

FINDINGS

Conditional Use Permit CUP23-0005/Tyler Master Bedroom Planning Commission/ 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.