



**COUNTY OF EL DORADO  
PLANNING AND BUILDING DEPARTMENT  
PLANNING COMMISSION  
STAFF REPORT**

**Agenda of:** November 10, 2022

**Staff:** Melanie Shasha

**CONDITIONAL USE PERMIT**

**FILE NUMBER:** CUP20-0014/Use Nonconforming Use

**PROPERTY**

**OWNER/APPLICANT:** Londres Uso

**REQUEST:** A Conditional Use Permit (CUP) request to allow the existing, unfinished, unpermitted Accessory Dwelling Unit (ADU) and five (5) additional existing unpermitted residential accessory structures in the Open Space (OS) zone district.

**LOCATION:** The north side of Big Chief Trail approximately 300 feet north of the intersection with Wild Cat Court in the Cool area, Supervisorial District 4. (Exhibits A, B)

**APN:** 072-030-014 (Exhibit B)

**ACREAGE:** 10.54 acres

**GENERAL PLAN:** Open Space (OS) (Exhibit C)

**ZONING:** Open Space (OS) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt Pursuant to Section 15303 (New Construction or Conversion of Small Structures), of the California Environmental Quality Act (CEQA) Guidelines.

**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

1. Find the project Exempt from CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures),

2. Find the change or expansion of the nonconforming structures and uses will not have a negative effect on the surrounding conforming uses and the area overall pursuant to Zoning Ordinance Section 130.61.050(D)(2); and
3. Approve Conditional Use Permit CUP20-0014 based on the Findings and subject to the Conditions of Approval as presented.

**EXECUTIVE SUMMARY**

Approval of Conditional Use Permit CUP20-0014 would permit the existing unpermitted expansion of a nonconforming residential use. The primary house is nonconforming to the current OS zoning. The permit request is for one (1) existing, unfinished, unpermitted ADU and five (5) existing residential accessory structures consisting of a barn, wine processing building, workshop, and two (2) carports (Exhibits F, G and J). As proposed and conditioned, the project will be consistent with all applicable Zoning regulations and General Plan policies.

**SETTING**

The project parcel is located on the north side of Big Chief Trail approximately 300 feet north of the intersection with Wild Cat Court, approximately 1,700 feet above sea level. An agricultural structure (a barn) was added to the then-vacant parcel in 2015 to house livestock. A single-family home was permitted and constructed on the project parcel in 2016. An unpermitted accessory building for equipment was built in 2017. Three (3) additional unpermitted accessory buildings were constructed on the parcel in 2019. Construction on an unpermitted ADU began in 2020. A complaint was received, and an associated code enforcement case opened in 2020 for the five (5) unpermitted accessory structures and ADU. The code enforcement case (CE20-0249) remains open. Approval of the requested CUP would allow for the existing unpermitted structures to remain as-is and allow for County Code Enforcement to close the above-referenced case once the building permits for these structures have been finalized. An application for a building permit for the ADU (331103) was submitted on 06/23/2020 and is pending the outcome of this application.

There are undeveloped OS zoned lands to the north and west, and Residential, 1 and 2 acre minimum (R1A, R2A) and Single-unit Residential (R1) zoned lands containing residential uses to the east and south. Parcels to the north and west are designated as OS and the property to the east is designated Medium Density Residential (MDR) and land to the south is a mix of both High Density Residential (HDR) and Medium Density Residential (MDR) on the General Plan Land Use Map (Exhibits C, D).

	Current Zoning Designation	General Plan Designation	Existing Uses
Project Parcel	Open Space	Open Space	Residential
North	Open Space	Open Space	Undeveloped
East	R2A. R1A	MDR	Residential

West	Open Space	Open Space	Undeveloped
South	R1A, R1	MDR, HDR	Residential

**PROJECT DESCRIPTION**

CUP20-0014 is a request for a new CUP to permit the existing, unfinished, unpermitted expansion of a nonconforming residential use to add an ADU and five (5) accessory structures consisting of barn, wine processing building, shop and two (2) carports.

