

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



**Agenda of:** February 20, 2008  
**Item No.:** 5.a.  
**Staff:** Tom Dougherty

**CERTIFICATE OF COMPLIANCE**

**FILE NUMBER:** COC07-0069

**APPLICANT:** Royce and Shannon Starr

**REQUEST:** Certificate of Compliance for Assessor's Parcel Number 070-062-01, created by Grant Deed on July 9, 1975 and transferred to Royce and Shannon Starr by Grant Deed recorded on May 23, 2007. A design waiver has been requested to allow a lot with less than the minimum parcel width of 100 feet.

**LOCATION:** Approximately 1,000 feet southwest of the intersection of Paloran and Meder Roads at the west end of Paloran Court in the Rescue area, Supervisorial District IV. (Exhibit A)

**APN:** 070-062-01 (Exhibit B1)

**ACREAGE:** 1.03 acres

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

**ZONING:** One – Acre Residential (R1A) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration

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

1. Adopt the Negative Declaration based on the Initial Study prepared by staff, and,
2. Issue a Conditional Certificate of Compliance, subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

**BACKGROUND:** This application is a request for a certificate of compliance on Assessor's Parcel Number 070-062-01, which will acknowledge the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances. The County's issuance of a certificate of compliance on the parcels would allow development of the property consistent with the One – Acre Residential (R1A) Zone District, which allows a single-family residence and accessory uses and structures.

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 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.

Subsequent to this subject certificate of compliance application, the parcel owners applied for a certificate of compliance to recognize the parcel with the Surveyor's Office who referred the application to Planning Services since the property was the result of a division of land after March 4, 1972. Further, it was not done under the guidelines of any local ordinance or with the benefit of a Parcel or Subdivision Map.

On February 2, 1972, Ron and Gloria Pizer transferred approximately four acres to Joe and Mary Reade by Grant Deed in Book 1102 at Page 43. Between February 25, 1972 and July 9, 1975 Joe and Mary Reade sold four parcels and the last two of them were sold after March 4, 1972. The subject parcel was created by Grant Deed on July 9, 1975 and transferred to Royce and Shannon Starr by Grant Deed recorded on May 23, 2007

The applicants acquired the subject property by Grant Deed from Burnis and Merideth Ray on May 23, 2007. 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)*.

## **STAFF ANALYSIS**

**Project Description:** Certificate of Compliance for Assessor's Parcel Number 070-062-01, which will acknowledge the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances. The parcel would be served by an existing El Dorado Irrigation District water meter and a future onsite septic wastewater system. The parcel takes access directly from Poloran Court and improvements will be made to both Poloran Road and Poloran Court.

**Site Description:** The site is located on a 1.03-acre parcel located at the 1560-foot elevation above sea level. The parcel is cleared of tree canopy except for the eastern boundary line and the northern approximately 0.33 percent portion. The driveway access and building pad area are rough-graded in.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	R1A	MDR	Vacant, 1.03-acre parcel.
<b>North</b>	R1A	MDR	Residential, Single-family residence, 1.62-acre parcel.
<b>South</b>	R1A	MDR	Residential, Single-family residence, 1.127-acre parcel.
<b>East</b>	R1A	MDR	Residential, Single-family residence, 1.04-acre parcel.
<b>West</b>	R1	HDR	Residential, Single-family residences, Eastwood Park Unit 5 subdivision, a 0.377-acre and a 0.593-acre parcel.

**Discussion:** The area consists of ranging in size fro 0.5 to two-acres in size. The land use designations consist of high-density to the west and medium-density residential in all other directions. The parcel can be found be consistent with the surrounding development.

**Project Issues:** Discussion items for this project include land use and zone compatibility, road improvements, water and sewer improvements, fire safety, existing site design for grading and improvements, and available public services.

**Water System Improvements and Fire Safety:** The subject parcel is located in the El Dorado Irrigation District (EID) service area and there is an existing water meter at the encroachment onto to the parcel from Poloran Court. The parcel would be required to meet the required fire flow needed for fire protection as determined by the El Dorado County Fire Protection District. Pursuant to the Fire District, these standards would include fire flow of 1,000 gpm @ 20 psi for two hrs. There is a fire hydrant on Paloran Court approximately 250 feet to the east of the subject parcel. The applicant would be required to provide documentation from EID and the Fire District to show that the system will meet required fire flow for this project. The project has been conditioned to meet this requirement prior to issuance of a Clear Certificate of Compliance. No new fire hydrant is required.

