



PLANNING DEPARTMENT COUNTY OF TEHAMA

STAFF REPORT

DATE: September 6, 2017
TO: Tehama County Technical Advisory Committee
FROM: Kristen Maze, Director of Planning
SUBJECT: **CERTIFICATE OF COMPLIANCE # 17-08; PETTINGER**

PROJECT DESCRIPTION:

The applicant is requesting five Certificates of Compliance (COC) from Tehama County on 67.24 acres. The project is located on the west side of 99W at the intersection of 99W and Murray Ave. (See Attachment A, Vicinity Map,). In 1999 at the request of Eric & Connie Pettinger, the current property owners, the then Planning Director, acting without any legal authority, ostensibly approved a Lot Line Adjustment and Merger application - the configuration of which is shown on Attachment B Assessors Book 063, Page 14 (See Attachment C, Recorded Merger 99-8 and Application Covers). Thereafter the current property owners subsequently recorded a Grant Deed with parcel descriptions that reflected the recorded Merger document. However, another Grant Deed was recorded on September 28, 2005 to the Eric Pettinger and Connie Pettinger, Trust with Parcels A through D and a remainder described on the single deed (See Grant Deeds and Chain of Title Documents, Attachment D).

This request for a Certificate of Compliance seeks to validate the unauthorized actions of the former Planning Director in approving a lot line adjustment that under the law would have created 5 parcels where only a single parcel previously lawfully existed. Under the relevant provisions of the 1999 Tehama County code section below, which was adopted on October 3, 1972 (Ord. 577) and repealed on August 22, 2000 (Ord. 1733), the Planning Director had no authority to approve a lot line adjustment (coupled with a merger). County Counsel has advised that under the law, an action purportedly taken by a public employee or official that is not otherwise authorized by law is null and void and cannot be relied or given recognition.

Ord. 577 was in effect in 1999

Tehama County Code Sec. 3010: Property Line Adjustment. "A division of property line adjustment may receive final approval by the County Surveyor when the division does not create any new lot or building site or substandard parcel. The map shall be a Record of Survey filed in conformance with the Land Surveyors Act."

Ord. 1733 was **not** effective until September of 2000

Tehama County Code Section 16.24.020 Lot Line Adjustment. "A Lot Line Adjustment may receive final approval by the Planning Director or designee when the adjustment does not result in any new lot and meets the applicable criteria set forth in Chapter 17.75 of the Tehama County Code." and "Section 17.75.020 Conforming/Nonconforming Parcels; Lot Line Adjustments. Notwithstanding the minimum parcel sizes require by Chapters 17.10, 17.12, 17.14, 17.16, 17.18, 17.20, 17.22, 17.32, 17.44, 17.50, 17.64, and 17.66 a Lot Line Adjustment between two or more contiguous parcels may be approved

by the Planning Director or designee if the following Criteria are met:"(See Attachment E, Copies of Ordinance 577 and Ordinance 1733).

In addition to the Planning Directors lack of authority regarding Lot Line Adjustments, there was no authority at the time of the Pettinger Merger/LLA application in the County Code that authorized the Planning Director to approve voluntary merger(s). The Merger Ordinance was not adopted until October 22, 2013 by Ordinance 1982 (Attachment F, Merger Ord. 1982).

The Pettinger's deed describes the subject property as follows: Parcel A (APN: 063-140-054), Parcel B (APN: 063-140-055), Parcel C (APN: 063-140-056), Parcel D (APN: 063-140-057) and Remainder Parcel (APN: 063-140-058) in its Exhibit B, as Lots or portions of Lots within Subdivision No.2 of the El Camino Rancho designated on that certain Map entitled "El Camino Rancho, Tehama County, California amended Subdivision Number 2", and filed on May 21, 1923 in the Office of the Tehama County Recorder's Office in Book "F" of maps at pages 57 and 58.

