

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: June 28, 2007
Item No.: Consent
Staff: Pierre Rivas

SITE PLAN REVIEW

FILE NUMBER: SPR07-0011/Building permit #176138

APPLICANT: Steve and Nancy Costa

AGENT: Cornelius G. Hunter, PhD, Consulting Biologist

REQUEST: Finding of General Plan Consistency with Policies 7.3.3.4 and 7.4.2.9 for reduction of building setbacks for a second residential dwelling from a pond from 100 to 70 feet.

LOCATION: On the north side of Orchard Court, approximately 1,500 feet northwest of the intersection with Oak View Drive and Rattlesnake Bar Road in the Pilot Hill area, Supervisorial District IV. (Exhibit A)

APN: 071-291-04 (Exhibit B)

ACREAGE: 10.03

GENERAL PLAN: Low Density Residential-Important Biological Corridor (LDR-IB)

ZONING: Estate Residential Five-acre (RE-5) (Exhibit C)

ACKGROUND:

The Interim Interpretive Guidelines for General Plan Policy 7.3.3.4 requires that a minimum setback of 100 feet from all perennial streams, rivers, and lakes, and 50 feet from intermittent streams and wetlands until standards for buffers and special setbacks are established in the zoning ordinance.

The applicants propose to construct a 1,036 square foot second residence 70 feet from a pond (Exhibit C). The pond is man-made, having been constructed for agricultural irrigation.

Pursuant to the Interim Guidelines, since the parcel is located within an Important Biological Corridor (IBC), as shown on the General Plan Land Use Map, a determination of consistency with General Plan Policy 7.4.2.9 is required. The Planning Commission may also consider higher oak canopy cover retention and mitigation standards than for projects outside of an IBC.

The owners have submitted Site Plan Review SPR07-0011 requesting a finding of consistency with the intent of General Plan Policy 7.4.2.9 concurrently with the submittal of the building permit.

DISCUSSION:

The applicants propose to construct a second residential dwelling on an existing 10.03 acres, Lot 7, within the Pilot Hills Estates, Unit No. 1 subdivision (Exhibit D). The adjoining parcels to the north and to the west are zoned Exclusive Agriculture (AE). The dwelling unit would be placed 203 feet from the west property boundary and approximately 700 feet from the north property boundary meeting the 200-foot special agricultural setback requirement. The dwelling is proposed to be placed 70 feet from the existing pond where 100 feet is required.

The pond is man-made for storage of irrigation water and will continue to be used for these purposes. The pond level is maintained with water from the Georgetown Public Utilities District and has been pumped out for irrigation of a two-acre fruit orchard and garden.

The proposed location is at a high spot within this general area of the property. The area to the south towards Orchard Court is within a drainage swale and is a wet area during the winter season. This location also reduces the amount of existing orchard that would otherwise need to be removed if the residence were to be located more to the southeast portion of the site.

Impact on the Pond:

A biological report prepared by Cornelius Hunter, PhD, was submitted to Development Services (*Biological Site Assessment Report for the Second Residence at 921 Orchard Court*, dated April 2007) to evaluate the sensitivity of the pond and any potential impacts the dwelling may have on the pond and identification of any "best management practices" to be followed to reduce or eliminate any impacts.

The report concluded that the pond is a man-made pond for irrigation purposes and that the proposed development will have no effect on the pond. No impact to sensitive habitats; special-status species; or deer ranges or migration would result. No streams, ponds, or other wetlands areas occur on the parcel. No indigenous oak trees are being removed.

A field inspection of the property by the consulting biologist was conducted on April 22, 2007. Eighteen pond willows (*Salix gracilistyla*) and one Bartlett pear tree were observed growing on the perimeter of the pond. Approximately two acres of the southeast portion of the property consist of

fruit orchard and garden.

A 50-foot length of construction fence will be placed on the south side of the pond to provide for a barrier to prevent infringement of construction activities on the pond.

CONCLUSIONS:

The required findings required by the Interim Guidelines include the variance findings under Section 17.22.630 of the Zoning Ordinance and that the alternative setback is consistent with the General Plan.

RECOMMENDATION: Staff recommends that the Planning Commission find that the proposed placement of the second residential dwelling at 70 feet from the pond is consistent with the intent of General Plan Policy 7.3.3.4 and 7.4.2.9 based on the above discussion subject to the Conditions of Approval in Attachment 1 and based on the Findings in Attachment 2.

