

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



Agenda of: April 24, 2008
Item No.: 10.
Staff: Michael C. Baron

SITE PLAN REVIEW

FILE NUMBER: SPR08-0003/Carson Creek Corporate Center

APPLICANT: Warren Consulting Engineers

AGENT: Thomas Fassbender/Scott Hodson-PAC/SIB LLC

REQUEST: Finding of Consistency with General Plan Policy 7.3.3.4 for reduction of the riparian setbacks from 100 feet and 50 feet to the area considered "No Impact Area" as approved under a US Army Corps of Engineers Nationwide Permit #39. A Finding of Consistency would allow the construction of two commercial buildings (55,525 square feet and 46,875 square feet) and import of soil from adjacent parcels (Assessor's Parcel Numbers 117-210-33 and 117-010-06).

LOCATION: On the north side of Golden Foothill Parkway, at the intersection with Latrobe Road in the El Dorado Hills Area, Supervisorial District II. (Exhibit A)

APN: 117-210-33, 34 and 117-010-06 (Exhibit B)

ACREAGE: 34.07 acres

GENERAL PLAN: Research & Development-El Dorado Hills Community Region (R&D-EDH) (Exhibit C)

ZONING: Research & Development- Design Control (R&D-DC) (Exhibit D)

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND

The applicants submitted an application for building permits to Development Services on November 14, 2007 proposing to construct two commercial buildings (55,525 square feet and 46, 875 square feet) and import soil from adjacent parcels (Assessor's Parcel Numbers 117-210-33 and 117-010-06). The development area has a total acreage of 34.07 acres and is adjacent to the El Dorado Hills Business Park (Exhibit F). The proposed development would be approved by Development Services under ministerial building permits (Permit #'s 185688, 185691 & Grading Permit #185965). The property contains a portion of Carson Creek as well as other riparian features that require issuance of a Nationwide Permit #39 from the Army Corps of Engineers. The Nationwide Permit would allow the applicant to fill 0.424 acres of wetland area, temporarily impact 0.012 acres of wetland area and provide special setbacks and mitigation measures to ensure the conservation and maintenance of the remaining 9.63 acres of riparian features within the project vicinity.

DISCUSSION

The applicant proposes to construct two buildings (55,525 square feet and 46, 875 square feet), parking lots, landscaping, and site improvements on a 34.07 acre site (Exhibit F). The site is adjacent to the El Dorado Hills Business Park with existing buildings and vacant residential to the south, Carson Creek and a county fire station to the west, residential land to the east, and vacant commercial land to the north. The project site is comprised of gently rolling terrain, and is at an elevation of approximately 480 to 520 feet above mean sea level. The site is covered by predominantly annual grassland. The east and west sides of the property contain riparian features with Carson Creek running along the western property line. Buildings, parking areas, retaining walls, and landscaping are proposed to encroach upon the required 100 foot and 50 foot minimum setback required for watercourses and riparian features.

Interim Interpretive Guidelines

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

General Plan Policy 7.3.3.4 states, "These interim standards may be modified 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." Also, "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."

Impacts on the Perennial Streams and Riparian Areas

A biological report prepared by ECORP Consultants, Inc., was submitted to Development Services (*PacTrust El Dorado Hills Corporate Center, El Dorado County, CA*, dated August 4, 2006)

accompanied by an application to the Army Corps of Engineers for a Nationwide Permit #39, which evaluated the proposed Corporate Center project to allow the applicant to impact 0.436 acres of watercourses and riparian features as well as for consistency with El Dorado County General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for that policy. The report evaluates the sensitivity of Carson Creek, riparian areas, and any potential impacts that the proposed project would have on these resources. The report also identifies “Best Management Practices” to adhere to, which will mitigate and reduce potential impacts of the project.

The proposed drainage improvements are designed to capture, drain and filter stormwater runoff through the use of retaining walls and drainage swales along the south side of the property that would direct runoff. Drainage swales and a detention basin would filter out particulate and slow introduction of runoff into the riparian areas. These design features are proposed to be located within the required minimum setbacks as set forth in General Plan Policy 7.3.3.4 Interim Interpretive Guidelines, therefore the area referred to as Preserve Area (Exhibit G) would be the setback from riparian areas.