From a review of the information obtained by the County, the El Camino Rancho Amended Subdivision No. 2 was recorded in 1923, which pre-dates the significant changes that were made to the State Subdivision Map Act in 1929. Previously, both County Counsel and the outside law firm that was retained by the Board of Supervisors to provide advice on such matters opined that the El Camino Rancho Amended Subdivision No. 2 map is what is commonly referred to as an "antiquated subdivision map," and therefore the lots depicted thereon cannot legally be recognized unless they have otherwise been individually and separately conveyed in compliance with the Subdivision Map Act. The historical deeding of the property is important when determining whether the applicant had separate valid and conveyable lots which. If they existed, could be the basis for a Lot Line Adjustment and resulting Merger 99-8 as indicated above. While all of the El Camino Rancho lots and portions of said lots as described in the attached deed are contiguous and where acquired together, there does not appear to have been a separate conveyance of the individual lots to a bona fide second or third party that would be considered arm's length, which is a technical term for a person and/or entity that is not family related. Due to these factors the applicant is not eligible for a Tier 1 Certificate of Compliance. Alternatively the County allows individuals to seek a Tier 2 Certificate of Compliance where the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or those local ordinances, then the local agency may impose any conditions that would be applicable to a current division of the property. However, it is also important to point out that a certificate of compliance cannot itself be used to create a division of land.

GENERAL PLAN:

VFA/EC: Valley Floor Agriculture-El Camino

ZONING:

AG-3; Agriculture/ El Camino District (5 Acre Minimum Lot Size)

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DISCUSSION

As indicated above, the property owners are requesting five (5) Certificate of Compliances on

67.24 acres that are described in one deed and currently identified by Tax Area Assessor Parcel Numbers: 063-140-054 (Deed description of Parcel-A;5.01 Acres), 063-140-055 (Deed description of Parcel-B;5.01 Acres), 063-140-56 (Deed description of Parcel-C;5.01 Acres), 063-140-057 (Deed description of Parcel-D ;5.01 Acres) and 063-140-058 (Deed description of Parcel-Remainder Parcel;47.20 Acres). Portions of the project contain different forms of development and/or improvements (See Attachment G, COC Plot Plan's with Legal Descriptions). While some development has taken place within the project boundaries, the individual properties have not been conveyed by a grant deed from one party to a bona fide purchaser or second party not related to the family. Rather it appears that historically the 67.24 acres, while described as multiple parcels, has always been conveyed in bulk in a single deed from one property owner to the next. Furthermore, it is clear that since ordinance 577 was in effect at the time the Planning Department/Planning Director purported to approve the Lot Line Adjustment and Merger 99-8 for recording, the act of approval violated the State Map Act and Local Ordinance and the lot line adjustment did not result in the creation of 5 lots Since a certificate of compliance cannot be used at this time to create a division of the property, the property owner's option is to pursue a subdivision of their property either by way of a parcel map (for 4 or less parcels) or a full subdivision to create 5 or more lots.)

DETERMINATION

Based on a thorough review and Public Works Memo dated August 11, 2017 (See Attachment H, Public Works Memo) of the information provided to the County, staff has determined that in order for the County to legally recognize the five parcels in question, the applicant/owner should submit a complete parcel/subdivision map application. A parcel map for a minor division of four or fewer lots or a complete subdivision map for five or more lots will acknowledge the applicants five parcels as legal lots and be in conformance with the Subdivision Map Act and Tehama County ordinances.

ENVIRONMENTAL ASSESSMENT:

This is a ministerial project exempt from the requirements of CEQA. (15268/PRC Sec. 21080 (b)(1)). No Notice of Exemption is required to be filed.

RECOMENDATION

Staff recommends that the Technical Advisory Committee take the following actions:

1. Acknowledge that the proposed action is a ministerial project exempt from the requirements of CEQA, pursuant to Section 15268 and Public Resource Code Section 21080 (b)(1)).
2. Move to approve and authorize the filing of a Certificate of Compliance for one (1) 67.24 acre parcel pursuant to GC 66499.35 (a).

ATTACHMENT(S):

- A. VICINITY MAP
- B. ASSESSOR'S PARCEL BOOK 63, PAGE14
- C. RECORDED MERGER 99-8 AND APPLICATION COVERS
- D. GRANT DEEDS AND CHAIN OF TITLE DOCUMENTS
- E. ORDINANCE 577 AND ORDINANCE 1733
- F. OCTOBER 22, 2013 MERGER ORDINANCE (ORD. NO. 1982)
- G. 5 PLOT PLAN'S WITH LEGAL DESCRIPTIONS
- H. PUBLIC WORKS MEMO DATED AUGUST 11, 2017