

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



**Agenda of:** September 21, 2011  
**Item No.:** 4.a.  
**Staff:** Aaron Mount

**CONDITIONAL CERTIFICATE OF COMPLIANCE**

**FILE NUMBER:** COC10-0018 / Summers and Landis

**APPLICANTS:** Judson & Sharon Landis

**AGENT:** Greg Cook

**REQUEST:** Certificate of Compliance for a 1.4-acre parcel created by Grant Deed recorded on August 2, 1974.

**LOCATION:** East side of Lemon Lane approximately 2.5 miles south of State Route 89 in the Fallen Leaf Lake area, Supervisorial District 5. (Exhibit A)

**APN:** 021-031-27 (Exhibit B)

**ACREAGE:** 1.43 acres

**GENERAL PLAN:** Adopted Plan (AP): Fallen Leaf North PAS (Exhibit C)

**ZONING:** Tahoe One-Family Residential District (TR1) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines

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

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:** Lot Line Adjustment application BLA09-0026 was submitted for three parcels including the project parcel in order to record a lot line agreement and to correct a lot line that goes through a residence. During review of the application it was found that the project parcel was not created consistent with the Subdivision Map Act. Review of the parcel's history by the Surveyor's Office determined that only Planning Services could process a Certificate of Compliance consistent with Ordinance 4632, Section 16.76.090(g) which states "The parcel is any other parcel created without the benefit of a Parcel or Final Map that has not been specifically cited in this chapter". As detailed below that project parcel was created by exclusion as a result of half of the parent parcel being sold.

This application is a request for a certificate of compliance on Assessor's Parcel Number 021-031-27, 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 Tahoe One-Family Residential 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.

The project parcel was a 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 parcel history is as follows:

- On September 18, 1967 the parent parcel was sold to J. and M. Landis in Book 846 at Page 290.
- On October 13, 1970 J. and M. Landis sold to C. and C. Rowe APN 021-031-26 in Book 1011 at Page 18 prior to the Subdivision Map Act.
- On August 2, 1974 J. Landis sold to A. Ahern APN 021-031-28 (sale after 1972). The project parcel, APN 021-031-27, was created by exclusion resulting from this sale.

The applicant acquired title to the subject property on March 28, 1996. 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 property pursuant to Government Code Section 66499.35(b).

**STAFF ANALYSIS**

Staff has reviewed the project for compliance with the County’s regulations and requirements. An analysis of the proposal and issues for Zoning Administrator consideration are provided in the following sections.

**Project Description:** Certificate of Compliance for Assessor’s Parcel Number 021-031-27, which would acknowledge the County’s acceptance of the parcel as legally created in accordance with the Subdivision Map Act and local subdivision ordinances. Proposed Conditions of Approval (Attachment 1) have been applied which would have been applied to a parcel map on March 28, 1996. Once satisfied, a clear certificate of compliance can be issued which would allow for development of the property in accordance with the TR1 Zone District.

**Site Description:** The subject site lies at an average elevation of 6,400 feet above mean sea level and is adjacent to Fallen Leaf Lake. The forested parcel is undeveloped except for a small shed and a small portion of a residence on an adjacent parcel. The parcel is situated in a group of parcels containing summer homes located on the west end of fallen Leaf Lake, north of Cathedral Creek. The parcel is currently served by public sewer and has water rights to obtain water from Fallen Leaf Lake. Access is provided by Lemon Lane. The Tahoe Regional Planning Agency (TRPA) acknowledges the parcel as a separate parcel with enough coverage to develop the residential uses allowed by right.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	TR1	AP (129 PAS)	Residential / shed
<b>North</b>	RE-10	AP (129 PAS)	Residential / Single-Family Residence
<b>South</b>	RE-10	AP (129 PAS)	Residential / Single-Family Residence
<b>East</b>	TA	AP (129 PAS)	Fallen Leaf Lake
<b>West</b>	TR1	AP (129 PAS)	Undeveloped, US Forest Service land

Discussion: The subject site is bordered by Fallen Leaf Lake to the east, residential parcels to the north and south, and US Forest Service lands to the west.

**Access:** Access to the subject site is currently provided by Lemmon Lane and Cathedral Road which are seasonal access roads. The Department of Transportation (DOT) is requiring the applicant to irrevocably offer to dedicate in fee, 50-feet of right-of-way along the on-site portions of Lemmon Lane and Cathedral Road.

**Land Use Compatibility:** As discussed above, the site is surrounded by residential and recreational/agricultural land uses. Potential future development of the parcel under the TR1 zone district development standards would authorize similar residential uses. Therefore, staff

finds the proposed project is compatible within the context of the surrounding land uses pursuant to General Plan Policy 2.2.5.21.

**Water/Wastewater Disposal:** The parcel is served by public sewer provided by South Tahoe Public Utility District and water would be obtained through existing water rights from Fallen Leaf Lake.

## **GENERAL PLAN**

The General Plan designates the subject site as Area Plan (AP) as it is within the Lake Tahoe basin and under the jurisdiction of the Tahoe Regional Planning Agency (TRPA). Findings for consistency with the General Plan are provided in Attachment 2. The policies and issues that affect this project are discussed below:

**Policy 2.2.1.2** *This land use category recognizes areas for which specific land use plans have been prepared and adopted. The adopted plan for the Tahoe Basin is the Regional Plan for the Tahoe Basin and the Plan Area Statements, both adopted by the Tahoe Regional Planning Agency (TRPA).*

**Discussion:** The subject parcel is within the Fallen Leaf North (129) TRPA Plan Area Statement. The residential parcel is consistent with the permissible uses listed in the Plan Area Statement. The request would be consistent with Policy 2.2.1.2.