**Recreation:** There are a number of public parks and recreational opportunities within the County, and close to the area. This project would be required to pay a Park-in-Lieu fee for the acquisition of parklands.

**Sewer:** Sewer services are not available. Septic disposal for the parcel would be provided by an on-site septic disposal system and would need to be analyzed by the Environmental Health Division for any future single family dwelling. A percolation test would be provided that shows adequate percolation and potential area for an adequate septic system and would be analyzed prior to issuance of a building permit. An engineered septic design plan has been submitted to the County that preliminarily states the parcel at least has the capability to support a septic facility.

**Other utilities:** Power and phone services are available at the site.

**Access:** There would be 21 total parcels that would utilize the Paloran Road/Paloran Court, which is not County maintained, as the primary feeder road should the Certificate of Compliance be approved and all the conditions are then satisfied. Under the current land use designation, that would be the maximum allowed. El Dorado County Department of Transportation (DOT) staff, El Dorado County Fire Protection District staff and Planning Services staff met at the site on January 14, 2008 to review the existing access roads for the required width and surface and were satisfied the roads were adequate as they exist. Fire District staff did recommend to the applicant that the tree branches sticking out into the roadway shoulders be trimmed back but did determine that a Fire Safe Plan was unnecessary. The Bridal Trails Homeowner's Association currently maintains the access roads and the subject parcel is included in that Association. The existing turnaround on the access roadway where the existing driveway begins would be required to comply with El Dorado County Department of Transportation requirements for minor edge widening to Standard Plan 114 or an equivalent to that to be determined by DOT staff. It currently has an approximate diameter of 53 feet.

**Request for Design Waiver:** The project is requesting a Design Waiver to allow the creation of a lot with less than the minimum parcel width of 100 feet. Specific findings in support of the Design Waiver requirement are included in Attachment 2. Existing terrain conditions make widening the south end of proposed Parcel 2 to 100 feet constrained. The combined effect of existing terrain, fences, large trees, and the adjoining parcel size and configuration create a special circumstance that needs to be considered with the request for the Design Waiver. The parcel may not comply with the width requirement however, the minimum parcel size requirement has been met and all other zoning district provisions have been complied with. Therefore, due to site constraints, the Design Waiver can be recommended for approval.

**General Plan:** The subject property is designated as Medium – Density Residential (MDR) on the General Plan Land Use Map. The MDR land use designation establishes areas for residential development and shall maintain a density range from one dwelling unit per one acre. The subject parcel is 1.03 acres in size and thus conforms to the minimum parcel size requirement for the MDR land use designation. The single family development that would result from this Certificate of Compliance is consistent with this land use designation. The following General Plan policies apply to this project:

**Policy 2.1.1.7** directs that development be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure becomes available and wildfire hazards are mitigated. The El Dorado County Fire Protection District has conditioned the project to meet their fire safe requirements prior to issuance of a clear Certificate of Compliance. The access roadway and turnaround would need minor improvements. Power and phone are at the site, metered water is present and the applicant has submitted material stating the parcel has septic facility capability.

**Policy 2.2.5.21** directs that new development be compatible with the surrounding neighborhood. The parcel is consistent with the General Plan intended density and parcel size for Medium Density Residential and consistent with the development pattern for the area.

**Policy 5.7.1.1** directs that the applicant demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or would be provided concurrent with development. The project would be required to meet the required minimum fire flow requirements of the El Dorado County Fire Protection District which would be reviewed and approved by them prior to filing the parcel map.

**Policy 6.2.3.2** directs that the applicant 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. As conditioned, and discussed under Access in the Project Issues section, the project would meet the intent of this policy.

**Policy 7.4.4.4** establishes the native oak tree canopy retention and replacement standards and requires that 85 percent of the existing oak tree canopy for the parcel be retained as aerial photos and site visit revealed an oak canopy of approximately 30 percent. It has been determined that there is sufficient area for construction of a residence without exceeding the oak tree canopy removal limitations, and compliance with Policy 7.4.4.4 can be achieved.

**Conclusion:** The project has been reviewed in accordance with the El Dorado County 2004 General Plan policies and it has been determined that the project is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

**Zoning:** The subject parcel is zoned One – Acre Residential (R1A) which permits a minimum parcel size of one acre. All development on the parcel is subject to the development standards contained in Section 17.28.050 through 17.28.080 of the County Code. The project parcel size is 1.03 acres and meets the minimum one-acre parcel size for the R1A Zone District. With the approval of the Design Waiver, the parcel would conform to existing zoning and the development standards in Section 17.28.080 for minimum lot width of 100 feet, minimum parcel size of one acre, building setback requirements of 30 feet from parcel boundaries in the front and rear yards and 15 feet on the side yards as well as the parking requirements of two spaces not in tandem per dwelling unit pursuant to Section 17.18.060.

