



Staff Report to the Zoning Administrator

Application Number: **06-0659**

Applicant: Derek Van Alstine
Owner: Windward Homes LLC
APN: 026-721-05

Agenda Date: 5/4/07
Agenda Item #: **1**
Time: After 10:00 a.m.

Project Description: Proposal to determine the legality of **the** remainder parcel created through Minor Land Division 03-0385.

Location: Property located at the northeast corner of Rodriguez St. and Tanbark Ct. (1 12 Tanbark Ct).

Supervisory District: 1st District (District Supervisor: Janet Beautz)

Permits Required: Conditional Certificate of Compliance

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Direct that the Conditional Certificate of Compliance attached as Exhibit D be recorded for APN 026-721-05.

Exhibits

- | | |
|---|---|
| A. Assessor's parcel map | C. Categorical Exemption (CEQA determination) |
| B. Chains of Title, Copies of Deeds, and other supplemental information (on file with the Planning Department) | D. Conditional Certificate of Compliance |

Background and Analysis

Minor Land Division 03-0385 created **four** new parcels and a remainder parcel (APN 026-721-05) when the land division was approved on 4/26/05. The remainder parcel is a separate parcel from the parcels that were created through the land division. In order to be considered as a legal separate parcel (**for** purposes of lease, sale, finance, **or** to obtain a Building Permit) a Certificate **of** Compliance is required.

Conditional Certificate of Compliance

When a request is made to a local agency by a property owner for a determination whether a property complies with the provisions of the State Map Act and local ordinances, the local agency must issue either an Unconditional Certificate of Compliance or a Conditional Certificate of Compliance (see Govt. Code Section **66499.35** and County Code Section **14.01.109(b)**).

No evidence was found to indicate that the parcel was described as a part of another parcel within one metes and bounds description which included a statement within the deeds indicating that it was the intent of that document to combine the property as required by the Civil Code Section **1093** or was combined by a record of survey map with another parcel either at the request of the owner or by the action of the owner. Further, no evidence was found that the parcels have been combined by the action of the owner as outlined in County Code Section **14.01.110**. Finally, based upon County Code Section **14.01.111**, and the applicable provisions of the Government Code Section **66451**, the parcel is not subject to merger. Based upon the available information, the site is improved with an existing single family dwelling.

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 properties were conveyed by a separate document as a separate parcel on or before January **20, 1972**.

The parcel was not created by a separate deed instrument recorded prior to January 20, **1972**. The parcel was created by the approval of Minor Land Division **03-0385** as a remainder parcel.

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

Evidence was presented indicating that the parcel did comply with the applicable provisions of the State Map Act at the time the parcel was created.

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

Based on the approved Exhibit **A** for Minor Land Division **03-0385**, the parcel did comply with the applicable standards in effect at the time the parcel was created. Since the approval, the property owner has indicated that the existing house on the remainder lot will be removed and replaced. The removal and replacement of the existing residence with a new dwelling unit is not consistent with the applicable County ordinances in effect at the time that the parcel was created.

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

No evidence was found to indicate that the parcel was combined by the actions of the owner. The parcel is not subject to merger.

Based upon a change in the previously approved Exhibit A (to remove and replace the existing residence with a new dwelling unit), this parcel does not warrant the issuance of an Unconditional Certificate of Compliance. **A** Conditional Certificate of Compliance is required for this parcel.

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)1 which states the following:

"(b) If the County determines that the parcel in question does not comply with the provisions of the Subdivision Map Act or County Ordinances enacted pursuant thereto, and does not otherwise qualify for an Unconditional Certificate of Compliance, it shall issue a Conditional Certificate of Compliance, as follows:

1. If applicant is the current owner of record and was the owner of record at the time **of** the initial violation, the County shall issue and record a Conditional Certificate of Compliance imposing such conditions as would be applicable to a current division of the property."

Affordable Housing

The creation of any new parcel is subject to County Code section 17.10 related to affordable housing, due to the relationship between new housing sites and the provision of affordable housing units. Per the approved Exhibit **A** for Minor Land Division 03-0385, the existing residence was proposed to be retained on the remainder parcel and it was to be remodeled to have an exterior appearance more in keeping with the four new houses that were to be constructed.

Since the original date of approval for 03-0385, the plans for the remainder lot have changed. Due to structural considerations, **the** existing house on the remainder lot may need to be removed and replaced with a new dwelling unit. The removal and replacement of the existing residence would result in an increased affordable housing obligation (per County Code section 17.10.030) through the construction of an additional new dwelling unit. County Code section 17.10.030 states that the construction of five or more new dwelling units on a project site (or in any concurrent adjacent residential project) requires the provision of affordable housing units (or payment of in-lieu fees) equivalent to 15% of the total number of units provided. County Code section 17.10.020 states that a "New Dwelling Unit" is a dwelling unit that is newly constructed on a site, including replacement dwellings.

