



County of El Dorado

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Legislation Text

File #: 07-1791, **Version:** 2

Hearing to consider an appeal on the denial of Special Use Permit S04-0033 to allow the construction of a 2,912 square foot caretaker residence within the Timber Preserve Zone District on property consisting of 118.092 acres (APN 039-060-02) in the Silver Lake area; Appellant: George Majors (District 2). **(By Board direction on November 27, 2007, staff directed to provide new conditions.)** (Refer 11/27/07, Item 69)

RECOMMENDED ACTION: Planning Services staff recommends the Board deny the appeal, thereby upholding the action of the Zoning Administrator to deny Special Use Permit S04-0033 for a single family residence in a Timber Preserve Zone.

Background: The Zoning Administrator's denial of S04-0033 on October 17, 2007, was a reconsideration of the Zoning Administrator hearings and action in 2005 when the permit was originally denied. The applicant recently argued that they did not receive proper notice of the original denial (including written findings) or that the 10 working-day appeal period had started.

Planning Services agreed to reconsider the permit, cite findings for approval or denial, and allow another appeal period.

The Zoning Administrator denied the permit on October 17, 2007. On October 19, 2007, Robert A Laurie, attorney at law and agent for the property owner, filed an appeal of the denial of the permit.

The appeal states that the "decision is not supported by evidence in the record" and that the "decision is contrary to state law."

Planning Services staff believes that the Zoning Administrator decision is supported by evidence in the record and that the determination is consistent with state law. The applicant has not demonstrated that a residence is necessary in the Timber Preserve Zone (TPZ) pursuant to Section 17.44.050 of the County Code. The applicant has stated the intent is to plant Red Fir trees (Christmas trees), but staff has not verified the first planting, or whether the land is capable of supporting the endeavor. The owner was requested by the Agricultural Commission to plant the Christmas trees and have the trees inspected in one to two years before a recommendation for construction of the house could be made.

Summary of Staff Report:

The permit was submitted on September 16, 2004, (and deemed a complete application on July 18, 2005) for a 2,912 square foot caretaker residence (2,016 square feet of living space and 896 square feet of storage). The Agricultural Commission heard the item on August 10, 2005, and recommended conditional approval, reducing the size of the building's living space to 1,700 square feet, with the rest of the building used only for equipment storage.

Planning Services recommended conditional approval based on the Agricultural Commission recommendation of August 10. Staff recommended 10 conditions, including a further reduction in dwelling size to 1,000 square feet (600 square feet of living space and 400 square feet of storage/garage).

However, the Agricultural Commission rescinded the August 10 action at their October 12, 2005, meeting, citing that the need for the residence had not been adequately determined. This resulted in the Zoning Administrator denial of the permit on November 2, 2005.

Note that Planning Services staff recommended modified conditions for the November 2, 2005, Zoning Administrator hearing. The size of the structure was recommended to a "footprint of 1,500 square feet" but that a building permit would not be issued until the applicant could demonstrate that the Red Fir trees had been planted and growing for one to two years. Following the establishment period, staff would inspect the site and receive a report from the applicant's Registered Professional Forester on the health and survivability of the trees.

Should the Board of Supervisors decide to approve the appeal and overturn the Zoning Administrator's denial of S04-0033, the Findings and Conditions from the Planning Services Memorandum dated October 26, 2005, for the November 2, 2005 Zoning Administrator Hearing, are available for consideration.

ATTACHMENTS

- Exhibit A - Appeal Form
- Exhibit B - Findings for Denial
- Exhibit C - Memo to Zoning Administrator for October 17, 2007 hearing
- Exhibit D - October 26, 2005 memorandum to Zoning Administrator' hearing November 2, 2005, hearing with conditions, findings, and Attachments A through G, including staff report of September 21, 2005
- Exhibit E - Letter from Robert A. Laurie, dated October 9, 2007
- Exhibit F - Excerpt from government code submitted to Zoning Administrator by Robert Laurie

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