

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



Agenda of: January 12, 2012

Item No.: 8

Staff: Tom Purciel

VARIANCE

FILE NUMBER: V11-0002/Hutchens Family

APPLICANT: Hutchens Family Limited Partnership

AGENT: Gary Davis Group

REQUEST: Variance request to reduce the front yard setback from 20 feet to zero feet for a covered carport.

LOCATION: On the east side of Meeks Bay Avenue, approximately 0.5 mile south of the intersection with State Route 89, in the Meeks Bay area, Supervisorial District 5 (Exhibit A).

APN: 016-081-28 (Exhibit B)

LOT SIZE: 9,212 square feet

GENERAL PLAN: Adopted Plan (AP): Tahoe Regional Planning Agency (TRPA) Regional Plan, Rubicon Plan Area Statement 149, Residential land use classification (Exhibit C).

ZONING: Tahoe Single-Family Residential (TR1) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Sections 15303(e) and 15305(a) of the CEQA Guidelines

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Sections 15303(e) and 15305(a); and
2. Approve Variance V11-0002 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to reduce the front yard setback from 20 feet to zero feet for a covered carport, as required by Section 17.56.040 of the County Zoning Ordinance. For details, refer to the project site plan, Exhibit E.

Site Description: The 9,212 square-foot subject parcel is located on the east side of Meeks Bay Avenue approximately 0.5 miles south of the intersection with State Route 89 at an approximate elevation of 6,300 feet above mean sea level. The parcel is steeply sloped, with average slopes exceeding 40 percent. Site vegetation consists of an open Jeffrey Pine forest with associated understory shrubs, including Pine Mat Manzanita. The rear yard of the parcel abuts the west shore of Lake Tahoe. Existing improvements at the subject site include a single-family residence, uncovered parking platform and catwalks/piers for lake access.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 149*	AP (TRPA Regional Plan)	Existing single-family residence
North	TR1, PAS 149	AP	Single-family residential
South	TR1, PAS 149	AP	Single-family residential
East	N/A	N/A	Lake Tahoe
West	TR1, PAS 149	AP	Single-family residential

*Plan Area Statement 149, Rubicon, which is primarily residential use.

Discussion: The permitting of the proposed variance to allow a zero foot front-yard setback for the proposed covered carport is not anticipated to negatively impact other residential uses in the project area. First, the location of the proposed carport would be consistent with the location of other carports and/or garages in the vicinity and the proposed structure will not visually project farther than existing garages on both the north and south adjacent parcels (Refer to site photographs, Exhibit H.). Second, the proposed carport is not anticipated to significantly affect public health and safety,

as the carport would be located over an existing off-street parking pad and would contain open sides to allow for a clear line-of-sight for vehicles entering or leaving the residence (Refer to building elevations, Exhibit F). Also, the proposed carport would not be located in proximity to any public utility easements or infrastructure (Exhibit I). In summary, the construction and use of the carport is not anticipated to be detrimental to public health, safety or welfare, or be injurious to the neighborhood. A detailed discussion of these issues follows under the “variance findings” section of this report.

General Plan: The County General Plan designates the subject parcel as Adopted Plan, which refers to the Tahoe Regional Planning Agency’s Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 149, Rubicon, which is primarily residential use (Exhibit C). The proposed carport is an allowed residential use. The granting of this variance, therefore, conforms to the TRPA Plan Area Statement.

The County General Plan provides broad deference to the TRPA Regional Plan, for the implementation of related General Plan policies and for the review of County discretionary projects. With regard to the Tahoe Basin, the primary goal of the County General Plan is to integrate the County’s regulations with those of TRPA, to eliminate inconsistencies with the Regional Plan, and to simplify the regulatory environment in the Tahoe Basin, as articulated in *Goal 2.10* of the *County General Plan* and its associated policies.

Tahoe Regional Planning Agency (TRPA): TRPA approval would be required to construct the proposed single story carport; the applicant will pursue said TRPA approval concurrent with this Variance request.

Zoning: With the exception of the proposed zoning setback variance, the construction of a residential accessory structure would be permitted by-right in the TR1 Zone District. As proposed, the project is consistent with all other development standards contained within Section 17.56.040 of the Zoning Ordinance. Approval by the Planning Commission is required for modification to the zone district development standards pursuant to Section 17.56.040.

Variance Findings: The granting of a variance requires four findings pursuant to Section 17.22.630 of the County Zoning Ordinance. Accordingly, these findings are shown below with a discussion of the issues related to each finding. Appropriate findings for approval are also listed in Attachment 2 of this report.

Required Finding 2.1: 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.

Virtually the entire subject parcel is constrained by the lack of additional area to locate a covered carport outside the setbacks required by Section 17.56.040 due to a combination of steep slope (exceeding 40 percent), narrow parcel configuration, the location of the backshore boundary (high

water effects) of Lake Tahoe, as defined in Section 55.2 of the TRPA Code of Ordinances, and the location of the existing single-family residence. Therefore, due the above significant parcel constraints, it can be found that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in this application, and that these circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 2.1 can be made.

Required Finding 2.2: 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.

