

Findings

1.0 CEQA FINDINGS

V24-0002 has been found Categorical Exempt pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) because the project consists of post-construction entitlement of an existing garage accessory to an existing single-family residence built in a residential zone. Furthermore, the project does not qualify for any of the exceptions to the Categorical Exemptions found in CEQA Guidelines Section 15300.2, including the “unusual circumstances” exception because the evidence in the record supports the conclusion that there is no reasonable possibility the project will have a significant effect on the environment due to unusual circumstances.

- 1.1 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 Planning and Building Department, at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.5.2.

All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, Tentative Maps for major and minor land divisions, and Special Use Permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.

Rationale: The subject parcel has been designated Low-Density Residential (LDR), which enables single-family home development in rural areas. Residential uses include accessory structures, such as garages for personal use. The project is consistent with this policy.

2.2 The project is consistent with General Plan Policy 2.2.5.21.

All projects must be designed in such a way that ensures compatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.

Rationale: The subject parcel has similar land use as neighboring parcels, with single-family homes and accessory structures. As conditioned, this project is consistent with this policy.

2.3 The project is consistent with General Plan Policy 5.1.2.1.

Prior to the approval of any discretionary development, the approving authority shall make a determination of the adequacy of the public services and utilities to be impacted by that development. The approval of the development shall be conditioned to require expansion of the impacted facility or service to be available concurrent with the demand, mitigated, or a finding made that a Capital Improvement Program (CIP) project is funded and authorized which will increase service capacity.

Rationale: The subject parcel will not increase service capacity. As conditioned, this project is consistent with this policy.

2.4 The project is consistent with General Plan Policy 5.1.2.2.

Provision of public services to new discretionary development shall not result in a reduction of service below minimum established standards to current users.

Rationale: The project was distributed to all applicable agencies who make no mention of reduction of service. As conditioned, this project is consistent with this policy.

2.5 The project is consistent with General Plan Policy 5.7.2.1.

Prior to approval of new development, the responsible fire protection district shall be requested to review all applications to determine the ability of the district to provide protection services. The ability to provide fire protection to existing development shall not be reduced below acceptable levels as a consequence of new development.

Recommendations such as the need for additional equipment, facilities, and adequate access may be incorporated as Conditions of Approval.

Rationale: The project was distributed to all applicable agencies, including the California Department of Forestry & Fire Protection (Cal Fire), who provided Conditions of Approval, making no mention of reduction of service. As conditioned, this project is consistent with this policy.

2.6 The project is consistent with General Plan Policy 6.2.2.2.

The County shall preclude development in areas of high and very high wildland fire hazard or in areas identified as Wildland Urban Interface (WUI) communities within the vicinity of Federal lands that are a high risk for wildfire, as listed in the Federal Register Executive Order 13728 of May 18, 2016, unless such development can be adequately protected from wildland fire hazard, as demonstrated in a WUI Fire Safe Plan prepared by a qualified professional as approved by the El Dorado County Fire Prevention Officers Association. The WUI Fire Safe Plan shall be approved by the local Fire Protection District having jurisdiction and/or Cal Fire.

Rationale: The subject parcel is in a Moderate wildland fire hazard zone, therefore does not require a WUI Fire Safe Plan. As conditioned, this project is consistent with this policy.

2.7 The project is consistent with General Plan Policy 6.2.3.2.

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 project has been distributed to Cal Fire, El Dorado County Department of Transportation (DOT), El Dorado County Fire Protection District, and El Dorado County Sheriff's Office. Cal Fire made comments, which have been added to the Conditions of Approval. The other agencies did not comment nor provided Conditions of Approval regarding emergency access. As conditioned, this project is consistent with this policy.

2.8 **The project is consistent with General Plan Policy 7.4.4.4.**

For all new development projects or actions that result in impacts to oak woodlands and/or individual native oak trees, including Heritage Trees, the County shall require mitigation as outlined in the El Dorado County Oak Resources Management Plan (ORMP). The ORMP functions as the oak resources component of the County's biological resources mitigation program, identified in Policy 7.4.2.8.

Rationale: This structure was constructed in 1977; therefore, any past impacts would not be out of compliance with the ORMP. No other construction is involved under the scope of this variance. As conditioned, this project is consistent with this policy.

2.9 **General Plan Policy TC-Xa does not apply to the project.**

Traffic from residential development projects of five (5) or more units or parcels of land shall not result in, or worsen, Level of Service (LOS) F (gridlock, stop-and-go) traffic congestions during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the County.

Rationale: The project will not create residential units; therefore, this policy does not apply.

The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at LOS F without first getting the voter's approval.

Rationale: This is not applicable as the project is not requesting any modifications to Table TC-2.

Intentionally blank as noted in the General Plan.

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The County shall not create an Infrastructure Financing District unless allowed by a 2/3rds majority vote of the people within that district.

Rationale: This is not applicable as the project is not requesting the County create an Infrastructure Financing District.

Intentionally blank as noted in the General Plan.

