

FINAL FINDINGS

Conditional Use Permit CUP23-0005/Tyler Master Bedroom As Approved by the Planning Commission on September 28, 2023

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the Staff Report and evidence in the record, the following Findings can be made:

1.0 CEQA FINDINGS

- 1.1 Conditional Use Permit CUP23-0005 has been found categorically exempt pursuant to Section 15301(e)(1) (Additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition) of the California Environmental Quality Act (CEQA) Guidelines applying to small additions.
- 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 Planning and Building Department, Planning Services Division, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 establishes an appropriate range of land use types and densities within the County. The Commercial land use designation establishes areas suitable for a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County. This designation is considered appropriate within Community Regions, Rural Centers, and Rural Regions.

Rationale: The proposed use is inconsistent with uses allowed in the Commercial land use designation. However, nonconforming uses are typically permitted to continue subject to certain restrictions. One (1) restriction is the requirement for a Conditional Use Permit (CUP) to review any expansion of the nonconforming use or structure.

2.2 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.

This policy requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Staff has prepared this section on General Plan findings to document the project's consistency with the policies of the General Plan.

2.3 The project is consistent with General Plan Policy 2.2.5.21.

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: As proposed and conditioned, the project will be compatible with adjoining land uses. There are residential uses on all the nearby properties. The proposed expansion will not significantly change the existing building and the expanded use is not anticipated to create any public safety hazards or impede traffic flow into and out of the existing nonconforming residence.

3.0 ZONING FINDINGS

3.1 The project is consistent with Table 130.22.020 (Allowed Uses and Permit Requirements for the Commercial Zones).

Table 130.22.020 shows allowed uses and permit requirements for each of the commercial zones, including specific use types either allowed by right (P) or by CUP.

Rationale: Nonconforming uses are allowed in any zoning district with the approval of a CUP.

3.2 The project is consistent with Section 130.52.021 (Conditional Use Permits).

Section 130.52.021 provides three (3) findings to be met before the Planning Commission can approve a CUP. Those are:

3.2.1 The proposed use is consistent with the General Plan.

Rational: Finding of consistency with the General Plan is in Finding 2.

3.2.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.

Rational: The proposed addition to the residence is not expected to be detrimental to the public health, safety and welfare or be injurious to the neighborhood.

3.2.3 The proposed use is specifically allowed by a CUP pursuant to the Title.

Rational: The expansion of the legal nonconforming residential use is specifically allowed in the Zoning Ordinance pursuant to Section 130.61.050. Those findings are below.

3.3 The project is consistent with Section 130.61.050 (Changes or Expansion of Legal Nonconforming Uses)

Section 130.61.050(D) states that the Commission shall make one (1) or more of the following findings regarding changes or expansions to legal nonconforming uses:

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.

Rationale: Based on documentation submitted from the property owner and evidence in the record, required Finding 130.61.050(D)(2) can be made.

Required Finding 130.61.050(D)(2): The change or expansion of the nonconforming use will not have a negative impact on the surrounding conforming uses and area overall, as the proposed residential addition would not significantly change the use of the existing building and the expanded structure is not anticipated to create any public safety hazards or impede traffic flow into and out of the existing driveway. Further, the proposed expansion would be consistent with existing residential uses in the vicinity.

CONDITIONS OF APPROVAL

Conditional Use Permit CUP23-0005/ Tyler Master Bedroom Planning Commission/ September 28, 2023

Planning Services

1. This Conditional Use Permit (CUP) is based upon and limited to compliance with the project description, the following hearing exhibits, and Conditions of Approval set forth below:

CUP23-0005 allows an addition of 525 square feet of dwelling space to a legal but non-conforming residence in the Community Commercial - Design Control (CC-DC) zone district.

Exhibit ESite Plan with Proposed Addition

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 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 and hearing exhibits above and the 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. **Permit Expiration:** Pursuant to Zoning Ordinance Section 130.54.060.A, implementation of the project shall occur within 24 months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with the Conditions of Approval.
3. **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 land owner agrees 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 land owner 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 of El Dorado County concerning a CUP.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

El Dorado County Fire Protection District (EDCFPD)

4. **Surface Hardening:** Provide five (5) feet of noncombustible ground covering around the structure for surface hardening. Gravel or other acceptable material may be used to decrease vegetation and potential ignition of structure.
5. **Fencing:** Any fencing adjacent to the project (addition) shall be of a noncombustible material.

North Central Information Center

6. **Cultural Resources:** If cultural resources are encountered during the project, avoid altering the materials and their context until a qualified cultural resources professional has evaluated the project area. Project personnel should not collect cultural resources. Historic-period resources include: stone or adobe foundations or walls; structures and remains with square nails; mine shafts, tailings, or ditches/flumes; and refuse deposits or bottle dumps, often located in old wells or privies.
7. **Cultural Resources:** Identified cultural resources should be recorded on DPR 523 (A-L) historic resource recordation forms, available at https://ohp.parks.ca.gov/?page_id=28351

Oak Tree Protection

8. To protect the large Valley Oak on the neighboring property to the north:
 - 8.1 No heavy equipment within 30 feet of trees' trunk when soil is dry; and
 - 8.2 No heavy equipment within 60 feet of trees' trunk when soil is saturated.