**Authority to Issue a Certificate of Compliance:** Section 16.76.050 of County Code states that the Subdivision Map Act requires conditional certificates of compliance be issued on certain types of parcels which were created in violation of the Subdivision Map Act. A local agency 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 the property. The current owners received title on May 23, 2007. Section 16.44.120, Design Criteria of the El Dorado County Code establishes the design criteria and improvements made and installed in conjunction with the approval of maps. The project would be conditioned by the El Dorado County Department of Transportation and Planning Services for those criteria as applicable to the subject request.

## 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 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 Fish and Game Code Section 711.4), the project is subject to a fee of \$1,876.75 after approval, but prior to the County filing the Notice of Determination on the project. This fee, plus a \$50.00 recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,876.75 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1 .....	Conditions of Approval
Attachment 2.....	Findings
Exhibit A.....	Vicinity Map
Exhibits B1, B2, B3 .....	Assessor's Parcel Maps for Subject Parcel and Surrounding Parcels
Exhibit C .....	General Plan Land Use Map
Exhibit D.....	Zoning Map
Exhibit E .....	Record of Survey 30-53
Exhibit F.....	Shingle Springs U.S.G.S. Quadrangle
Exhibits G1, G2, G3.....	Site Visit Photos from December 7, 2007
Exhibit H.....	Draft Negative Declaration

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**

**File Number COC07-0069**  
**February 20, 2008**

**CONDITIONS OF APPROVAL**

**Planning Services**

1. This certificate of compliance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibit A through H dated February 20, 2008, 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:

Certificate of Compliance for Assessor's Parcel Number 070-062-01 which will acknowledge the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances.

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.

**Planning Services Site Specific and Standard Conditions**

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. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to El Dorado County, pursuant to El Dorado County Subdivision Ordinance Chapter 16.12.090. A receipt showing compliance with this condition shall be submitted by the applicant to the Planning Services prior to issuance of a Clear Certificate of Compliance.

4. All Planning Services fees shall be paid immediately following the ten-day appeal period following the date of Zoning Administrator hearing that approves the subject application request.
5. 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.

#### **El Dorado County Department of Transportation**

6. Turnaround: The applicant shall provide a turn around at the end of Paloran Court to the provisions of County Standard Plan 114 or approved equivalent. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the recording of the Certificate of Compliance.
7. Maintenance Entity: The proposed project must form an entity for the maintenance of the turnaround improvements on Paloran Court. If there is an existing entity, the property owner shall modify the document if the current document does not sufficiently address maintenance of the turnaround for the current project. DOT shall review the document forming the entity to ensure the provisions are adequate prior to the recording of the Certificate of Compliance.
8. Road Improvement Agreement & Security: The applicant shall enter into a Road Improvement Agreement (RIA) with the Department of Transportation for all roadway, frontage, and intersection improvements. The applicant shall complete the improvements to the satisfaction of DOT or provide security to guarantee performance of the RIA as set forth within the County of El Dorado Subdivision Division Ordinance, prior to recording of the Certificate of Compliance.
9. Import/Export Grading Permit: Any import, or export to be deposited or borrowed within El Dorado County, shall require an additional grading permit for that offsite grading.
10. Grading Permit / Plan: If more than 50 cubic yards of earth movement are required for improvements, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the Department of Transportation for review and approval. 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”, the “Off-Street Parking and Loading Ordinance”, and the State of California Handicapped Accessibility Standards. All applicable plan check and inspection fees shall be paid at the time of submittal of improvement plans. The improvements and grading shall be completed to the satisfaction of DOT prior to occupancy clearance.

11. Grading Plan Review: Grading and improvement 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. 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.
12. Soils Report: At the time of the submittal of the grading or improvement plans, the applicant shall submit a soils and geologic hazards report (meeting the requirements for such reports provided in the El Dorado County Grading Ordinance) to, and receive approval from the El Dorado County Department of Transportation. Grading design plans shall incorporate the findings of detailed geologic and geotechnical investigations and address, at a minimum, 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.
13. Drainage Study / SWMP Compliance: The applicant shall provide a drainage report at time of improvement plans or grading permit application, consistent with the Drainage Manual and the Storm Water Management Plan, which addresses storm water runoff increase, impacts to downstream facilities and properties, and identification of appropriate storm water quality management practices to the satisfaction of the Department of Transportation.
14. CEQA Review: 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.
15. Electronic Documentation: Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the applicant will provide a CD to DOT

with the drainage report, structural wall calculations, and geotechnical reports in PDF format and the record drawings in TIF format.

