

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Date: September 2, 2020
Item No.: 5.a.
Staff: Bianca Dinkler

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC19-0003/Curtis

APPLICANT: Debbie De Ryk, Lyon Real Estate

OWNER: Jeremiah J. Curtis and Lea B. Curtis

REQUEST: Certificate of Compliance for a 5.0 acre parcel created as a result of a gift deed parcel split that exceeded the allowable number of parcels to be created from one parent parcel with a grant deed recorded 5/11/1983 (#2169-567). A grant deed was recorded 8/28/2019 from Airpoint Global Inc., to the current property owners, Jeremiah J. Curtis and Lea B. Curtis. An access easement was created by a grant deed recorded 8/28/2019.

LOCATION: West side of Business Drive, approximately 375 feet southwest of the intersection with Durock Road, in the Shingle Springs area, Supervisorial District 2. (Exhibit A)

APN: 109-240-009 (Exhibit B)

ACREAGE: 5.0 acres

GENERAL PLAN: Industrial (I) (Exhibit C)

ZONING: Industrial Light - Design Review Community (IL-DC) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Statutorily Exempt pursuant to Section 15268 (Ministerial Projects) of the California Environmental Quality Act (CEQA) Guidelines

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

1. Certify that the project is statutorily exempt from CEQA pursuant to Section 15268 of the CEQA Guidelines, as a Certificate of Compliance is a ministerial project; and
2. Approve Certificate of Compliance COC19-0003 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Approval of this conditional Certificate of Compliance would make Assessor's Parcel Number (APN) 109-240-009 a legal, buildable parcel and the property owner(s) could submit for building permits from the County for development of the parcel with uses listed in the Light Industrial (IL) Zone. A Design Review would be required for future development as the parcel is located within the Design Control (-DC) combining zone.

BACKGROUND/HISTORY

Letters from the County Surveyor's Office: On September 7, 2005 the County Surveyor's Office provided a letter (Exhibit G) describing the background of the subject property. The parcel was created as a result of multiple (more than four) gift deeds after March 4, 1972. It does not fit within the Board of Supervisors Policy to staff in November 2002 or within the jurisdiction of the Surveyor's Office as prescribed by the County Ordinance on Certificates of Compliance. This parcel was part of a chain of parcels that currently includes the parcel directly south. The other parcels that were part of this chain have either been granted Certificates of Compliance after complying with conditions set by planning or were part of other Parcel Maps or granted building permits prior to more stringent review. The parcel directly south is vacant and will require review. The parcel that is two parcels south requested a Certificate of Compliance in 1992. That parcel was granted a Conditional Certificate that required it to be merged with a legally created parcel adjacent to it. Currently the applicant is requesting a Clear Certificate by Board Action because they were not aware of the problem until after they purchased it. They would like to construct a 10,000-square foot shop in the future, which would require processing a Design Review Permit.

On May 13, 2020, the County Surveyor's Office provided a letter (Exhibit H) stating that the property owners would need to provide a guarantee, issued by a Title company that shows proof of access to a State or County Maintained road. Any unnamed future road serving the parcel shall be named by filing a completed Road Name Petition with the County Surveyor's Office; and proof of any signage required by the Surveyor's, and situs address would also be coordinated with the County Surveyor's office prior to the issuance of any building permits on the parcel. In April 2020, a Record of Survey RS 37-44 was filed that defined and monumented the boundary of the parcel.

EXISTING CONDITIONS/SITE CHARACTERISTICS

The 5.0 acre parcel is located at an elevation of approximately 1,360 to 1,400 feet above mean sea level and is vacant and undeveloped. A dirt road meanders across the parcel. There is Mixed Oak Woodland near the north/western corner of the property. Topography on site is flat with slopes below 10%. The parcel is located within the Barnett Business Park and surrounding uses include an undeveloped parcel to the north (adjacent to Durock Road), an existing business to the east (Hemington Landscape), and undeveloped parcels to the south and west, all similarly zoned Light Industrial with Design Control, and corresponding General Plan Land Use Designation of Industrial.