**ESTABLISHMENT OF A LEGAL NONCONFORMING USE**

The original residential structure was permitted on October 25, 2015 under permit No. 240426 (finalized September 21, 2016) consistent with zoning regulations in effect prior to the County’s December 15, 2015 Zoning Ordinance Update. Prior to December 2015, previous zoning regulations for the OS zone district (previous Chapter 17.68 – land use regulations for the OS zone district) allowed one (1) single-family dwelling as well as agricultural and accessory buildings by right. For details, refer to Chapter 17.68.040 (Uses Permitted by Right) of the 2013 Zoning Ordinance (Exhibit H). As part of the December 15, 2015 Zoning Ordinance Update, development regulations and standards for the OS zone district were amended, no longer allowing single-family dwellings, residential accessory structures, and agricultural buildings in the OS zone district. For details, refer to current OS zone regulations, Table 130. 25.020 (Special Purpose Zones Use Matrix) (Exhibit I).

The Zoning and General Plan Land Use Designations have not changed on this parcel since at least 1996. OS designations are used for the purposes of preserving natural resources, manage production of resources, provide outdoor recreation, and for public health and safety.

In this situation, the above-referenced structures were added without the benefit of building permits. A code enforcement case (CE20-0249) was opened as a result of the unpermitted work. Processing of the requested CUP is the mechanism to review the expansions of the non-conforming use and determine if they are consistent with the General Plan and Zoning Ordinance.

**REQUIRED FINDINGS**

Zoning Ordinance Section 130.61.50 (Changes or Expansion of Legal Nonconforming Uses) requires the Planning Commission make one or more specific findings, as listed in Section 130.61.050(D) of the Zoning Ordinance, in order to approve the requested CUP for the expansion of the described legal nonconforming uses. The Findings listed under Section 130.61.050(D) are as follows:

1. The proposed change or expansion of the legal nonconforming use is essential and/or desirable to the public convenience or welfare;
2. The change or expansion of the nonconforming use will not have a negative impact on the surrounding conforming uses and the area overall;

3. Other property where the use would be conforming is unavailable, either physically or economically, within the limits of the nearest similarly developed area(s);
4. No other appropriate remedies are available to bring the use into conformance, including amending the zone or zoning ordinance text.

## STAFF ANALYSIS

**Environmental Review:** Staff reviewed the project and found it exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines applying to existing facilities including garages, carports, or a second dwelling. and the area in which the project is located is not environmentally sensitive

**General Plan Consistency:** Staff has reviewed the project for consistency with all applicable General Plan policies including Policy 2.2.1.2 (appropriate land use types and density), Policy 2.2.5.2 (General Plan Consistency), Policy 2.2.5.21 (compatibility with adjoining land uses), Policy 5.7.2.1 (adequate fire protection services), Policy 6.2.2.2 (fire safe plan), and Policy 6.2.3.2 (adequate emergency access) Staff has determined that the project is consistent with these policies and related requirements in the El Dorado County General Plan, as discussed in more detail in Section 2.0 of the Findings.

**Zoning Ordinance Consistency:** Staff has determined that the project is consistent with applicable regulations and requirements in Title 130 of the County Ordinance Code, including Section 130.25.020 (Allowed Uses and Permit Requirements for the Special Purpose Zones), Section 130.52.021 (Conditional Use Permits) and Section 130.61.050 (Changes or Expansion of Legal Nonconforming Uses).

**Public and Agency Comments:** The project was distributed to all applicable public agencies and organizations for review and comment including the following County agencies: Air Quality Management District, Building Services, California Department of Forestry and Fire Protection, Diamond Springs/El Dorado Fire District, Environmental Management, Surveyor's Office, and Department of Transportation (DOT).

**Conditions of Approval:** Of the agencies and organizations notified of the project, as listed above, comments were received from Air Quality Management District, Environmental Management, and the Surveyor's Office. Comments from these departments have been incorporated as Conditions of Approval No. 5 through 16.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Vicinity Map
Exhibit B.....	Assessor's Parcel Map
Exhibit C.....	General Plan Land Use Designation Map
Exhibit D.....	Zoning Designation Map
Exhibit E.....	Site Plan, most recent approvals
Exhibit F.....	Site Plan, current improvements
Exhibit G.....	Aerial Photo 6.2021
Exhibit H.....	Chapter 17.68 of 2013 Zoning Ordinance
Exhibit I.....	Chapter 130.25 of Current Zoning Ordinance
Exhibit J.....	Existing Conditions