16. TIM Fees: The applicant shall pay the traffic impact fees in effect at the time a building permit is deemed complete.

#### **El Dorado County Fire Protection District**

17. Submit review fee of \$ 120.00.
18. Fire flow for this project is 1,000 gpm @ 20 psi for two hours. Provide documentation from EID and the Fire District to show that the system will meet required fire flow for this project prior to recordation of the Certificate of Compliance.
19. No additional hydrants will be required for this project.
20. In place of requirement 18, the applicant may choose a Fire District approved residential sprinkler system with 3,000 gallons of water storage.
21. A Fire District approved NFPA 13D residential sprinkler system with 3,000 gallons of water storage will be required for all new structures built on this parcel.
22. Driveways to the home shall be 10-foot wide, have 13 foot 6 inches vertical clearance and capable of supporting a 40,000 pound load.
23. Driveway grades exceeding 16 percent shall be all weather paved surface.
24. Existing non-conforming access roads serving this parcel will meet at a minimum Fire Safe Standards for width, surface, grade, radius, turnarounds, and turnouts, one-way and dead-end roads.
25. El Dorado County DOT standards may be more stringent and will supersede these requirements.
26. Any gates that are not shown shall require Fire District approval.

**ATTACHMENT 2**  
**FINDINGS**

**FILE NUMBER COC07-0069**  
**February 20, 2008**

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**

**1.0 CEQA Findings**

- 1.1 The Zoning Administrator has considered the Negative Declaration together with the comments received and considered during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The Zoning Administrator finds that through feasible conditions placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 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-Planning Services Department at 2850 Fairlane Court, Placerville, CA.

**2.0 Administrative Findings**

- 2.1 The issuance of the conditional certificate of compliance for APN 070-062-01 meets the requirements of the *Subdivision Map Act* and *County Code Title 16* because the County would now be assuring the parcel is self sustaining in access, safety and ability to support residential use and that a legitimate transfer took place and with an accurate legal description.

**3.0 General Plan Consistency Findings**

- 3.1 The proposed certificate of compliance, as conditioned, is consistent with the Medium Density Residential General Plan land use designation for parcel size, density and land use.
- 3.2 The proposal, as conditioned, is consistent with the intent of Policies 2.1.1.7, 2.2.5.21, 5.7.1.1, 6.2.3.2 and 7.4.4.4 because there are adequate roadways, utilities, and other public service infrastructure available. The project is consistent with the dominant lot pattern of development in the direct project vicinity and wildfire hazards have been addressed. Native oak tree canopy will not be directly impacted with the project.

#### **4.0 Zoning Findings**

- 4.1 The project is zoned One – Acre Residential (R1A) which establishes a minimum parcel size of one acre. The project would legalize parcel 1.03 acres in size which is consistent within the R1A zone district. The proposed parcel conforms to existing zoning. The Design Waiver will allow the parcel to meet the development standards in Section 17.28.080.

#### **5.0 Design Waiver Findings**

- 5.1 **Permit a lot to be created with less than the required lot width not meeting the requirements of Section 17.28.210.C of County Code.** The support for the design waiver is based on the following findings:
- 5.2 **It can be found that special conditions for circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver** because the all seven parcels that adjoin the subject parcel have been legally created which established the exact width at the encroachment onto Poloran. The combined effect of existing utility infrastructure, and the adjoining parcel size and configuration create a special circumstance. The parcel may not comply with the width requirement however, the minimum parcel size requirement has been met and all other zoning district provisions have been complied with.
- 5.3 **It can be found that strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property** because doing a boundary line adjustment with the adjoining parcels is not an option as they are all just over the required one acre in size and the existing utility infrastructure constricts any attempt to expand at the parcel entrance. The parcel may not comply with the width requirement however, the minimum parcel size requirement has been met and all other zoning district provisions have been complied with.
- 5.4 **It can be found that the adjustment or waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public** because the El Dorado County Department of Transportation and the El Dorado County Fire Protection District have conditioned the Certificate of Compliance to meet their respective public safety requirements.
- 5.5 **It can be found that this waiver would not have the effect of nullifying the objectives of Article II of Chapter 16 of the County Code or any other ordinance applicable to the division** because the legalization of the subject lot is considered negligible in this particular proposal.