Access to the project site is located on the west side of Business Drive approximately 375 feet south of the intersection with Durock Road in the Shingle Springs area. The site is currently undeveloped. The parcel has legal access from Business Drive near the Trade Way intersection. A non-exclusive easement for public utilities and a driveway (ingress and egress) was approved by grant deed dated August 27, 2019.

PROJECT DESCRIPTION

A request for a Certificate of Compliance on Assessor's Parcel Number (APN) 109-240-009 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 conditional Certificate of Compliance on the parcel would potentially allow development of the property consistent with the Industrial, Limited (IL) Zone District and permitting process.

Without the Certificate of Compliance the County cannot issue any development permits, including building permits, for the property. 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 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 § 66499.35(b).

ANALYSIS

General Plan Consistency: The project is consistent with all applicable General Plan policies including: Policy 2.2.1.2 (Land Use Density), Policy 2.2.5.2 (Consistency with the General Plan), Policy 2.2.5.21 (Compatibility with Surrounding Neighborhood), Policy 5.2.1.2 (Adequate Water Supply), and Policy 6.2.3.2 (Adequate Emergency Access). Further analysis of each policy is discussed in the Findings section below.

Zoning Ordinance Consistency: Staff has determined that the proposed project, as conditioned, is consistent with all applicable standards and requirements of Title 130 of the County Zoning Ordinance. The project parcel is zoned Light Industrial (IL) and the project has been analyzed in accordance with all applicable development standards for this zone district. As conditioned, the project would conform to the required development standards and other applicable requirements as shown below and more fully described in the Findings.

Consistency with the County Subdivision Ordinance: Staff has determined the project is consistent with all applicable standards and requirements for the County Subdivision Ordinance (Title 120 of the County Ordinance Code) for Certificates of Compliance including consistency with the General Plan and Zoning Ordinance.

Title 120 - Subdivisions, Section 120.76.090.A. of the El Dorado County Code of Ordinances authorizes the Department of Planning and Building to process, issue, and record conditional certificates of compliance for parcels created after March 4, 1972, that were created by gift deed where more than four parcels were created by the same owner from the same original parcel. The parcel was created as a result of multiple (more than four) gift deeds after March 4, 1972, and therefore requires the conditional Certificate of Compliance.

Section 120.44.020 of the El Dorado County Code of Ordinances requires compliance and consistency with the General Plan. As discussed above in General Plan Consistency, the parcel is consistent with the Industrial (I) General Plan land use designation. Planning staff has determined that the proposed project is consistent with the applicable regulations and requirements in Title 120 of the El Dorado County Code of Ordinances, as discussed below in Section 3.0 Subdivision Ordinance Findings.

AGENCY COMMENTS

The project was distributed to all applicable local, County and state agencies for review and comment. Comments were received from the County Department of Transportation (DOT), the County Environmental Management Department (EMD), the County Surveyor's Office, and the El Dorado Irrigation District (EID). The El Dorado County Fire Protection District was notified of the project, however no comments were received. Standard conditions have been included.

PUBLIC OUTREACH

No formal public outreach was conducted as a public outreach plan is not required for the project pursuant to the County Subdivision Ordinance. However, the project was duly noticed for a Zoning Administrator public hearing with a public notification range of 500 feet and legal advertisement was published in applicable local newspapers. In addition, project notification was sent to the County Zoning Administrator email subscription list and posted on the Planning Services Zoning Administrator webpage. No physical sign posting is required for Certificates of Compliance.

ENVIRONMENTAL REVIEW

The project has been found to be statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15268 of the CEQA Guidelines stating that “ministerial projects are exempt from the requirements of CEQA.” In its 1993 decision, *Findleton v. Board of Supervisors*, the California Appeals Court said that a Certificate of Compliance is a ministerial project requiring no exercise of discretion in the course of its approval (*Findleton v. El Dorado Co. Board of Supervisors* (1993) 12 Cal. App. 4th 709).

