

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: October 16, 2019
Item No.: 4.a.
Staff: Emma Carrico

VARIANCE

FILE NUMBER: V18-0002/Bassler Variance

APPLICANT: Mark William Bassler

REQUEST: Variance permit application to reduce the front yard setback, along the Road and Public Utility Easement (RPUE) for Jasper Circle, from 30 feet to 0 feet to allow for construction of a single family residence.

LOCATION: West side of Jasper Road, approximately 360 feet west of the intersection with Jasper Circle, in the Rescue area, Supervisorial District 4.

ASSESSOR'S NUMBERS: 104-400-016 & 104-400-017 (APNs 104-400-16 & 104-400-17)

ACREAGE: 5 acres

GENERAL PLAN LAND USE: Low Density Residential-Platted Lands (LDR-PL)

ZONING: Residential Estate-Five Acres (RE-5)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Sections 15303(a) "New Construction or Conversion of Small Structures" and 15305(a) "Minor Alterations in Land Use Limitations" of CEQA.

RECOMMENDATION: Staff recommends that the Zoning Administrator take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA sections 15303(a) “New Construction or Conversion of Small Structures” and 15305(a) “Minor Alterations in Land Use Limitations” and;
2. Approve Variance permit V18-0002 based on the Findings as presented.

EXECUTIVE SUMMARY

The project is a variance application to reduce the front yard setback, along the Road and Public Utility Easement (RPUE) for Jasper Circle, from 30 feet to 0 feet to allow for construction of a single family residence. The parcel has a zoning designation of RE-5. The development standards for the RE-5 zone include 30 foot setbacks from all property lines and edge of RPUEs.

BACKGROUND

The property owner applied for a building permit for the proposed single family dwelling in October of 2017. Planning Services sent the owner a correction letter on November 6, 2017 specifying that a variance would be necessary in order for the proposed dwelling to be built in the requested location. The owner submitted this variance application on June 3, 2018.

The parcel is an administrative parcel with two Assessor’s Numbers (Exhibits B & F).

EXISTING CONDITIONS

The project site is located approximately 4.5 miles north of the Rescue rural center. The site is severely limited by slope, as the parcel drops significantly from approximately 700 feet elevation at the highest point on the northeastern property line to approximately 600 feet at the lowest point, which is the canyon of Weber Creek, and back up to 700 feet on the other half of the parcel (Exhibit D). There are biological features which limit development; Weber Creek crosses through the center of the parcel which imposes a 100 foot riparian protection setback (50 feet on either side of Weber Creek) and creates a Special Flood Hazard Area (SFHA) (Exhibit E), Oak woodland is prevalent throughout the parcel, and the parcel is located within rare plant mitigation area one. There are also restrictions imposed by recorded easements on the parcel map (Exhibit F); 50 foot wide non-buildable easements were recorded to match the 50 foot riparian setback from both sides of Weber Creek, and a 50 foot wide road and public utility easement was recorded for Jasper Circle through the front of the parcel. Jasper Circle is a private gravel road.

PROJECT DESCRIPTION

The project is a variance application to reduce the front yard setback, along the Road and Public Utility Easement (RPUE) for Jasper Circle, from 30 feet to 0 feet to allow for construction of a single family residence. While the easement itself is 50 feet wide, the existing private road is approximately 15 foot wide and is located towards the front of the easement during the portion that would be in front of the proposed house. This allows for a setback of approximately 20 feet from the edge of existing roadway at the closest point to the residence, even though the setback from the easement would be zero feet (Exhibit C). The proposed single family residence would

be 1,659 square foot single story two bedroom home. The total foot print of the project including decks would be 2,462 square feet. If located in the proposed area, construction would not require any cut, fill, or major grading. Through alternative site analysis it was determined that all other potential sites would be within the flood zone (Exhibit E), would require disturbance of Weber Creek to construct an access weir which would greatly increase the cost of the project and be unlikely to be approved by the California Department of Fish and Wildlife, or would be within setbacks and require a similar variance application.

STAFF ANALYSIS

The subject parcel has a land use designation of Low Density Residential (LDR) and a zoning designation of Residential Estate-Five Acres (RE-5), which allows single-family dwellings and residential accessory uses/structures by right. With the exception of the proposed setback variance, the construction of the single-family dwelling would be permitted by right in the RE-5 zoning designation. The property is also located within an Important Biological Corridor and rare plant mitigation area one. The granting of this variance would help prevent the removal of important biological resources such as Oak woodlands. It would also help minimize grading and excavation that could impact rare plants, as all other sites on the parcel are sloped and would likely require extensive grading. The project would be consistent with the LDR land use designation, RE-5 zoning district, and aforementioned overlay districts.

Staff analyzed this project for consistency with applicable General Plan policies and Zoning Ordinance codes. The project is consistent with General Plan policies 7.1.2.1, 7.3.3.4, 7.4.4.2, and 7.4.4.3. The project is consistent with Zoning Ordinance codes 130.30.050-G and 130.39.040. See the Findings section of this report for further analysis.

The granting of a Variance requires four findings pursuant to Section 130.52.070 of the County Code. These findings for approval and their respective discussions are detailed in the Findings section.

The project was distributed to the El Dorado County Environmental Management Department, Rescue Fire Protection District, El Dorado County Resource Conservation District, El Dorado County Surveyor's Office, and El Dorado County Department of Transportation (DOT). The only comments received were from the Surveyor's Office and DOT indicating that neither department had any concerns or conditions for the project.