ATTACHMENTS TO STAFF REPORT:

Attachment 1: Conditions of Approval

Attachment 2: Findings

Exhibit A: Location Map

Exhibit B: Assessor's Parcel Map

Exhibit C: Site Plan

Exhibit D: Subdivision Map: Pilot Hills Estates Unit No. 1

Exhibit E: General Plan Policy 7.3.3.4

Exhibit F: General Plan Policy 7.4.2.9

**ATTACHMENT 1
CONDITIONS OF APPROVAL**

**File Number SPR07-0011
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1. The project, as approved, shall conform to the approved site plan, Exhibit C.
2. The second residential dwelling shall be located no less than 70 feet from the pond as shown on the approved site plan.
3. Construction of the second residential dwelling shall be subject to the issuance of a building permit form El Dorado County Building Services.
4. The driveway encroachment onto Orchard Court providing access to the second residential dwelling shall be subject to approval by the Department of Transportation.
5. The consulting biologist for the applicant shall set stakes for measurement of setbacks. The setback shall be measured from the outermost edge of hydric soils. The edge of the hydric soils shall be delineated on the construction plans. Said stakes shall be placed prior to commencing any construction activities.
6. Construction fencing shall be placed a minimum of 50 feet from the pond (measured from edge of hydric soils) between the pond and the second dwelling as a barrier from construction activities. Placement of the construction fencing shall be shown on the construction plans and shall be in place prior to commencing any construction activities.

**ATTACHMENT 2
FINDINGS**

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June 28, 2007, Planning Commission Hearing**

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 no resulted from any act of the owner or applicant;*

The property is bounded on the north and the west by lands zoned Exclusive Agriculture which severely restricts the location of uses sensitive to agricultural nuisances. The second residential dwelling is subject to providing for a 200-foot setback from the north and west property boundaries limiting the feasible locations for the dwelling and septic system. The proposed location is the high spot within this general area of the property. The area to the south towards Orchard Court is within a drainage swale and is a wet area during the winter season. This location also reduces the amount of existing orchard that would need to be removed.

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;*

Second residential dwelling units are a use allowed by right in the Estate-Residential Zone District (RE-10) and second residential units are encouraged by General Plan policy as a means of providing for affordable housing needs (Housing Element, Measure HO-F).

3. *The variance is the minimum necessary for the reasonable use of the land or building;*

The proposed location meets the minimum special agricultural setbacks, reduces the amount of orchard trees to be removed, avoids a drainage swale, and would maintain a minimum of 70 feet from a man-made irrigation pond.

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.*

A reduction in the setback from the pond from 100 feet to 70 feet would not be detrimental to the public health, safety and welfare, or be injurious to the neighborhood.

5. *The alternative setback is consistent with the General Plan.*

The alternative setback of 70 feet would not affect the pond which is a man-made water retention feature for irrigation of agricultural uses on the subject property and is therefore consistent with General Plan Policy 7.3.3.4 by providing for an adequate setback for protection of the pond.

EXHIBIT E

GENERAL PLAN POLICY 7.3.3.4

The Zoning Ordinance shall be amended to provide buffers and special setbacks for the protection of riparian areas and wetlands. The County shall encourage the incorporation of protected areas into conservation easements or natural resource protection areas.

Exceptions to riparian and wetland buffer and setback requirements shall be provided to permit necessary road and bridge repair and construction, trail construction, and other recreational access structures such as docks and piers, or where such buffers deny reasonable use of the property, but only when appropriate mitigation measures and Best Management Practices are incorporated into the project. Exceptions shall also be provided for horticultural and grazing activities on agriculturally zoned lands that utilize “best management practices (BMPs)” as recommended by the County Agricultural Commission and adopted by the Board of Supervisors.

Until standards for buffers and special setbacks are established in the Zoning Ordinance, the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

For projects where the County allows an exception to wetland and riparian buffers, development in or immediately adjacent to such features shall be planned so that impacts on the resources are minimized. If avoidance and minimization are not feasible, the County shall make findings, based on documentation provided by the project proponent, that avoidance and minimization are infeasible.

EXHIBIT F

GENERAL PLAN POLICY 7.4.2.9

The Important Biological Corridor (-IBC) overlay shall apply to lands identified as having high wildlife habitat values because of extent, habitat function, connectivity, and other factors. Lands located within the overlay district shall be subject to the following provisions except that where the overlay is applied to lands that are also subject to the Agricultural District (-A) overlay or that are within the Agricultural Lands (AL) designation, the land use restrictions associated with the -IBC policies will not apply to the extent that the agricultural practices do not interfere with the purposes of the -IBC overlay.

- Increased minimum parcel size;
- Higher canopy-retention standards and/or different mitigation standards/thresholds for oak woodlands;
- Lower thresholds for grading permits;
- Higher wetlands/riparian retention standards and/or more stringent mitigation requirements for wetland/riparian habitat loss;
- Increased riparian corridor and wetland setbacks;
- Greater protection for rare plants (e.g., no disturbance at all or disturbance only as recommended by U.S. Fish and Wildlife Service/California Department of Fish and Game);
- Standards for retention of contiguous areas/large expanses of other (non-oak or non-sensitive) plant communities;
- Building permits discretionary or some other type of “site review” to ensure that canopy is retained;
- More stringent standards for lot coverage, floor area ratio (FAR), and building height; and
- No hindrances to wildlife movement (e.g., no fences that would restrict wildlife movement).

The standards listed above shall be included in the Zoning Ordinance.

Wildland Fire Safe measures are exempt from this policy, except that Fire Safe measures will be designed insofar as possible to be consistent with the objectives of the Important Biological Corridor