

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



Agenda of: August 5, 2009
Item No.: 5.a.
Staff: Tom Dougherty

CERTIFICATE OF COMPLIANCE REVISION

FILE NUMBER: COC06-0063-R

APPLICANT: CB Holdings, Inc.

REQUEST: Revision to an approved Conditional Certificate of Compliance for Assessor's Parcel Number 093-270-01 and recognizing a 6.2-acre portion created by Grant Deed in 1946.

LOCATION: On the southwest side of Sweeney Road approximately 1.5 miles north of the intersection with Grizzly Flat Road in the Grizzly Flat area, Supervisorial District II. (Exhibit A)

APN: 093-270-01 (Exhibit B1)

ACREAGE: 26.20 acres

GENERAL PLAN: Natural Resource (NR) (Exhibit C)

ZONING: Residential Agricultural 20-Acre (RA-20) (Exhibit D)

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 to revise approved Conditional Certificate of Compliance COC06-0063 to recognize a 6.2-acre portion of Assessor's Parcel Number 093-270-01 created legally, to allow the merge with the 20-acre portion which was created by Gift Deed in violation of the Subdivision Map Act. The revision and subsequent merger would 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 parcel would allow development of the property consistent with the Residential Agricultural 20-Acre 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 previous parcel owners applied for a Certificate of Compliance to recognize a 6.2-acre portion of the parcel with the Surveyor's Office who referred the application to Planning Services since the remaining 20-acre portion property was the result of a division of land after March 4, 1972.

The parent parcel, of this parcel requesting the previous COC06-0063, was comprised of the Southwest quarter of the Southwest quarter of Section 12 and the West half of the Northwest quarter of the Northwest quarter of Section 13, T. 9 N., R 12 E, M.D.M, all as one parcel and transferred as such by deed in Book 225 at Page 149, to the California Door Co., until it was transferred as Parcels 1, 2 and 3 by deed in Book 1712 at Page 485 from Bendix Forest Products Corp. on December 29, 1978 on a single deed, which did not effect any division.

On October 13, 1981, Ken Kelley by grant deed conveyed a piece of land North of Sweeney Road, as a sale per deed 2021-184. On November 15, 1990, Walton Burres conveyed what is now APN 093:270:01 as a sale per Grant deed in Book 3462 at Page 490 which is the date of creation of this parcel.

The applicants for COC06-0063 acquired the subject property by Quitclaim Deed on October 10, 2007. As such, the County approved Conditional Certificate of Compliance COC 06-0063 on September 3, 2008 and imposed 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)*.

COC06-0063 was never recorded as the current owners decided to establish a new conditional COC for a 6.2-acre portion of the property created in 1946, with the intention of merging with the remaining 20-acre portion of the parcel subsequent to an approved conditional COC. The current owners of the entire 26.2-acre parcel acquired ownership by Grant Deed in December of 2008.

STAFF ANALYSIS

Project Description: Certificate of Compliance for Assessor’s Parcel Number 093-270-01, which would acknowledge the County’s acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances and subsequent merger of the 6.2-acre portion with the 20-acre portion through the Boundary/Lot Line Adjustment process, creating one, 26.20-acre parcel. The parcel would be served by a future well and onsite septic wastewater system. The parcels take access directly from Sweeney Road.

Site Description: The 26.20-acre parcel is located at the 2,740 to 2,800-foot elevations above sea level. The parcel is covered primarily with conifers with some scattered black oaks. The parcel was recently logged and there are remnants of the old Caldor Railroad on the site. The interior access roads serve three other parcels and those roads and a building pad area for the subject parcel are rough-graded in.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RA-20	NR	Vacant, 26.20-acre parcel.
North	RA-20	NR	Vacant, one, 40-acre parcel.
South	RA-20	NR	Single-family residence, 13.80-acre parcel.
East	RA-20	NR	Vacant, 40-acre parcel.
West	RE-10	RR	Single-family residences, some vacant, five one to twelve-acre parcels.

Discussion: The area consists of ranging in size from one to forty-acres in size. The land use designations consist of Rural Residential to the west and Natural Resource in all other directions. The parcel can be found be consistent with the surrounding development.

General Plan: The subject property is designated as Natural Resource (NR) on the General Plan Land Use Map. The NR land use designation establishes 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.* This designation is typically applied to parcels which are 40 acres or larger in size and contain one or more important natural resource and the expected density of one dwelling per 40 acres. Compatible uses may include *agriculture, rangeland, forestry, wildlife management, recreation, water resources development, and support single-family dwellings.*

Discussion: The subject 26.20-acre parcel is less than the required minimum size of the land use designation but does conform to the zone district minimum size of 20 acres. This revision application would recognize the 6.2-acre portion as legally created. The remaining 20-acre

portion to be merged with that portion, creating one legal 26.2-acre parcel. The single family development that would result from this Certificate of Compliance would be consistent with this land use designation. The following General Plan policy applies to this project:

Compatibility: **Policy 2.2.5.21** directs that new development be compatible with the surrounding neighborhood.

Consistent: The 26.2-acre parcel size that would be the result of a recorded clear Certificate of Compliance, and subsequent recordation of a Certificate of Merge, would be consistent with the development pattern for the area.

Conclusion: The project has been reviewed in accordance with the 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 Residential Agricultural 20-acre Residential (RA-20) which permits a minimum parcel size of 20 acres. All development on the parcel is subject to the development standards contained in Section 17.30.010 through 17.30.050 of the County Code. The project parcel size would be 26.2 acres after an approved *Lot Line Adjustment, Boundary Line Agreement and Merge* application, the resulting 26.2-acre parcel would meet the minimum parcel size requirement.

