

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



Agenda of: October 1, 2008
Item No.: 4.a.
Staff: Aaron Mount

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC06-0027

APPLICANT: Norman Pettit and Kopp Family Trust

AGENT: Marvin Bukema

REQUEST: Conditional Certificate of Compliance for Assessor's Parcel Number 042-680-25 created by Gift Deed October 16, 1995 and acquired by the current owner on April 1, 2004.

LOCATION: On the south side of Starkes Grade Road, approximately one mile west of the intersection with Sly Park Road in the Pollock Pines area, Supervisorial District II. (Exhibit A)

APN: 042-680-25

ACREAGE: 61.58 acres

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

ZONING: Single Family Three-acre Residential (R3A) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines

RECOMMENDATION: Staff recommends that the Zoning Administrator take the following action:

1. Certify that the project is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines; 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 042-680-25, which will 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 Single Family Three-acre Residential Zone District when a Clear Certificate of Compliance is issued.

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.

Prior to the subject certificate of compliance application, the parcel owners applied for a certificate of compliance to recognize two parcels 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.

The subject parcel was created originally by a grant deed recorded January 6, 1992 from Elias Greenberg II Trust to Walter M. Saunders Trust, O.R. 3695-297. The parcel was then divided by a series of gift and grant deeds starting in 1995 and resulting in the current situation of a parcel under one ownership with two separately conveyed portions of the parcel. The applicants original request was for the issuance of COC's for the two conveyed portions but it was determined they were not legal conveyances and the request was amended to one parcel. A condition of approval requires the merging of the two separately conveyed portions of the subject parcel.

The applicants acquired the subject property by Deed on April 1, 2004. 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: Staff has reviewed the project for compliance with County regulations and requirements. An analysis of the permit request and issues for the Zoning Administrator's consideration are provided in the following sections.

Project Description: Certificate of Compliance for Assessor’s Parcel Number 042-680-25, 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 parcel would be served by a future onsite septic wastewater system. The parcel takes access from Starkes Grade Road, a County maintained road, by a developed easement of which Department of Transportation has conditioned to be improved to a Fire Safe width of 18 feet.

Site Description: The undeveloped site is at an average elevation of 3,600 feet above mean sea level. The sloping site is dominated by a mix of conifers and hardwoods with associated undergrowth. The North Fork of Clear Creek bisects the eastern portion of the parcel from north to south. Access to the parcel is from a private easement that encroaches on to Starkes Grade Road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R3A	MDR	Undeveloped
North	R3A	MDR	Single Family Residence
South	RE-10	LDR	Undeveloped
East	R3A	MDR	Undeveloped
West	R3A	MDR	Single Family Residence

Discussion: The subject and adjacent parcels are within the Pollock Pines Community Region. The subject parcel exceeds the General Plan land use designation minimum parcel size and is consistent with surrounding development.

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 61.58 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 access roadway would need minor improvements. Power and phone are in the vicinity. Sewage disposal would be provided by an on site septic system.

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 5.2.1.3 directs that medium density residential development projects within Community Regions be required to connect to a public water system. Environmental Management made no comments on the subject parcels access to a safe and reliable water supply, however future discretionary development would require consistency with this mandatory and specific general Plan policy.

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 the project would meet the intent of this policy as improvements to access would be required to meet fire safe standards.

Policy 7.4.4.4 establishes the native oak tree canopy retention and replacement standards. No trees are proposed to be removed in order to improve the subject site or off site access. 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 Single Family Three – Acre Residential (R3A) which permits a minimum parcel size of three acres. All development on the parcel is subject to the development standards contained in Section 17.28.440 of the County Code. The project parcel size is 61.58 acres and meets the minimum three-acre parcel size for the R1A Zone District.

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

This project has been found to be Exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines stating that The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The site requires minimal improvements to off site road access, contains developable area not adjacent to

riparian habitat or wetlands, is not located in an area known to contain protected species, and will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance

Pursuant to Resolution No. 240-93, a \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption

SUPPORT INFORMATION

Attachments:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Site Plan
Exhibit E	Assessor's Map Book 42 Page 68

ATTACHMENT 1
CONDITIONS OF APPROVAL

File Number COC06-0027
October 1, 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 042-680-25 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. All Planning Services fees shall be paid prior to recording of a Conditional Certificate of Compliance.

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. No building permits shall be issued until a Clear Certificate of Compliance is recorded.

El Dorado County Department of Transportation

6. The applicant shall construct a roadway within the existing 60-foot road and public utility easement from Starks Grade to the property. The road shall be improved per El Dorado County Standard Plan 101C to an 18 foot road width with a one foot shoulder on each side. 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 recording of a Clear Certificate of Compliance.
7. The applicant shall obtain an encroachment permit from DOT and shall construct the driveway encroachment from the future roadway onto Starks Grade Road to the provisions of County Standard Plan 103D. 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 recording of a Clear Certificate of Compliance.
8. Prior to the recording of a Clear Certificate of Compliance, the applicant shall join and/or form an entity, satisfactory to DOT, to maintain all on-site roads and/or drainage facilities not maintained by the County, which is required for access to Larkspur Drive.
9. 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.

10. The developer 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 recording of a Clear Certificate of Compliance.
11. If any offsite or onsite improvements are to be made, 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.
12. The applicant shall provide a soils report at time of improvement plan or grading permit application addressing, 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. Any import, or export to be deposited within El Dorado County, shall require an additional grading permit for that offsite grading.
14. 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.
15. Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to DOT with the approved drainage and geotechnical reports in PDF format and the approved record drawings in TIF format.
16. Applicant shall pay the traffic impact fees in effect at the time a building permit is issued.

El Dorado County Office of the County Surveyor

17. The two separately described parcels should be merged with a Certificate of Merge. All parties having record title interest will be signatory. The Deed of Trust will be modified to reflect the merged parcel.

ATTACHMENT 2
FINDINGS

FILE NUMBER COC0060027
October 1, 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 This project has been found to be Exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines stating that The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The site requires minimal improvements to off site road access, contains developable area not adjacent to riparian habitat or wetlands, is not located in an area known to contain protected species, and will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- 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-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 042-680-25 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 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, 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. Native oak tree canopy will not be directly impacted with the project.

4.0 Zoning Findings

- 4.1 The project is zoned Single Family Three-acre Residential (R3A) which establishes a minimum parcel size of three acres. The project would legalize parcel 61.58 acres in size which is consistent within the R3A zone district. The proposed parcel conforms to existing zone district t development standards.