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....Location Map

Exhibit B.....Site Plan

Exhibit C.....Property Description

Exhibit D.....Assessor's Parcel Number

Exhibit E.....General Plan Land Use Map

Exhibit F.....Zoning Map

Exhibit G.....Letter from County Surveyor, September 2005

Exhibit H.....Letter from County Surveyor, May 2020

FINDINGS

Certificate of Compliance COC19-0003/Curtis Zoning Administrator/September 2, 2020

FINDINGS FOR APPROVAL:

1.0 CEQA FINDINGS

- 1.1 This project has been found to be statutorily exempt from the requirements of CEQA pursuant to Section 15268 of the CEQA Guidelines stating that “ministerial projects are exempt from the requirements of CEQA.” In its 1993 decision, *Findleton v. Board of Supervisors*, the California Appeals Court said that a certificate of compliance is a "ministerial project" requiring no exercise of discretion in the course of its approval (*Findleton v. El Dorado Co. Board of Supervisors* (1993) 12 Cal. App. 4th 709).
- 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 El Dorado County Department of Planning and Building located at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 The issuance of the Conditional Certificate of Compliance for APN 109-240-009 meets the requirements of the *Subdivision Map Act* and *County Code Title 120* as the County is verifying that the parcel has sufficient access, safety and ability to support industrial uses.

3.0 TITLE 120 - SUBDIVISION ORDINANCE

- 3.1 Section 120.76.090.A. of the El Dorado County Code of Ordinances authorizes the Department of Planning and Building to process, issue, and record conditional certificates of compliance for parcels created after March 4, 1972, that were created by gift deed where more than four parcels were created by the same owner from the same original parcel. The parcel was created as a result of multiple (more than four) gift deeds after March 4, 1972, and therefore requires the conditional Certificate of Compliance.
- 3.2 Section 120.44.020 of the El Dorado County Code of Ordinances requires compliance and consistency with the General Plan. The parcel is consistent with the Industrial (I) General Plan land use designation.

4.0 GENERAL PLAN FINDINGS

4.1 The project is consistent with General Plan Policy 2.2.1.2.

Policy 2.2.1.2 identifies that the purpose of the Industrial (I) land use designation establishes that the purpose of this land use category is to provide for a full range of light and heavy industrial uses. Types of uses that would be permitted include manufacturing, processing, distribution, and storage. Incompatible, non-industrial uses, excluding support services, shall be discouraged. Industrial lands in Rural Regions may have uses which support agriculture, timber resource production, mineral extraction, or other resource utilization. This designation is considered appropriate within Community Regions, Rural Centers and Rural Regions.

Rationale: The proposed Conditional Certificate of Compliance is consistent with the Industrial (I) General Plan land use designation for minimum parcel size, density, and land use. No development has been proposed beyond the conditional Certificate of Compliance. Future development would be required to be a use permitted within the Industrial zone and would require a Design Review as the parcel is within a Design Control combining zone (-DC) which further ensures proposed uses are industrial in nature. The project is consistent with this policy.

4.2 The project is consistent with General Plan Policy 2.2.5.2.

Policy 2.2.5.2 requires applications for discretionary projects or permits shall be reviewed to determine consistency with policies with the General Plan. No approvals shall be granted unless a finding can be made that the project or permit is consistent with the General Plan.

Rationale: No development has been proposed for the project site beyond the conditional Certificate of Compliance. Future development would be required to demonstrate compliance with applicable General Plan policies. The project is consistent with this policy.

4.3 The project is consistent with General Plan Policy 2.2.5.21.

Policy 2.2.5.21 requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed.

Rationale: Future development proposals would be required to be consistent with the neighboring Industrial (I) designated properties. Furthermore a Design Review would be required as the parcel is within a Design Control combining zone (-DC). This further ensures that future development

would be reviewed to ensure the uses are compatible with the surrounding industrial uses. The project is consistent with this policy.