The change from a remodel of the existing residence on the remainder parcel to the construction of a replacement dwelling triggers an increased affordable housing obligation, in that the prior four unit project only required payment of the small project in-lieu fee, which was \$1 0,000 per unit for the third and fourth units constructed (for a total in-lieu fee of \$20,000). Due to this change from the previously approved Exhibit A for 03-0385, a Conditional Certificate of

Compliance is required. The certificate will include a condition requiring that the property owner pay the in-lieu fee **for** a 5 unit residential project if **the** existing residence on **the** subject property is replaced. A credit for **the** \$20,000 already paid will be deducted from the 5 unit in-lieu **fee**.

Conclusion

The subject property was legally created and qualifies for a Conditional Certificate of Compliance, with **the** condition that affordable housing requirements be met on the remainder parcel created by Minor Land Division 03-0385.

Staff Recommendation

- Certification that the proposal is exempt from **further** Environmental Review under the California Environmental Quality Act.
- APPROVAL of Application Number 06-0659, based on the attached findings **and** conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for **the** proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

Report Prepared By: Randall Adams
Santa CNZ County Planning Department
701 Ocean Street, **4th** Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3218
E-mail: randall.adams@co.santa-cruz.ca.us

Appeals: Any property owner, or other person aggrieved, or any other person whose interests **are** adversely affected by any act or determination **of** the Zoning Administrator, may appeal the act or determination to **the** Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 06-0659

Assessor Parcel Number: 026-721-05

Project Location: 112 Tanbark Court

Project Description: Proposal to recognize a remainder lot as a legal parcel.

Person or Agency Proposing Project: Derek Van Alstine

Contact Phone Number: (831) 462-4559

- A. _____ The proposed activity is not a project under CEQA Guidelines Section 15378.
B. _____ **The** proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
C. _____ **Ministerial Project** involving only the **use** of fixed standards **or** objective measurements without personal judgment.
D. _____ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

E. X **Categorical Exemption**

Specify type: Class 5 - Minor Alterations in Land Use Limitations (Section 15305)

F. Reasons why the project is exempt:

Recognizing a remainder lot created through an approved land division.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Randall Adams, Project Planner

Date: _____

Return recorded form to:

Planning Department
County of Santa Cruz
701 Ocean Street, 4th Floor

Attention: Randall Adams
Application #: 06-0659

Conditional Certificate of Compliance

WHEREAS, Windward Homes III LLC 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 026-721-05, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference made a part hereof, has 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 hereto subject to the conditions attached as Exhibit "B".

FURTHERMORE, this Conditional Certificate of Compliance shall not constitute a determination that said parcel is buildable or is entitled to a building permit or other development approval absent fulfillment and implementation of the enumerated conditions attached as Exhibit "B" and compliance with the provisions of all other Santa Cruz County ordinances and regulations. Compliance with the enumerated conditions shall be required prior to the application for a building permit or another development permit approval by the County of Santa Cruz.

DATED _____ COUNTY OF SANTA CRUZ

By: _____
Mark Deming
Assistant Director

STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ

On _____ before me _____
personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

Signature _____

EXHIBIT A

SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA ~~AND~~ DESCRIBED AS FOLLOWS:

THE LOT SHOWN ~~AND~~ DESIGNATED "REMAINDER" ON THE MAP OF MLD NO. 03-0385, FILED FOR JANUARY 11, 2006 ~~IN~~ VOLUME 59 OF PARCEL MAPS, PAGE 23, SANTA CRUZ COUNTY RECORDS.

APN: 026-721-05

EXHIBIT B

All future development **on** the subject property described in the attached Exhibit "A" is subject to the following conditions:

- I. Removal of the existing residence, or any remodel which alters more than 75 percent of the exterior wall framing of the existing structure, will require payment of affordable housing in-lieu fees for one additional "New Dwelling Unit". Removal and replacement of existing structural wall framing members will be considered as those wall framing members being altered. Structural wall framing members must remain in place in order to qualify as not being altered, however, elevating the structural members for installation of a new foundation will not be considered as alteration. Any lateral movement or relocation of the structure during elevation for foundation replacement will be considered as 100 percent of the wall framing members being altered. **The** total percentage of altered exterior wall **length** will be determined by the Santa Cruz County Building Official or her/his designated Building Plans Examiner.

The construction of an additional new dwelling unit (as described above) will be considered as the fifth new dwelling unit constructed in combination with the residential development approved through Minor Land Division 03-0385 and payment of current affordable housing in-lieu fees for a five unit development will be required as follows:

The property owner must enter into a Certification and Participation Agreement with the County of Santa Cruz to meet the Affordable Housing Requirements specified by Chapter 17.10 of the County Code. This agreement must include the following statements:

1. **The** developer shall pay in-lieu fees for the fractional equivalent of .75 unit in accordance with **the** regulations and formulas as specified by Chapter 17.10 of the County Code.
2. A credit for the small project fee (\$20,000) for the third and fourth new dwelling unit in Minor Land Division 03-0385 will be applied to the in-lieu fee described above.

This requirement is in effect for 10 years from the effective date of Minor Land Division 03-0385 and will expire on May 10, 2015.