

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



Agenda of: February 24, 2022

Staff: Melanie Shasha

CONDITIONAL USE PERMIT

FILE NUMBER: CUP21-0003/Santana Pool

PROPERTY

OWNER/APPLICANT: David Santana

REQUEST: A Conditional Use Permit request for the addition of a pool at a legal, nonconforming residence.

LOCATION: The west side of Hwy 49, approximately 500 feet north of the intersection with Pleasant Valley Road, in the Diamond Springs area, Supervisorial District 3. (Exhibits A, B)

APN: 054-342-040 (Exhibit C)

ACREAGE: 1.75 acres

GENERAL PLAN: Commercial (C) (Exhibit D)

ZONING: Community Commercial (CC) (Exhibit E)

ENVIRONMENTAL DOCUMENT: Categorically Exempt Pursuant to Section 15303(e) (Accessory structures including garages, carports, patios, swimming pools, and fences) 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(e) (Accessory structures including garages, carports, patios, swimming pools, and fences);

2. Find the change or expansion of the nonconforming use will not have a negative impact 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 CUP21-0003 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Approval of Conditional Use Permit CUP21-0003 would allow the expansion of a legal nonconforming residential use. The expansion will be for a single, private pool located in the front yard. As proposed and conditioned, the project will be consistent with all applicable Zoning regulations and General Plan policies.

OTHER PROJECT CONSIDERATIONS

Establishment of a Legal Nonconforming Use:

The original residential structure was built in 1935. An addition to the structure of a family room, bathroom and deck was built in 1995 (permit 94091061 finalized 1995). Electrical service was added to a well in 2010 (permit 197693 finalized 2010). The Zoning and General Plan Land use Designations have not changed since at least 1996.

Required Findings for Changes or Expansion of a Legal Nonconforming Use

Zoning Ordinance Section 130.610.50 (Changes or Expansion of Legal Nonconforming Uses) requires the Planning Commission make one or more specific findings in order to approve the expansion of a legal nonconforming use. 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.

Based on documentation supplied by the owner, (Exhibit F) and evidence in the record, staff recommends the Planning Commission make a finding of negative impact as required by Section 130.61.050(D)(2) as listed above. Additional details are discussed in the Findings section of this report.

SETTING

The project parcel is located on the west side of Hwy 49, 500 feet north of the intersection with Pleasant Valley Road in the Diamond Springs area, approximately 1,800 feet above sea level. The project parcel was developed with a single family home in 1935. An addition to the house was added in 1994. It is likely that a General Plan was not in effect when the original structure was built. At the time the County used Area Plans and Zoning for land use regulations. However, building permits were not required until the 1950's so construction was likely not reviewed for approval by the County.

The International Order of Odd Fellows Cemetery is due west and dates to the Gold Rush era. On the east side of State Highway 49 and across from this site are several single family homes developed prior to 1985. The nearest commercial use is the Gas Station and convenience store to the south developed in 2009. The adjacent parcels are vacant.

There are Multi-family Residential (RM) zoned lands to the west, Community Commercial (CC) zoned lands to the north, and Commercial Main Street (CM) lands to the east and south. Parcels to the north, east and south are designated as Commercial and the property to the west is designated Medium Density Residential on the General Plan Land Use Map (Exhibits D, E).

PROJECT DESCRIPTION

CUP21-0003 is a request for a new Conditional Use Permit to allow the expansion of a legal nonconforming residential use to add an in-ground swimming pool.

STAFF ANALYSIS

Environmental Review: Staff reviewed the project and found it exempt from CEQA pursuant to Section 15303(e) Accessory structures including garages, carports, patios, swimming pools, and fences.

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), 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 130.22.020 (Allowed Uses and Permit Requirements for the Commercial 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: The Department of Transportation (DOT), Diamond Springs/El Dorado Community Advisory Committee, Pioneer Cemetery Commission, El Dorado County Cemeteries, Diamond Springs/El

Dorado Fire District, CalTrans District 3 and the El Dorado Irrigation District. Of the agencies and organizations notified of the project, comments were received from DOT. Their Condition of Approval is attached.

Public Outreach: No formal public outreach was conducted, and a public outreach plan was not required for this project pursuant to the County Zoning Ordinance. However, the project was duly noticed for a Planning Commission public hearing with a public notification range of 500 feet and legal advertisement was published in applicable local newspapers. In addition, project notification was also sent to the County's Planning Commission email subscription list and posted on the Planning Services Planning Commission webpage. No physical sign posting is required for Conditional Use Permits or Design Review Permits.

Conditions of Approval: The project was distributed to all applicable agencies and organizations for review and comment as discussed above. Of those agencies and organizations, only DOT submitted comments. DOT's comments have been incorporated as Condition of Approval No. 5. The Planning Department has added a Condition of Approval No. 4 with the required setbacks for this project.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....Vicinity Map

Exhibit B.....Assessor's Parcel Map

Exhibit C.....Parcel Map

Exhibit D.....General Plan Land Use Designation Map

Exhibit E.....Zoning Designation Map

Exhibit F.....Site Plan with proposed pool