagle, 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	Assessors Parcel Map
Exhibit E	Environmental Checklist and Discussion of Impacts
Exhibit F	Parcel History

ATTACHMENT 1

CONDITIONS OF APPROVAL

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MITIGATION MEASURES

The following mitigation measures are required as a means to reduce potential significant environmental effects to a level of insignificance:

1. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance. Planning Services shall review the grading plans prior to the issuance of a grading permit.

Monitoring: The Department of Transportation (DOT) shall monitor the above-referenced activities as part of the issuance of a grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any item of historical or archaeological interest and only allow grading activities to continue once the issue has been resolved.

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. Planning Services shall review the grading plans prior to the issuance of a grading permit.

Monitoring: The Department of Transportation (DOT) shall monitor the above-referenced activities as part of the issuance of a grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any human remains on the project site and only allow grading activities to continue once the issue has been resolved.

CONDITIONS OF APPROVAL

Department of Transportation

3. Prior to the recording of a Clear Certificate of Compliance, the applicant shall either:
 - a) Construct a driveway with an encroachment permit, from the County maintained Rock Creek Road to the property; or

- b) Improve the off-site access roads, Gravel Court and Gravel Road, to Standard Plan 101C modified, from the subject parcel to Rock Creek Road, widened as necessary to provide an unrestricted roadway of 18-foot gravel surface over 6" of compacted aggregate base with 2-foot shoulders per *Section 3.A).2.c).ii of the DISM*. This off-site road work shall include:
- (1) A STOP sign, per Standard Plan 105-A, shall be placed at the intersection of Gravel Road and Rock Creek Road.
 - (2) A "Not A County Maintained Road" sign, 24" x 30", black on white, shall be placed on Gravel Road at Rock Creek Road.
 - (3) A street sign, in conformance with Standard Plan 105 (B-1), shall be installed at the intersection of Rock Creek Road and Gravel Road and at Gravel Road and Gravel Court.
 - (4) The encroachment from Gravel Road onto Rock Creek Road shall be improved to Standard Plan 103D.

Environmental Health

4. Site and soil evaluation data provided by an approved septic system design consultant for the purpose of defining an adequate sewage disposal area and demonstration of a safe and reliable water supply shall be provided to Environmental Health for review and approval.

Planning Services

5. 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 *16.12.090(C)(3) of the El Dorado County Subdivisions Ordinance*.

ATTACHMENT 2

FINDINGS

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Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

FINDINGS FOR APPROVAL

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. A de minimis finding on the project's effect on fish and wildlife resources cannot be found and the project is therefore subject to the payment of State Fish and Game fees pursuant to *State Legislation (California Fish and Game Code Section 711.4)*.
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 084-260-16 meets the requirements of the Subdivision Map Act and County Code Title 16.