Before giving approval of any kind to a residential development project of five (5) or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

Rationale: This project will not result in five (5) or more units or parcels of land for residential development.

2.10 General Plan Policy TC-Xb does not apply to the project.

Policy TC-Xb ensures that potential development in the County does not exceed available roadway capacity.

Rationale: This policy is not applicable as this policy refers to the county preparing a CIP, preparing a Traffic Impact Mitigation (TIM) Fee Program, and monitoring traffic volumes.

2.11 General Plan Policy TC-Xc does not apply to the project.

Policy TC-Xc directs that developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development.

Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity.

2.12 The project is consistent with General Plan Policy TC-Xd.

LOS for County-maintained roads and state highways within the unincorporated areas of the County shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ration specified in that table. LOS will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual.

Analysis periods shall be based on the professional judgement of DOT which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes.

Rationale: This project will not worsen LOS for any County-maintained Road or state highway.

2.13 The project is consistent with General Plan Policy TC-Xe.

For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- A. A two-percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily; or
- B. The addition of 100 or more daily trips; or
- C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This project will not generate more than ten (10) trips in the peak hour, or more than 100 daily trips.

2.14 The project is consistent with General Plan Policy TC-Xf.

At the time of approval of a tentative map for a single-family residential subdivision of five (5) or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County’s 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element;

or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Rationale: This post-construction approval would not worsen LOS as defined in General Plan Policy TC-Xe, because the garage is existing and would not contribute to additional anticipated vehicular trips. This project is consistent with this policy.

2.15 The project is consistent with General Plan Policy TC-Xg.

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: The project will not worsen LOS as defined in General Plan Policy TC-Xe.

2.16 The project is consistent with General Plan Policy TC-Xh.

All subdivisions shall be conditioned to pay the TIM fees in effect at the time a building permit is issued for any parcel created by the subdivision.

Rationale: This project will not create a subdivision.

2.17 General Plan Policy TC-Xi does not apply to the project.

General Plan TC-Xi directs the County to coordinate and work with other agencies to plan for the widening of U.S. Highway 50.

Rationale: This policy is not applicable to the project as it is directed to the County to coordinate with other agencies.

3.0 ZONING FINDINGS

The project is consistent with Title 130.

3.1 The project is consistent with Table 130.24.020 – Residential Zone Use Matrix.

Table 130.24.020 prescribes allowed uses and associated structures within the Residential Estate 10-Acre (RE-10) zone district.

Rationale: The project, as designed and existing, is consistent with the Zoning Ordinance because the use of the parcel for a single-family dwelling and associated accessory structures is a use allowed by right in the zone.

- 3.2 The project is consistent with Table 130.24.030 – Residential Zone Development Standards.

Table 130.24.030 prescribes site-specific development standards for parcels within the RE-10 zone district.

Rationale: The project as designed and existing, would be a by-right allowed use as an associated accessory structure to a single-family structure. The location of the existing garage does not meet zoning setback standards, which is why this Variance is requested.

4.0 VARIANCE FINDINGS

A Variance shall be granted by the review authority only where all of the following circumstances are found to apply:

- 4.1 There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.

Rationale: Several exceptional or extraordinary circumstances limit the location of new buildings on this property.

The subject parcel is 175 feet wide. An 80-foot Fire Safe-required turnaround takes up most of the width between the side setbacks, and a depressed drainage area occupies the remaining width, leaving little space for residential development. There is also a slope greater than 30% that eliminates other possible placements on the eastern portion of the parcel.

Staff finds that there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in this

application due to significant constraints on the property as it relates to land coverage and land capability. Accordingly, Finding 4.1 is made.

4.2 The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other properties in the vicinity and the same zone (California Government Code Section 65906).

Rationale: The strict application of the building setbacks of the RE-10 zone designation would deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone. Houses on either side of this parcel are developed with garages. No other location exists on-site that meets the requirements for setbacks, land coverage, and land capability.

Staff finds that the strict application of the zoning regulations would deprive this property of privileges enjoyed by neighboring properties in the same vicinity and zone. Allowing the reduced side yard setbacks for the post-construction approval of a garage would not affect adjoining properties, existing Fire Safe turnaround, or right-of-way to Petersen Lane. Therefore, Finding 4.2 is made.

4.3 The Variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).

Rationale: Staff finds that the Variance request would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated because accessory structures are an allowed use within the residential zone for the project site. Therefore, Finding 4.3 is made.

4.4 The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.

Rationale: The proposed Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan. It will not affect public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area.

The garage has existed since 1977 and has not caused any detrimental effects to the public health, safety, welfare, or caused any injury to the neighborhood. The garage cannot be seen from any roads and lies over 250 yards from Petersen Lane. Staff finds that the project is compatible with maps, objectives, policies, programs, and general land uses. Therefore, Finding 4.4 is made.