ENVIRONMENTAL REVIEW

This project is Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15303(a) that allows the construction of one single-family residence, as well as Section 15305(a) that allows minor alterations in land use limitations including setback variances not resulting in the creation of any new parcel.

A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional; however, not filing the Notice extends the statute of limitations for legal challenges to the project from 35 days to 180 days.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Exhibit A.....	Location Map
Exhibit B.....	Aerial Map
Exhibit C.....	Site Plan
Exhibit D.....	USGS Topographic Map
Exhibit E.....	Flood Map
Exhibit F.....	Parcel Map 035-071

FINDINGS

Variance V18-0002/Bassler Zoning Administrator/October 16, 2019

1.0 CEQA FINDINGS

- 1.1 This project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303(a) that allows the construction of one single-family residence, as well as Section 15305(a) that allows minor alterations in land use limitations including setback variances not resulting in the creation of any new parcel. The project will not have a significant effect on the environment due to unusual circumstances.
- 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 Development Services Department, Planning Services, at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 7.1.2.1.

General Plan Policy 7.1.2.1 restricts the Development or disturbance of slopes over 30%. Standards for implementation of this policy, including but not limited to exceptions for access, reasonable use of the parcel, and agricultural uses shall be incorporated into the Zoning Ordinance.

Rationale: The granting of this variance would prevent disturbance of the portions of this lot with slopes over 30% by allowing the proposed single family residence to be located on a flat portion of the parcel. The proposed location would not require any cut and fill or major grading, avoiding disturbance of surrounding slopes.

2.2 The project is consistent with General Plan Policy 7.3.3.4.

General Plan Policy 7.3.3.4 mandates buffers and setbacks for the protection of riparian areas and wetlands as specified in the Zoning Ordinance Title 130.

Rationale: The proposed location of the single family residence would comply with the riparian and wetland setbacks as specified in the Zoning Ordinance (see Finding 3.1). The only other locations that would be outside of these setbacks would be on the other side of Weber Creek and would require the construction of access across the creek.

2.3 The project is consistent with General Plan Policies 7.4.4.2 and 7.4.4.3.

General Plan Policies 7.4.4.2 and 7.4.4.3 specify that through the review of discretionary projects the County shall encourage the conservation protection, planting, restoration, and regeneration of native trees in new developments and within existing communities and encourage the clustering of development to retain the largest contiguous areas of forests and oak woodlands possible.

Rationale: The granting of this variance would prevent disturbance of Oak woodlands and other native trees on the subject parcel. The proposed location of the single family residence would not require the removal of any Oaks. The rest of the parcel is heavily wooded.

3.0 ZONING ORDINANCE FINDINGS

3.1 The project is consistent with Zoning Code 130.30.050-G.

Zoning Code 130.30.050-G establishes standards for avoidance and minimization of impacts to wetlands and sensitive riparian habitat as provided in General Plan Policies 7.3.3.4. Specific riparian setbacks for Weber Creek are 50 feet from the ordinary high water mark.

Rationale: The proposed location of the single family residence would meet the specified 50 foot setback.

3.2 The project is consistent with Zoning Code 130.39.040.

Zoning Code 130.39.040 specifies that with the exception of exempt activities no person shall remove, or otherwise cause an impact to Oak Resources unless the requirements of Chapter 130.39 are fully met and a permit has been obtained.

Rationale: The proposed location of the single family residence would not require the removal of any Oak Resources.

4.0 VARIANCE FINDINGS

4.1 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;

As previously mentioned in the Existing Conditions section the parcel is severely limited by slope, biological features, and recorded easements. The parcel drops significantly from approximately 700 feet elevation at the highest point on the northeastern property line to approximately 600 feet at the lowest point which is the canyon of Weber Creek which imposes a 50 foot riparian protection setback and creates a Special Flood Hazard Area (SFHA). Oak woodland is also prevalent throughout the parcel. A 50 foot wide road and public utility easement was recorded for Jasper Circle through the middle of the parcel. The granting of this variance would allow the property owner to build a single family residence in the only location on this parcel that is flat, outside of the SFHA/riparian setbacks, naturally clear of Oak woodland, and outside of all easements. Finding 2.1 can be made.

- 4.2 **The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other property in the vicinity and the same zone (California Government Code Section 65906).**

As mentioned above, the proposed residence location is the only site on this parcel that is flat, outside of the SFHA/riparian setbacks, naturally clear of Oak woodland, and outside of all easements. Without the granting of this variance the construction of a single family residence, a use allowed by right in the RE-5 zoning designation, would likely not be possible. Furthermore, all of the parcels on Jasper Circle are zoned RE-5 with six having permitted single family residences. Thus, finding 2.2 can be made.

- 4.3 **The variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).**

The granting of this variance would not permit any use that is not already allowed by right within the RE-5 zoning district. The surrounding RE-5 zoned parcels do not have the same development limitations due to increased length, allowing for development further away from the river, or different placement of the road easement. Finding 2.3 can be made.

- 4.4 **The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.**

The project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the Variance. The proposed Variance allowing a reduction in the front yard setback is compatible with the maps, objectives, policies, programs, and general land uses specified in the El Dorado County General Plan and Zoning Ordinance and will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area. Finding 2.4 can be made.