



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 400, SANTA CRUZ, CA 95060
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TOM BURNS, DIRECTOR

STAFF REPORT

ZONING ADMINISTRATOR
COUNTY of SANTA CRUZ

February 20, 2004
ITEM 3
TIME 1000a.m.

Application No. 03-0259
APN. 107-141-59
Applicant: Robin Brownfield
Owner: Titus

Proposal and Property Location

The proposal is to establish the legality of a parcel. This requires a Lot Legality Determination/ Certificate of Compliance.

The property is located adjacent to 5800 Freedom Blvd. which is on the north side of Freedom Blvd. about 800 feet east of Owl Ridge Way; Aptos Hills Planning Area.

Analysis and Discussion

Assessor's Parcel Number 107-141-59 was evaluated as to whether the parcel in question could be presumed to be lawfully created pursuant to Government Code Section 66412.6 and entitled to an Unconditional Certificate of Compliance pursuant to Government Code Section 66499.35 and Santa Cruz County Code Section 14.01.109.

The chain of title submitted by the applicant indicates the four parcels were first created by deeds in 1972. No land use approval was obtained for the deviation from the adopted site standards (noncompliance with the site frontage standard) as required by both County Code and the State Map Act.

The property (The property comprised what is now known as APN's 107-141-59, 60, 61 and 62.) was transferred from Dyer to Picollo in 1964 (see Bk 1643Pg 502 recorded 09/10/64). Subsequently, Picollo divided the property by deed into four lots. The following is a brief history of the parcels.

APN: 107-141-59; Bk 2166 Pg 266 Recorded 01/19/72

Picollo transfer to Stein the parcel now known as 107-141-59. No right of way for access was included in the description.

Stein transferred the property to Ken and Charlot Titus in 1972 (see Bk 2177 Pg 331 recorded 02/29/72).

APN 107-141-60; Bk 2166 Pg 269 Recorded 01/19/72

A. Picollo transfers to P. Picollo the parcel now known as 107-141-60.

APN. 107-141-61; Bk 2177 Pg 685 Recorded 01/19/72

Picollo transfers to Kindall the parcel now known as 046-321-04.

APN: 107-141-62; Bk 2177 Pg 338 Recorded 01/19/72

Picollo transfers to Rucker the parcel now known as 107-141-62.

Three of the lots have received development approvals and are improved with dwellings while the lot in question is unimproved. No record of survey map was found which includes the parcels and, based upon County Code Section 14.01.111 and the applicable sections of the Government Code, the parcel is not subject to merger.

County Code Section 14.01.109(a) states that a parcel qualifies for an Unconditional Certificate of Compliance only if the real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant thereto as follows:

- (1) The subject property was conveyed by a separate document as a separate parcel on or before January 20, 1972.

The Parcels in question were created by individual deeds recorded in the early 1970's and not a map.

- (2) The parcel in question complied with the provisions of the Subdivision Map Act at the time of its creation.

The parcel did not comply with the applicable provisions of the State Map Act at the time the parcel was created (1972) in that it did not comply with the applicable zone district standards at the time.

- (3) At the time the contract, deed or other document creating the subject parcel was signed, the subject parcel complied with the applicable County ordinances then in effect, including (without limitation) the parcel size required by the then applicable zone district.

The parcel did not comply with the applicable ordinances in effect at the time the parcel was created (1972). While the parcel complied with the lot size minimum of the Zoning Designation (The site was designated U at the time of creation; see Ordinance 936 adopted 02/3/64), it did not comply with the applicable site frontage requirement of a minimum of 60 feet on a road (see Ordinance 839 adopted 11/28/62; 1972 County Code Section 13.04.123 and Ordinance 1578 adopted 02/23/71; 1972 County Code section 13.04.177).

- (4) The parcel in question has not been combined by the owner, and is not subject to merger.

No evidence was found that the property has been combined by the action of the owner. The parcel is not subject to merger as outlined in section 14.01.111 of the County Code and the applicable sections of the Government Code.

Summary Conclusion:

Based upon the deed evidence submitted, the parcel does not meet the criteria contained within section 14.01.109 of the County Code and the applicable sections of the State Map Act to be considered as an individual parcel warranting the issuance of an Unconditional Certificate of Compliance, and therefore requires the issuance of a Conditional Certificate of Compliance. Counsel has reviewed the facts of this case and concurs with this conclusion.

The State Map Act (66499.35) clearly states that the conditions "which would have been applicable to the division of the property at the time applicant acquired his or her interest therein" be applied. This provision of State law has been implemented by County Code section (14.01.109(b) 2.) which states the following:

"If applicant was not the owner at the time of the initial violation, the County shall issue and record a Conditional Certificate of Compliance imposing such conditions as would have been applicable to the division of the property at the time applicant acquired his or her interest therein."

In this case, the present owner (Kenneth W. and Charlot Mae Titus) took title on February 29, 1972 (see Bk 2177 Pg 331). Kenneth W. and Charlot Mae Titus transferred as a gift, 58.66% ownership to Douglas Wayne and Julie Ann Titus by document number 2003-0036086 recorded 04/16/03 and document number 2003-0036087 recorded 04/16/03 and have retained ownership of 41.33% of the property.