**Policy 2.2.5.21** *directs that new development be compatible with the surrounding land uses.*

**Discussion:** Under the AP (TRPA Plan Area Statement) land use designation and TR1 zone district, the site would be authorized to develop residential uses consistent with the surrounding recreational/agricultural and residential land uses. As such, the request would be consistent with Policy 2.2.5.21.

**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.*

**Discussion:** The project parcel is accessed by Cathedral Road and Lemmon Lane which are non-County maintained roads. Cathedral Road is primarily a US Forest Service road out of the jurisdiction of the County. The Department of Transportation has conditioned the project establish on-site road easements to ensure adequate access.

**Conclusion:** As discussed above, staff finds that the certificate of compliance, as requested, is consistent with applicable policies of the County General Plan. Findings for consistency with the General Plan are provided in Attachment 2.

**Zoning:** The subject parcel is zoned Tahoe One-Family Residential District (TR1) which permits a minimum parcel size of seven thousand square feet. All future development on the parcel would be subject to the development standards contained in Section 17.56.040 of the

County Code. The project parcel size is 1.43 acres and meets the minimum parcel size requirement.

**Conclusion:** As discussed above, staff finds that the project can be found to be consistent with the TR1 Zone District and that the necessary findings can be made to support the request for a Certificate of Compliance. Zoning consistency findings are contained within 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 to 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 March 28, 1996. 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 “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.” As such, the proposed legalization of one parcel through the certificate of compliance process is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. A \$50.<sup>00</sup> 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 A .....Location Map
- Exhibit B .....Assessor’s Parcel Map Page
- Exhibit C .....General Plan Land Use Map
- Exhibit D .....Zoning Map
- Exhibit E .....Site Plan

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**  
**CERTIFICATE OF COMPLIANCE**

**File Number COC10-0018/Summers and Landis**

**I. PROJECT DESCRIPTION**

1. This Certificate of Compliance is based upon and limited to compliance with the project description, the exhibits marked Exhibit A through E, 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 021-031-27 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 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 archeologist 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. Lot line Adjustment BLA09-0026 shall be filed prior to issuance of a clear Certificate of Compliance. All conditions of approval for this conditional Certificate of Compliance shall be met prior to recording of a Parcel Map for the Lot Line Adjustment.
5. 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. Check shall be submitted to the Development Services Department. 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 or filing of the Parcel Map.
6. All fees associated with the Certificate of Compliance shall be paid prior to issuance of a clear Certificate of Compliance or filing of the Parcel Map.
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.

### **Department of Transportation**

8. Road & Public Utility Easements: The applicant shall irrevocably offer to dedicate a 50-foot wide non-exclusive road and public utility easement for the on-site access roadway of Lemmon Lane where the road is located on the proposed parcels in its entirety, and a 25-foot half width from centerline of roadway where Lemmon Lane is only partially located on the proposed parcels, prior to issuance of a clear Certificate of Compliance or filing of the Parcel Map. Slope easements shall be included as necessary. This offer will be rejected by the County.
9. Road & Public Utility Easements: The applicant shall irrevocably offer to dedicate a 50-foot wide non-exclusive road and public utility easement for the on-site access roadway of Cathedral Road where the road is located on the proposed parcels in its entirety, and a 25-foot half width from centerline of roadway where Cathedral Road is only partially located on the proposed parcels, prior to issuance of a clear Certificate of Compliance or

filing of the Parcel Map. Slope easements shall be included as necessary. This offer will be rejected by the County.

**ATTACHMENT 2**  
**FINDINGS**  
**CERTIFICATE OF COMPLIANCE**

**File Number COC10-0018/Summers and Landis**

**FINDINGS FOR APPROVAL**

**1.0 CEQA FINDINGS**

- 1.1 Planning Services has determined that the proposed project will have no significant impact on the environment and is exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines.
- 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 021-031-27 meets the requirements of the *Subdivision Map Act* and *County Code Title 16* because the County is verifying that the parcel has sufficient access, safety and ability to support residential uses. Further, the County is ensuring that a legitimate transfer took place and with an accurate legal description.

**3.0 TITLE 16 SUBDIVISIONS ORDINANCE**

- 3.1 The project parcel was a result of a division of land after March 4, 1972. Section 16.76.090.g authorizes issuance of a conditional certificate of compliance if the parcel is any other parcel created without the benefit of a Parcel or Final Map that has not been specifically cited in this chapter.

**4.0 GENERAL PLAN CONSISTENCY FINDINGS**

- 4.1 The proposed Certificate of Compliance, as conditioned, is consistent with the General Plan and the TRPA Fallen Leaf North Plan Area Statement for density and land use.
- 4.2 The proposal 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), 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 project is zoned Tahoe One-Family Residential District (TR1) which establishes a minimum parcel size of 7,000 square feet. The project will legalize a 1.43-acre parcel which is consistent with the TR1 zone district development standards.