Conclusion: As discussed above, and as conditioned, staff finds that the project can be found to be consistent with the RA-20 Zoning District and that the necessary findings can be made to support the request for a Certificate of Compliance. The details of those findings are contained in Attachment 2.

Authority to Issue a Conditional 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 December 11, 2008. The project would be conditioned to be merged with a Certificate of Merge. All parties having record title interest would be signatory. The Deed of Trust would be modified to reflect the merged parcel. A copy of the recorded Certificate would be received by Planning Services prior to issuance of a clear Certificate of Compliance.

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

A \$50.⁰⁰ administrative processing fee is required by the County Recorder to file the Notice of Exemption

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A1	G.I.S. Vicinity map
Exhibit A2	Compass vicinity map
Exhibits B1, B2	Assessor's Parcel maps and surrounding parcels
Exhibit C	General Plan Land Use map
Exhibit D	Zoning map
Exhibit E	Applicant submitted site plan
Exhibit F	Sly Park U.S.G.S. Quadrangle
Exhibit G	Soils map
Exhibits H1, H2	Aerial photos

ATTACHMENT 1
CONDITIONS OF APPROVAL

Certificate of Compliance Revision COC06-0063-R/CB Holdings
August 5, 2009 Zoning Administrator Hearing

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 ~~H1~~ H2 dated ~~July 2, 2008~~ August 5, 2009, 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:

COC06-0063 consisted of the following:

Certificate of Compliance for Assessor's Parcel Number 093-270-01 which ~~will~~ acknowledged the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances.

COC06-0063-R consists of the following:

Certificate of Compliance for Assessor's Parcel Number 093-270-01 which will acknowledge the County's acceptance of the 6.2-acre portion of the parcel, as shown in Exhibit E, as legally created accordance with the Subdivision Map Act and local subdivision ordinances. The 6.2-acre portion is to be merged with the remaining 20-acre portion resulting in a legal 26.2-acre parcel.

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.~~
- 4.3. 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.
4. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services after the end of the appeal period of a final project decision.
5. The two separately described parcels shall 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. A copy of the recorded Certificate shall be received by Planning Services prior to issuance of a clear Certificate of Compliance.
6. No building permits shall be issued until a Clear Certificate of Compliance is recorded.
- 5.7. 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. The applicant shall improve the on-site unnamed road and the on-site portion of Sweeney Road to the standard of a 18-foot wide roadway and 1-foot shoulders per Standard Plan 101-C (including signage as necessary—stop signs, street name signs, "not a county maintained road", etc.), prior to issuance of a Clear Certificate of Compliance.~~

- ~~7. The applicant shall improve the off site portion of Sweeney Road, to Grizzly Flat Road, to the provisions of the SRA Fire Safe Regulations. All said improvements shall be accomplished prior to issuance of a Clear Certificate of Compliance.~~
- ~~8. The applicant shall irrevocably offer to dedicate all on site 50 foot wide road and public utility easement for the unnamed on site access roadway, prior to approval of the COC. This offer will be rejected by the County.~~
- ~~9. The applicant shall irrevocably offer to dedicate, in fee, a 50 foot wide road and public utility easement for the on site portion of Sweeney Road, prior to approval of the COC. This offer will be accepted by the County.~~
- ~~10. 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 a County maintained roadway and shall be accomplished prior to issuance of a Clear Certificate of Compliance.~~
- ~~11. 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.~~
- ~~12. 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 EI Dorado Subdivision Ordinance, prior to issuance of a Clear Certificate of Compliance.~~
- ~~13. If site improvements are to be made, the applicant shall submit a site improvement grading plan prepared by a professional civil engineer to the Department for review and approval. The plan shall be in conformance with the County of EI 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. The improvements shall be substantially completed, to the approval of the Department of Transportation, prior to issuance of a Clear Certificate of Compliance.~~
- ~~14. 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.~~
- ~~15. Any import, or export to be deposited within EI Dorado County, shall require an additional grading permit for that off site grading.~~

16. ~~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.~~
17. ~~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.~~
18. ~~Applicant shall pay the traffic impact fees in effect at the time a building permit is issued.~~

Pioneer Fire Protection District

19. ~~The applicant shall provide a Fuel Modification and Wildland Fire Safety Plan, to be prepared by a Registered Professional Forester which shall be reviewed and approved by Pioneer Fire Protection District and California Department of Forestry prior to issuance of a Clear Certificate of Compliance.~~
20. ~~This project shall meet the requirements of the California SRA Firesafe Regulations, and the California Fire Code 2007 Edition for access and water supply prior to issuance of a Clear Certificate of Compliance.~~

ATTACHMENT 2

FINDINGS

Certificate of Compliance Revision COC06-0063-R/CB Holdings August 5, 2009 Zoning Administrator Hearing

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 revised Conditional Certificate of Compliance for a 26.2-acre parcel, and recognize that the 6.2-acre portion of APN 093-270-01 meets the requirements of the *Subdivision Map Act* and *County Code Title 16*, and that the merge creates a parcel consistent with the Zoning with the 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 Natural Resource General Plan land use designation for density and land use.
- 3.2 The proposal, as conditioned, is consistent with the intent of Policy 2.2.5.21 because the project is consistent with the dominant lot pattern of development in the direct project vicinity.

4.0 Zoning Findings

- 4.1 The project is zoned residential Agricultural 20-Acre (RA-20) which establishes a minimum parcel size of 20 acres. The project would legalize a parcel 26.2 acres in size which is consistent within the RA-20 zone district. The proposed parcel conforms to existing zoning.