At the time of the transfer from Stein to Titus in 1972, the property was in the U (Unclassified) zone district (Note: The property was placed in the RA-BS2 ½ Zone District by Ordinance 1688 adopted on February 22, 1972; effective date of March 22, 1972.). At that time, a minimum of 60 of frontage on a road was an adopted standard (see Ordinance 839 adopted 11/28/62; 1972 County Code Section 13.04.123 and Ordinance 1578 adopted 02/23/71; 1972 County Code section 13.04.177).

The recommended conditions for the Conditional Certificate of Compliance have incorporated the applicable standards (including zone district standards) for the year title was obtained (see Exhibit D).

Recommendation:

It is RECOMMENDED that the Zoning Administrator take the following actions:

- a. Certify the Environmental Determination (Exhibit C).
- b. Approve the Conditional Certificate of Compliance and direct that it be recorded for APN **107-141-59** (Exhibit D).

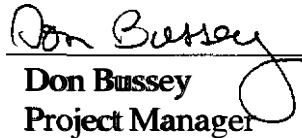
Reviewed: _____



Cathy Graves
Principal Planner

DATE: 1-21-04

Prepared By: _____


Don Bussey
Project Manager

EXHIBITS:

- A. Assessor's Map
- B. Chain of Title for 107-141-59, 60, 61 and 62 with associated maps and other information
(**OnFile with** the Dept.)
- C. CEQA Determination
- D. Unconditional Certificate of Compliance with Conditions for APN: 107-141-59

C. 10, T. 11 S., R. 1 E., M.D.B. & M. PROJECTED

69-168

107-14

Bk.105
20

las Calabazas Soquel 1506.12 Augmentation

$1'' = 200'$

26)

Bk.108
01

Assessor's Map No. 107-14
County of Santa Cruz Calif.

July 1951

EXHIBIT A

*Note - Assessor's Parcel Block &
Lot **Numbers** Shown in Circles*

NOTICE OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

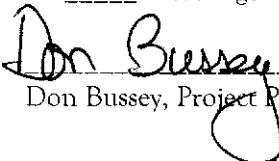
Application No. 03-0259
Assessor's Parcel No. 107-141-59
Project Location: No Situs
Project Description: Lot legality/ Conditional Certificate of Compliance
Person or Agency Proposing Project R. Brownfield

- A. ☐ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.
B. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.
C. ☐ Statutory Exemption other than a Ministerial Project.
Spec\$ type:

D. Categorical Exemption

- | | |
|--|---|
| <input type="checkbox"/> 1. Existing Facility | <input type="checkbox"/> 17. Open Space Contracts or Easements |
| <input type="checkbox"/> 2. Replacement or Reconstruction | <input type="checkbox"/> 18. Designation of Wilderness Areas |
| <input type="checkbox"/> 3. New Construction of Small Structure | <input type="checkbox"/> 19. Annexation of Existing Facilities/ Lots for Exempt Facilities |
| <input checked="" type="checkbox"/> 4. Minor Alterations to Land | <input type="checkbox"/> 20. Changes in Organization of Local Agencies |
| <input type="checkbox"/> 5. Alterations in Land Use Limitations | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies |
| <input type="checkbox"/> 6. Information Collection | <input type="checkbox"/> 22. Educational Programs |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources | <input type="checkbox"/> 24. Regulation of Working Conditions |
| <input type="checkbox"/> 9. Inspection | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| <input type="checkbox"/> 10. Loans | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs |
| <input type="checkbox"/> 11. Accessory Structures | <input type="checkbox"/> 27. Leasing New Facilities |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities |
| <input type="checkbox"/> 13. Acquisition of Land for Wildlife Conservation Purposes | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities |
| <input type="checkbox"/> 14. Minor Additions to Schools | |
| <input type="checkbox"/> 15. Minor Land Divisions | |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks | |

E. ☐ Lead Agency Other Than County:


Don Bussey, Project Planner

Date: 01/19/04

EXHIBIT C

WHEN RECORDED RETURN TO
Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060
Attn: Don Bussey
#03-0259
APN: 107-141-59

**CONDITIONAL
CERTIFICATE OF COMPLIANCE**

WHEREAS, Kenneth W. Titus, Charlot Mae Titus, Douglas Wayne Titus and Julie Ann Titus, are the property owners or vendee of such owners of certain real property located in the County of Santa Cruz, State of California, known as Santa Cruz County Assessor's Parcel Number 107-141-59, and more particularly described in Exhibit " A attached hereto and incorporated herein by reference made a part hereof, has/have requested that the County issue a Conditional Certificate of Compliance pursuant to Government Code Section 66499.35 and local regulations thereto; and

WHEREAS, pursuant to an application for Parcel Legality Status Determination, the County of Santa Cruz has determined that such real property does not comply with all the provisions of the State of California Subdivision Map Act and the County Subdivision Ordinance enacted pursuant thereto but that a Certificate of Compliance with conditions may appropriately be issued.