Noncommercial accessory buildings and structures, including garages/carports, are among uses allowed by right in the Tahoe One Family (TR1) Zone District. Further, it has been determined that garages in the Lake Tahoe Basin constitute a reasonable use due to the excessive amount of annual snowfall the area experiences. By requiring the applicant to locate the carport in accordance with the building setbacks of the Tahoe One Family (TR1) Zone District, the strict application of the provisions of the ordinance would thus deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone, and therefore, Finding 2.2 can be made.

Required Finding 2.3: The variance is the minimum necessary for the reasonable use of the land or building.

As discussed above, significant parcel constraints would not allow the proposed carport to be constructed at the required zoning setback. Accordingly, the proposed carport has been sited at the only reasonable location in order to allow for two 9' X 18' off-street parking spaces as required by Section 17.18.060 of the Zoning Ordinance. Therefore, this variance request reducing the front yard setback from 20 feet to zero feet is the minimum necessary for the reasonable use of the land or building, and required finding 2.3 can be made.

Required Finding 2.4: 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 project was distributed to all applicable responsible agencies, public utility companies, and adjacent property owners and no objections were raised. As proposed, the proposed carport would be located over the existing parking pad and would contain open sides to allow for a clear line-of-sight for vehicles entering or leaving the residence. Further, the proposed carport would not be located in proximity to any public utility easements or infrastructure, nor encroach into the County Right-of-Way. Therefore, the variance, as proposed and conditioned, is in conformity with the intent of this article and is not anticipated to be detrimental to the public health, safety, and welfare, or be injurious to the neighborhood. Accordingly, required finding 2.4 can be made.

Conclusion: As discussed above, staff finds the variance, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15303(e) that allows accessory (appurtenant) structures including garages, garages, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as Section 15305(a) that allows minor alterations in land use limitations for a variance. No further environmental analysis is necessary. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map Page
Exhibit C	TRPA Plan Area Statement 149, Rubicon Residential
Exhibit D	Zoning District Map
Exhibit E	Site Plan
Exhibit F	Proposed Building Elevations
Exhibit G	Applicant's Variance Support Information
Exhibit H	Site Photographs
Exhibit I	Utility Location Map

ATTACHMENT 1

CONDITIONS OF APPROVAL

Variance V11-0002/Hutchens Family
Planning Commission/January 12, 2012

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, the hearing exhibits marked as Exhibits A-I 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:

Variance request to reduce the front yard setback from 20 feet to zero feet for a covered carport, as shown on the approved site plan (Exhibit E) and building elevations (Exhibit F).

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. 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 processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a variance, which action is brought within the time period provided for in *Section 66499.37* of the *California Government Code*.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

Meeks Bay Fire Protection District

3. All building permit plans shall be reviewed by the District as part of the plan check process.
4. Any structure encroaching into required building setbacks shall meet all Chapter 7A requirements.
5. 6-inch address numbers shall be required on the new building.
6. All existing and proposed structures shall comply with defensible space requirements pursuant to the publication "Living with Fire in the Tahoe Basin". Compliance will be verified by the District prior to final building inspection(s).
7. Any structure encroaching into required building setbacks shall utilize 1-1/8" sheetrock, to the satisfaction of the District.

Department of Transportation

8. Prior to issuance of a building permit, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback line removal. The form of said document shall be reviewed and approved by the County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's office. Once recorded, an official copy shall be sent to the Department of Transportation, Placerville office.

ATTACHMENT 2

FINDINGS

Variance V11-0002/Hutchens Family Planning Commission/January 12, 2012

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15303(e) that allows accessory (appurtenant) structures including garages, patios, swimming pools, and fences in areas where no sensitive environmental resources exist, as well as Section 15305(a) that allows minor alterations in land use limitations for a variance.

2.0 VARIANCE FINDINGS

- 2.1 *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.*

Due to unique parcel constraints such as excessive slope, narrow parcel configuration and the location of the backshore boundary of Lake Tahoe, there are no other reasonable locations for a covered carport outside the required zoning setbacks. Accordingly, due the above constraints, it can be found that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in this application, and that these circumstances have not resulted from any act of the owner or applicant. Therefore, required Finding 2.1 can be made.

- 2.2 *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.*

Noncommercial accessory buildings and structures, including garages, are among uses allowed by right in the Tahoe One Family (TR1) Zone District. Further, it has been determined that garages in the Lake Tahoe Basin constitute a reasonable use due to the excessive amount of annual snowfall the area experiences. By requiring the applicant to locate a garage in accordance with zoning setbacks, the strict application of the provisions of the ordinance would thus deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone, and therefore, required Finding 2.2 can be made.

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

Due to significant parcel constraints, the proposed carport has been sited at the only reasonable location to allow compliance with the minimum off-street parking requirements of the Zoning Ordinance. Therefore, this variance request reducing the front yard setback from 20 feet to zero feet is the minimum necessary for the reasonable use of the land or building, and required Finding 2.3 can be made.

- 2.4 *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 project was distributed to all applicable responsible agencies, public utility companies, and adjacent property owners and no objections were raised. In addition, the proposed carport would not encroach into the County right-of-way or into any public utility easement or existing utility infrastructure. Further, as proposed and conditioned, the carport is not anticipated to obstruct traffic flow or snow clearing operations. Therefore, the variance is in conformity with the intent of this article and will not be detrimental to the public health, safety and welfare, or injurious to the neighborhood. Therefore, required Finding 2.4 can be made.