

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 7/16/2002
Department Name: Public Works
Department No.: 054
Agenda Date: 8/06/2002
Placement: Administrative
Estimate Time: N/A
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Phillip M. Demery
Director of Public Works

STAFF Michael B. Emmons, x3012
CONTACT: County Surveyor

SUBJECT: Set hearing date of September 3, 2002 for appeal of County Surveyor Decision regarding Certificate of Compliance 01-CC-89, APN 153-290-008 Second Supervisorial District.

Recommendation(s):

That the Board of Supervisors:

Set a hearing date of September 3, 2002 to consider the appeal by Teresa Seiler (owner/applicant) on decisions made by the County Surveyor regarding Certificate of Compliance 01-CC-89. **Estimated time for the hearing is 1 hour.** The actions to be considered are that the Board of Supervisors:

- 1) Upon upholding the decision of the County Surveyor, direct the County Surveyor to send a notice of intent to record a notice of violation by certified mail to the owner of APN 153-290-008 in accordance with California Government Code Section 66499.36 if the owner does not file for a Conditional Certificate of Compliance within 30 calendar days of the appeal hearing decision. Additionally, send a notice of intent to record a notice of violation by certified mail to the owner of APN 153-290-005 in accordance with California Government Code Section 66499.36 if the owner does not show valid proof to the County Surveyor of legality of the parcel within 60 calendar days of written notification; or
- 2) Upon upholding the appeal of Teresa Seiler, direct the County Surveyor to issue two (2) Certificates of Compliance. One for APN 153-290-008 and one for APN 153-290-005 as set forth in California Government Code Section 66499.35.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with actions required by law or by routine business necessity.

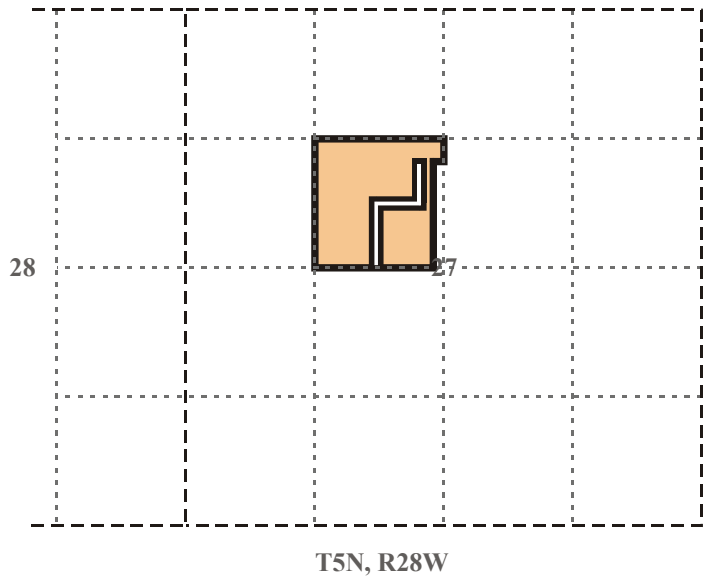
Executive Summary and Discussion:

This appeal was filed by Teresa Seiler to dispute the decision made by the County Surveyor regarding her application for a Certificate of Compliance. A Certificate of Compliance is a legal document issued by a County or City that states that a parcel was created in compliance with State Law and local ordinances. A Conditional Certificate of Compliance is issued when a parcel was not created in compliance with subdivision law therefore requiring a public hearing to

determine what conditions need to be met before the parcel can be determined to be in compliance. Ms. Seiler asserts that the property she owns (referred to here as APN 153-290-008) was created in accordance with State Law and County Code and requests a Certificate of Compliance. The County Surveyor disagrees and is of the opinion that a Conditional Certificate of Compliance is required.

Creation of APN 153-290-008

The shaded parcel shown in the diagram to the right was created by the combination of 3 deeds. Most importantly, in 1964 Earnest and Ruth Haeckel sold the long, narrow strip shown in the middle of the parcel to Albert and Marjorie Gumb. At the time of the sale, County Ordinance 786 was in affect (as modified through Ordinance 1564). This ordinance did not allow for a deed to convey property without having a survey performed and a Record of Survey recorded. Neither Ms. Seiler, nor County staff has been able to produce any such Record of Survey. Without the Record of Survey, the creation of both parcels (APN 153-290-005 (the narrow strip) and APN 153-290-008) would not have been in compliance with local ordinance and thus declared illegal for purposes of the Subdivision Map Act.



There are two owners that could be affected by this appeal. If the Board upholds the County Surveyor’s decision, then Board direction to the County Surveyor to send a letter of intent to record a Notice of Violation to Ms. Seiler if she does not apply for a Conditional Certificate of Compliance within 30 calendar days of the appeal hearing decision is appropriate. On the other hand, the owner of APN 153-290-005 presumably does not have knowledge that their parcel was created illegally or that the appeal hearing decision could affect their property. Because the County is required by Government Code to notify any property owner that the County intends to record a Notice of Violation on the property if the County has knowledge that the parcel was created illegally, the County could give that owner 60 calendar days rather than 30 to prove legality of the parcel before sending a notice of intent to record a Notice of Violation under Government Code.

Mandates and Service Levels: The County Surveyor is mandated by Chapter 21-6 (j) of County Code to issue Certificates of Compliance. The County Surveyor is also mandated by California Government Code Section 66499.36 to record a Notice of Violation on any property that has been created in violation of state law or local ordinance. This action is only taken after the County notifies the owner and gives the owner the opportunity to prove otherwise.

Fiscal and Facilities Impacts: None.

Special Instructions: None.

Concurrence: Kevin Ready, County Counsel

Cc: Teresa Seiler (Owner/Applicant APN 153-290-008)
Gerard F. Brevier (Owner APN 153-290-005)