

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



Agenda of: May 27, 2010
Item No.: 4.b
Staff: Michael C. Baron

SITE PLAN REVIEW

FILE NUMBER: SPR10-0001/Riparian Setback Reduction

APPLICANT: Ken DiLullo

AGENT: Joe Donald

REQUEST: Finding of Consistency with General Plan Policy 7.3.3.4 for reduction of the perennial stream setback from 100 feet to no less than 9 feet from the high water mark to allow the construction of a two-story 1,632 square foot addition to an existing single-family dwelling.

LOCATION: Located on the west side of No Easy Road, approximately 500 feet north of the intersection with Clark Mountain Road in the Lotus area, Supervisorial District IV (Exhibit A).

APN: 105-110-27 (Exhibit B)

ACREAGE: 5.14 acres

GENERAL PLAN: Rural Residential-Important Biological Corridor (RR-IBC Exhibit C)

ZONING: Estate Residential 10-Acre (RE-10 Exhibit D)

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND

The applicant submitted applications for building permits in January 2010 for a two-story 1,632 square foot addition. Jacobs Creek, a perennial stream, traverses the project site from south to north. As the applicant proposes to construct a residential addition with 9 feet of the perennial stream, General Plan Policy 7.3.3.4 consistency must be achieved prior to the issuance of a ministerial building permit.

DISCUSSION

The applicant proposes to construct a two-story 1,632 square foot addition to an existing single family dwelling. The rectangular property is predominated by annual grasslands. Two sides of the property are bordered with paved roads, one side borders a residential home, and the forth side borders a vacant two acre lot.

Development of the site for a single family dwelling is permitted within the R1A zone district. The project does conform with all setbacks and height limitations, with exception to the required setbacks to perennial features.

Interim Interpretive Guidelines

The Interim Interpretive Guidelines for General Plan Policy 7.3.3.4 requires 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 Stream

A project level biological report, dated January 18, 2010 prepared by Sycamore Environmental Consultants, Inc. was submitted to Development Services (Exhibit “I”). The report concludes that the proposed project allowing a 9 foot setback from the perennial stream with recommended mitigation measures and BMP’s would not affect water quality or further impair the functions and values of the onsite drainage¹. Staff has reviewed the document and is satisfied that the recommendations provided would protect the perennial stream.

CONCLUSION

As conditioned, the project incorporates “Best Management Practices” to minimize impacts on the perennial wetland and the riparian areas and the request to reduce the required 100 foot setback to 9 feet from Jacobs Creek, a perennial stream, 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 reduction of the setback is 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.

¹ Page 3, *Alternative Setback Analysis, Exhibit F*

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings of Fact
Exhibit A	Location Map
Exhibit B	Assessor's Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan Exhibit
Exhibit F	January 18, 2010 Memo from Sycamore Environmental Consultants

ATTACHMENT 1

CONDITIONS OF APPROVAL

Site Plan Review SPR10-0001/DiLullo Riparian Setback Reduction Planning Commission Hearing/May 27, 2010

1. The project is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits E, and F 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. Given the small scale of the project, its setting within a residential area, and the degraded nature of the onsite drainage, we believe the following mitigation measures and Best Management Practices (BMP's) will be sufficient to protect the biological resources in the project area and prevent indirect impacts on downstream biological resources. Construction could therefore a 9 foot setback would not have adverse effects on biological resources.
2. The project Description is as follows:

A Finding of Consistency with General Plan Policy 7.3.3.4 for reduction of the perennial stream setback from 100 feet to no less than 9 feet commensurate with recommendations made by the applicant's biologist. A Finding of Consistency would allow the construction of a 1,632 square foot addition to a single family dwelling on Assessor's Parcel Number 105-110-27, as depicted on Exhibit E of the Staff Report for project number SPR10-0001.
3. Construction of the 1,632 square foot addition including grading shall be subject to the issuance of a building permit form El Dorado County Building Services.
4. 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.
5. 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.

ATTACHMENT 2

FINDINGS

Site Plan Review SPR10-0001/DiLullo Riparian Setback Reduction Planning Commission Hearing/May 27, 2010

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 project site is a 5.14 acre residential parcel and there is a perennial stream (Jacobs Creek) onsite that traverses the property from south to north. Very few of the parcels in the vicinity have this same, unique physical feature.

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.

The project site is surrounded by similar residential uses. 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 residential development.

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

The applicant's biologist has recommended a minimum setback of 9 feet from the perennial stream to protect the integrity of the riparian habitat. This is the minimum variance that is necessary for the reasonable use of the land as a residential home site.

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 perennial feature on the project site has been designed for sufficient protection of the integrity of the riparian habitat 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 the perennial feature. The proposed 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.