NOW, THEREFORE a Conditional Certificate of Compliance is hereby issued for the above-described parcel described in Exhibit " A attached to hereto subject to the conditions attached as Exhibit " B .

FURTHERMORE, THIS CERTIFICATION OF COMPLIANCE SHALL NOT CONSTITUTE A DETERMINATION THAT SAID PARCEL IS BUILDABLE OR IS ENTITLED TO A BUILDING PERMIT OR OTHER DEVELOPMENT APPROVAL WITHOUT COMPLIANCE WITH THE PROVISIONS OF ALL OTHER SANTA CRUZ COUNTY ORDINANCES AND REGULATIONS.

THIS CERTIFICATE OF PARCEL COMPLIANCE RELATES ONLY TO ISSUES OF COMPLIANCE OR NONCOMPLIANCE WITH THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES ENACTED PURSUANT THERETO. THE PARCEL DESCRIBED HEREIN MAY BE SOLD, LEASED OR FINANCED WITHOUT FURTHER COMPLIANCE WITH THE SUBDIVISION MAP ACT OR ANY LOCAL ORDINANCE ENACTED PURSUANT THERETO. DEVELOPMENT OF THE PARCEL MAY REQUIRE ISSUANCE OF A PERMIT OR PERMITS, OR OTHER GRANT OR GRANTS OF APPROVAL.

NOW, THEREFORE an Unconditional Certificate of Compliance is hereby issued for the above-described parcel.

DATED _____

COUNTY OF SANTA CRUZ

By: _____
Glenda Hill, AICP
Hearing Officer

STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ

On __/__/04 before me Bernice Romero, Notary Public, personally appeared Glenda Hill personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted executed the instrument.

Witness my hand and official seal

Signature _____

EXHIBIT D

EXHIBIT A

Situate in the County of Santa Cruz, State of California and described as follows:

BEING A PART ~~OF~~ THE LANDS CONVEYED BY A. B. DYER, ET UX, TO AUGUST J. PICOLLO, ET AL., BY DEED RECORDED SEPTEMBER 10, 1964 IN VOLUME **1643**, PAGE 502, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID ~~LANDS~~ OF PICOLLO; THENCE FROM SAID POINT OF BEGINNING ALONG THE WEST BOUNDARY SOUTH 0 DEGREES 20' EAST 200.00 FEET TO A 1/2 INCH PIPE; THENCE AT RIGHT ANGLES NORTH 89 DEGREES 40' EAST 195 FEET, MORE OR LESS, TO A POINT ON A LINE DISTANT 250.00 FEET WESTERLY AT RIGHT ANGLES FROM THE EAST BOUNDARY OF SAID LANDS OF PICOLLO; THENCE PARALLEL TO SAID EAST BOUNDARY NORTH 0 DEGREES 25' EAST 140 FEET, MORE OR LESS, TO A POINT ON THE NORTH BOUNDARY OF SAID LANDS; THENCE ALONG SAID NORTH BOUNDARY NORTH **74** DEGREES 15' **30"** WEST 210 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXHIBIT B

1. Prior to being considered as a building site and submitting plans for a building permit, complete the following:

- a. Provide evidence that the property has at least 60 feet of frontage on a minimum 40-foot wide right of way, unless the Zoning Administrator approves a less than 40-foot right of way.
- b. Apply for a Geohazard Analysis with the County and complete any and all required reports (i.e.; Geologic and Geotechnical) to the satisfaction of the County of Santa Cruz.
- c. Provide written proof from Environmental Health Services that an acceptable water source is available to the property and that the site complies with all applicable standards for an on site septic system.

2. Prior to obtaining a building permit, complete the following:

- a. Submit and obtain approval from the Department of Public Works and Planning Department of an engineered road improvement, drainage and erosion plan for the road system to serve this parcel. The road shall be at least 16-feet wide with a minimum of 6 inches of compacted Class II baserock.
When the road grade exceeds 15%, the surface shall be overlain with 2 inches of asphaltic concrete. The road grade shall not exceed 15 % for more than 200 feet and shall not exceed 20% . All requirements of Zone 8 shall be met.
- b. Submit an erosion control plan for the parcel for review and approval by the Planning Department.
- c. Submit certification from Environmental Health Services that all proposed development on the parcel will meet all Environmental Health requirements with respect to water availability and septic system use.
- d. Submit a letter from the Aptos La Selva Beach Fire Protection District that indicates that all development on the parcel, including the proposed roadway system, meets the Fire District requirements.
- e. The property owner shall be entirely responsible for maintaining the road, drainage improvements and erosion control plan to this property. The property owner shall record a Road Maintenance Agreement which shall state that the owner of APN 107-141-59 shall be entirely responsible for the maintenance of the road constructed from the publically maintained road (including the approved erosion and drainage system)

3. Prior to final building inspection, all road improvements, drainage and erosion control measures shall be constructed.