4.4 The project is consistent with General Plan Policy 5.2.1.2.

Policy 5.2.1.2 requires an adequate quantity and quality of water for all uses, including fire protection, shall be provided for with discretionary development.

Rationale: The project is located in the El Dorado Irrigation District service area. Connection to public water service would be verified at the time of future building permit issuance. The El Dorado County Fire Protection District was notified of the project but did not provide comments. Future development would be required to comply with applicable fire safe regulations at time of building permit issuance. The project is consistent with this policy.

4.5 The project is consistent with General Plan Policy 6.2.3.2.

Policy 6.2.3.2 states that as a requirement of new development, the applicant must 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.

Rationale: The County Department of Transportation (DOT) reviewed the project and confirmed access to the site is from Business Drive near the Trade Way intersection. DOT is not requiring construction of a public roadway. Instead, a private driveway could be used to access the property. In addition, the El Dorado County Fire Protection District was notified of the project but did not provide comments. Future development would be required to comply with applicable fire safe regulations at time of building permit issuance. The project is consistent with this policy.

5.0 ZONING FINDINGS

5.1 The project is consistent with Section 130.23.010B.1.

Section 130.23.010B.1. The Light Industrial within a Design Control combining zone (IL-DC) Zone District states that the IL Zone shall be applied to lands for manufacturing and associated retail or service activities, wholesaling, and other industrial uses, where the primary activity is conducted within a building or buildings, or in outdoor storage or activity areas. Conditional Use Permits shall be required for those uses which, by their nature, have the potential to produce or emit noise, odor, fumes, dust, smoke, vibrations, glare, heat, electrical interference or waste material beyond the confines of the property boundaries.

Rationale: The site is currently undeveloped. Future development would need to be a use permitted in the IL zone and would be subject to Design Review as the parcel is within a Design Review (-DC) combining zone. The project is consistent with 130.23.010B.1.

5.2 **The project is consistent with Table 130.23.030**

Table 130.23.030 lists the Industrial Development Standards. The property is located in the Light Industrial (IL) Zone.

Rationale: The Light Industrial (IL) Zone requires a minimum lot size of 10,000 SF. The parcel is 5.0 acres and therefore meets the size standard. The site is currently undeveloped. Future development would be required to meet established setbacks of: 10-foot front, 0-foot or 5-foot sides, and 10-foot rear. Maximum building height would be 50-feet, and Floor Area Ratio (FAR), which is allowable floor area to site area, is 0.85. The project is consistent with Table 130.23.030.

CONDITIONS OF APPROVAL

Certificate of Compliance COC19-0003/Curtis Zoning Administrator/September 2, 2020

I. PROJECT DESCRIPTION

1. This Conditional Certificate of Compliance is based upon and limited to compliance with the project description, the site plan (Exhibit B), 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:

Conditional Certificate of Compliance for Assessor's Parcel Number 109-240-009 which will acknowledge the County's acceptance of the parcel as legally created in accordance with the Subdivision Map Act and local subdivision ordinances once the Conditions of Approval are met.

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 archaeologist 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. 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

5. The subject parcel has legal access from Business Drive near the Trade Way intersection. DOT is not requiring construction of a public roadway. Instead, a private driveway could be used to access the property.

Environmental Management Department

6. When the parcel is developed, an onsite sewage disposal system would need to be designed by a design professional and meet the Local Agency Management Plan for Onsite Waste Water Treatment Systems (LAMP) requirements, including all setbacks.

County Surveyor's Office

7. Provide a guarantee, issued by a Title Company, that shows proof of access to a State or County Maintained Road as defined in 120.44.120(B)(2).
8. Any unnamed future road serving this parcel shall be named by filling a completed Road Name Petition, with the County Surveyors Office. Proof of any signage required by the Surveyor's Office must be provided to the Surveyor's Office.
9. Situs addressing shall be coordinated with the County Surveyor's Office prior to the issuance of a building permit on this parcel.