

# Attachment J

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# MONTEREY COUNTY

## HOUSING AND COMMUNITY DEVELOPMENT

Erik Lundquist, AICP, Director



HOUSING, PLANNING, BUILDING, ENGINEERING, ENVIRONMENTAL SERVICES

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August 17, 2021

Sent via email to joel@mwruck.com

Joel R. Panzer, Member  
Maureen Wruck Planning Consultant, LLC  
21 West Alisal Street, Suite 111  
Salinas, CA 93901

**Subject: Lewis Certificates of Compliance (CC200010 and CC200011)**

Dear Mr. Panzer:

On behalf of the applicant, John and Tammy Lewis, you have requested that the County issue two unconditional certificates of compliance for parcels within Assessor's Parcel Number (APN) 416-022-006-000 (subject parcel). Based on your understanding of the title history, you are requesting unconditional certificates of compliance for a 0.35-acre parcel and a 1.68-acre parcel.

During review of this application, conflicts were found to exist with the Subdivision Map Act (SMA) and Monterey County Code (MCC). Issuance of unconditional certificates of compliance relies on a determination of the effect of a 1962 conveyance that resulted in the current configuration of the subject property.

Discussion:

Staff evaluated whether past conveyances demonstrated the grantors' intent to create separate lots for development (i.e., a land division), or was the action intended as a lot line adjustment between adjoining owners, and does the action to approve the certificates comply with state and local regulations. Staff reviewed the chain of title for the original 4.16-acre area of land and does not conclude that the conveyance history resulted in the creation of two separate parcels for development. If in 1962, this conveyance was done with the intent to create separate lots for development, it would have been in violation of the SMA, which was then a part of the CA Business and Professions Code (Section 11540.1 allowed a county to regulate divisions of land with respect to minimum area). At that time, the County's Zoning Ordinance (Ordinance 1496) required a minimum building site of one acre.

Since the 1962 conveyance reduced the 0.36-acre parcel by 0.01 acres to 0.35 acres, the conveyance did to comply with the local Zoning Code at that time, the B-4 Combing District. Section 19.14.050 MMC indicates that a parcel is lawfully created under the following circumstances:

- a. *A parcel created by a minor land division shall be conclusively presumed to be lawfully created if: Fewer than five parcels were created at the time of creation of the parcel in question; and the parcel was created on or before March 7, 1972.*

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- b. *A parcel owned by a subsequent bonafide purchaser shall be conclusively presumed to be lawfully created if the parcel was created on or before March 7, 1972; and the parcel was acquired by a subsequent purchaser for valuable consideration and without actual or constructive knowledge of a violation of the Subdivision Map Act or County Ordinance enacted pursuant thereto; and*
- c. *At the time of its creation, the parcel complied with the Subdivision Map Act and County Ordinances enacted pursuant thereto. If the parcel owned by the subsequent bonafide purchaser did comply with the Subdivision Map Act and County Ordinances enacted pursuant thereto at the time of its creation, then a Conditional (rather than an Unconditional) Certificates of Compliance shall be issued pursuant to 19.14.050.*

As indicated, the conveyance established a parcel not in compliance with the County Ordinance since the conveyance reduced the land in a non-conforming manner. In this case, a conditional certificate would be proper pursuant to Section 19.14.055 MCC not unconditional certificates of compliance.

Moreover, there would be no such violation of if the conveyance history is understood as a boundary or lot line adjustment (LLA). In 1962, neither the SMA nor local ordinance regulated or even contained the concept of an LLA. SMA Section 66412 was not amended until 1976 (effective January 1, 1977) to add LLAs as an exclusion to the SMA. Therefore, prior to 1977, there was no codified process regarding LLAs. Boundaries that needed to be changed could be adjusted simply by one neighbor deeding a sliver, strip, or parcel to an adjoining neighbor. These slivers, strips, or parcels were not intended by the parties to be developed separately but were understood to be made a part of, or merged with, the adjoining neighbor's land holding. Although these conveyances often did not meet the minimum lot size required by County Zoning Ordinance, they were not considered to be illegal lots by the County but rather as a portion being merged with a neighboring lot. In most cases, the County Assessor reassigned new APNs to the merged parcel. Acquiescence by the owner to a single APN supports the owners' intent to adjust the boundary and create adjusted/merged parcels.

#### Parcel Transfer History

- 1944 - Powers to Gribben & Parks (V 843 OR 336).
- 1949 – Gribben & Parks to Clarabut (V 1143 OR 352) resulting into 4.16 acres.
- 1949 – Clarabut to Powers (V 1152 OR 124) reducing the parcel by 0.17 acres, being now 3.99 acres.
- 1952 – Patton to Clarabut (V 1381 OR 118) an adjoining parcel 0.36 acres.
- 1961 – Clarabut to Cook & Peterson (V 2146 OR 549) 3.99 acres and 0.36 acres.
- 1962 – Cook & Peterson to Coast Counties Title (R 83 OR 442) 3.99 acres and 0.36 acres.
- 1962 – Coast Counties Title to Cook (R 83 OR 444) 3.99 acres and 0.36 acres, except 2.322 NE'ly portion of property. This exception area was a portion of both of the 3.99 acres and 0.36 acres.

Available permit history also supports the conclusion that the 1962 deed to Cook (R 83 OR 444) conveyance was understood by the respective owners and their successors in interest to be what is now known as an LLA. Site plans submitted for development applications consistently indicate one parcel with one APN. All evidence demonstrates that this parcel fits the pattern of a LLA (i.e., neighbor to neighbor transfer, the transfer parcel does not meet the minimum size to be a legal lot, the grantee

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neighbor had built or eventually builds over the former lot line, and the property is shown as one parcel on permit applications). Therefore, Parcels I and II described in the deed, as excepted, are considered one legal lot of record.

After considering the applicable codes and all available evidence, it is my determination that the Lewis parcel (APN 416-022-006-000) is a single legal parcel and the applicant's request for two unconditional certificates of compliance is denied since the circumstances for an unconditional certificate of compliance are not meet.

If you have any questions, please me at 831-755-5025 or via email [LundquistE@co.monterey.ca.us](mailto:LundquistE@co.monterey.ca.us).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Erik Lundquist', with a stylized flourish at the end.

Erik Lundquist,  
Director of Housing and Community Development

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