

V07-0007 – As Approved by the Zoning Administrator March 5, 2008

CONDITIONS OF APPROVAL

Project Description

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibit marked as Exhibit D dated February 23, 2006, and conditions of approval set forth below. 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 project description is as follows:

A reduction in front yard setback from 30 feet to 16 feet to allow the construction of a 600 square foot second residence on an existing building pad shall apply to this structure only. All other structures shall adhere to all required setback requirements.

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. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. 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 processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County concerning this variance which action is brought within the time period provided for in *Section 66499.37* of the *California Government Code*.

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

3. Any exterior lighting installed as a result of the proposed second residence shall be shielded to prevent light and glare from leaving the property and must conform to the provisions of *Section 17.14.170* for *Outdoor Lighting*.

4. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
5. Prior to issuance of a building 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, as well as conformance with the General Plan checklist and all applicable "Fire Safe" regulations.

El Dorado County Building Department

6. The applicant shall obtain all necessary building permits for the proposed second residence.

FINDINGS

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to *Section 15305(a)* that allows minor alterations in land use limitations which do not result in any changes in land use or density, including, but not limited to minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

2.0 GENERAL PLAN FINDINGS

- 2.1 The proposed use is consistent with applicable policies in the 2004 El Dorado County General Plan, as discussed in the General Plan section of this staff report, specifically Policies 2.2.5.21, 9.1.2.4, 7.1.2.1, and 7.4.4.4, as well as Goal HO-1, because it is compatible with adjoining land uses, and has been reviewed for consistency with the *Hiking and Equestrian* as well as the *Bikeway Master Plans*. Additionally, no development will occur on slopes greater than 30 percent. Approval of the variance will allow development without the removal of oak canopy. Finally, by allowing construction of a second residential unit, the variance meets with a General Plan Goal to provide for housing that meets the needs of existing and future residents in all income categories.

3.0 VARIANCE FINDINGS

- 3.1 *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.*

The steepness of the terrain, coupled with the heavily forested nature of the parcel, severely limits the possible sites for placement of structures, pursuant to General Plan Policies 7.1.2.1 and 7.4.4.4. Additionally, a building pad was cleared and graded more than eighty years ago for a structure which no longer exists. These factors lend themselves to the proposed variance as a best use alternative to allow construction on the existing pad.

- 3.2 *The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone.*

Without the proposed variance, the existing pad could not be redeveloped. The existing woodlands and steep topography would preclude the applicant's ability to place additional structures, such as the proposed second residence, on the subject parcel.

- 3.3 *The variance is the minimum necessary for the reasonable use of the land or building.*

To utilize the existing graded and cleared building pad, thus avoiding the removal of trees and further disturbance of soil, the proposed setback of 16 feet is the minimum variance necessary. As designed, the proposed structure would be located 16.84 feet from the front property line.

- 3.4 *The variance is in conformity with the intent of this article and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.*

Due to the steep topography of the site, as well as the vegetative buffer found there, the permitting of the proposed variance to allow the construction of a second residence on an existing building pad within the front yard setback is not anticipated to negatively impact other residential uses in the project area, specifically those to the east, west, and across Smith Flat Road to the south. Furthermore, this buffer and change in elevation will shield the immediately adjacent El Dorado Trail from negative impacts.