Required Variance Findings	Rationale
Exceptional or Extraordinary Circumstances	The property is 175 feet wide, more narrow than typical RE-10 parcels. A Fire Safe-required 80-foot turnaround takes up most of the width of the property between the side setbacks, and a depressed drainage area takes away the remaining width of the property. There is also a slope greater than 30% that eliminates other possible placements.
Deprivation of Reasonable Use	Building a new garage that meets Zoning Ordinance setbacks for RE-10 zones would not be possible given the topography of the property, the Fire Safe turnaround, and the setbacks required. The garage is a basic necessity for reasonable use of the property given the parcel's rural nature and lack of street parking or public transit.
Special Privileges	The granting of this Variance would allow the property owner to utilize their garage for storage of vehicles. It would not allow the owner any special privilege inconsistent with the limitations upon other properties in the vicinity.
Detriments	The garage has existed since 1977 and has not caused any detrimental effects to the public health, safety, welfare, or caused any injury to the neighborhood. The garage cannot be seen from any roads and lies over 250 yards from Petersen Lane.

Conditions of Approval

Planning Division

1. This Variance approval is based upon and limited to compliance with the project description and following exhibits:

Exhibit ESite Plan

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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:

Variance for a reduction of the side setback from 30 feet to 14.4 feet to allow for the permitting of an existing garage.

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.

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the location of buildings shall require Planning Division review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each Condition imposed as part of the project approval.

4. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Division upon project approval.
5. **Permit Implementation:** Pursuant to Zoning Ordinance Section 130.54.060 (Time Limits, Extensions, and Permit Expiration), implementation of the project must occur within 24 months of approval of this Variance, otherwise this permit shall become null and void. The applicant may request a time extension with the Planning and Building Department at least 30 days prior to permit expiration. If a timely request is filed, the County may, at its discretion, extend this time limit by not more than 36 months. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
6. **Legal Indemnity/Hold Harmless Agreement:** 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.

California Department of Forestry & Fire Protection (Cal Fire)

8. Roads and driveways, whether public or private, unless exempted under 14 California Code of Regulations (CCR) § 1270.02(d), shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency.
9. All roads shall be constructed to provide a minimum of two (2) 10-foot traffic lanes, not including shoulder and striping. These traffic lanes shall provide for two-way traffic flow to support emergency vehicle and civilian egress, unless other standards are provided in this article, or additional requirements are mandated by local jurisdictions or local subdivision requirements. Road grade not to exceed 16%. No more than 20% with mitigations.
10. Roadways shall be designed and maintained to support the imposed load of fire apparatus weighing at least 75,000 pounds and provide an aggregate base. Project proponent shall

provide engineering specifications to support design, if requested by the local authority having jurisdiction (AHJ).

11. Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided no more than 400 feet apart. A turnaround shall be provided on driveways over 300 feet in length and shall be within 50 feet of the building.
12. The grade for all roads, streets, private lanes and driveways shall not exceed 16%. Grade may exceed 16%, not to exceed 20%, with approval from AHJ.
13. Gate entrances shall be at least two (2) feet wider than the width of the traffic lane(s) serving that gate and a minimum width of fourteen (14) feet unobstructed horizontal clearance and unobstructed vertical clearance of 13 feet 6 inches. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Security gates shall not be installed without approval. Where security gates are installed, they shall have an approved means of emergency operation. Approval shall be by the local AHJ. The security gates and the emergency operation shall always be maintained in operational status.
14. All buildings shall be issued an address by the local jurisdiction which conforms to that jurisdiction's overall address system. Utility and miscellaneous Group U buildings are not required to have a separate address; however, each residential unit within a building shall be separately identified. The size of letters, numbers, and symbols for addresses shall conform to the standards in the California Fire Code, CCR title 24, part 9. Addresses for residential buildings shall be reflectorized.
15. All buildings shall have a permanently posted address which shall be plainly legible and visible from the road fronting the property. Where access is by means of a private road and the address identification cannot be viewed from the public way, an unobstructed sign or other means shall be used so that the address is visible from the public way. Address signs along one-way roads shall be visible from both directions. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign or post. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter.

16. Emergency water for wildfire protection shall be available, accessible, and maintained in quantities and locations specified in the statute and these regulations in order to attack a wildfire or defend property from a wildfire. Will be determined by local jurisdiction.
17. All parcels shall provide a minimum 30-foot setback for all buildings from all property lines and/or the center of a road, except as provided in the exception below.

A reduction in the minimum setback shall be based upon practical reasons and shall provide for an alternative method to reduce Structure-to-Structure ignition by incorporating features such as, but not limited to:

- non-combustible block walls or fences; or
 - non-combustible material extending five (5) feet horizontally from the furthest extent of the building; or
 - i. hardscape landscaping; or
 - ii. a reduction of exposed windows on the side of the structure with a less than 30-foot setback; or
 - iii. the most protective requirements in the California Building Code, CCR Title 24, Part 2, Chapter 7A, as required by the local jurisdiction.
18. California Public Resource Code (PRC) 4291 requires 100 feet of defensible space to the property line around structures to protect residents, first responders, and property.
 19. Disposal, including chipping, burying, burning or removal to a site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of a building permit.