The report concludes that the proposed alternative setbacks and site design incorporates sufficient setbacks to protect Carson Creek and riparian areas.

CONCLUSION

As conditioned, the project incorporates “Best Management Practices” to minimize impacts on Carson Creek and the riparian areas and the request to reduce the 100 foot and 50 foot setback requirements from streams and riparian areas would be consistent with the intent of El Dorado County General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for that Policy.

RECOMMENDATION

Staff recommends that the Planning Commission find that the proposed reductions in setbacks from riparian areas are consistent with the intent of General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for said Policy based on the above discussion, subject to the Conditions of Approval in Attachment 1, and based on the Findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1: Conditions of Approval

Attachment 2: Findings

Exhibit A: Vicinity Map

Exhibit B: Assessor's Parcel Maps

Exhibit C: General Plan Land Use Map

Exhibit D: Zoning Map

Exhibit E: Overall Site Plan

Exhibit F: Development Site Plan

Exhibit G: Preserve Area

Exhibit H: Army Corps of Engineers Nationwide Permit #39

ATTACHMENT 1
CONDITIONS OF APPROVAL

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1. The project is based upon and limited to compliance with the project description, the Planning Commission hearing exhibits marked Exhibits E, F, G, H approved April 24, 2008, 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 finding of consistency with General Plan Policy 7.3.3.4, to allow the construction of two commercial buildings (55,525 square feet and 46, 875 square feet) and import of soil from adjacent parcels (APN's 117-210-33 and 117-010-06). A finding of consistency serves to protect the integrity of the preserve and avoid unanticipated future impacts by not allowing roads, utility lines, trails, benches, equipment or fuel storage, grading, firebreaks, mowing, grazing, planting, discing, pesticide or herbicide use, burning, artificial water aeration systems/fountains, or other structures or activities shall be constructed or occur within the on-site mitigation preserve and avoidance areas without specific, advance written approval from the Army Corps of Engineers.

The Army Corps of Engineers permit does not authorize the applicant to take an endangered species, in particular the vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), or designated critical habitat. The authorization under the Army Corps of Engineers permit is conditional upon the applicant compliance with all of the mandatory terms and conditions associated with "incidental take" of the Biological Opinion (Fish and Wildlife Service Biological Opinion (Number 81420-2008-F-156, dated October 29,2007)), which terms and conditions are incorporated by reference of the Army Corps of Engineers permit. Failure to comply with the terms and conditions associated with incidental take of the Biological Opinion, where a take of the listed species occurs, would constitute an unauthorized take, and would also constitute non-compliance with the Army Corps of Engineers permit.

2. Construction of the two commercial buildings, parking lots and improvements shall be subject to the issuance of a building permit form El Dorado County Building Services.
3. 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, as provided in Section 66474.9(b) of the California Government Code.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning the site plan review, which action is brought within the time period provided for in Section 66499.37. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

4. The applicant shall submit written evidence from the Army Corps of Engineers that the Nationwide Permit #39 has been issued, prior to grading permit issuance.

**ATTACHMENT 2
FINDINGS**

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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 project site is bordered on the west side by Carson Creek (7.466 acres) and 3.659 acres of riparian area to the south.

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.*

Similar research and development campus type uses are found immediately to the south. The locations of the proposed structures are within areas that would minimize impacts to riparian areas as much as possible. The applicant has followed the process set forth by General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for that Policy. Strict application of the provisions would deprive the applicant of the reasonable use of the land for commercial development.

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

To accommodate the proposed project, the riparian setback will be reduced to the minimum necessary to locate the required improvements parking pursuant to County Code and sufficiently protect Carson Creek as well as riparian areas.

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.*

The reduction in setbacks from the Carson Creek and riparian areas have been designed for sufficient protection of those features and 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 proposed project has been designed in a manner to ensure that alternative setbacks would not have an adverse effect on Carson Creek and riparian areas. The project, therefore, is consistent with intent of General Plan Policy 7.3.3.4 by providing for an adequate setback for protection of natural and man-made wetlands, vernal pools, wet meadows, and riparian areas from impacts related to development for their importance to wildlife habitat, water purification, scenic values, and unique and sensitive plant life.