

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



Agenda of:	December 13, 2012
Item No.:	9.a
Staff:	Gina Paolini

SPECIAL USE PERMIT

FILE NUMBER: S12-0013/Kozycz Family Home

APPLICANT: Robert W. Allen

ENGINEER: Don Blessen & Associates

OWNER: Arcadio Kozycz

REQUEST: Special Use Permit to construct a 1,190 square foot single family residence within the Timber Preserve Zone District.

LOCATION: Located on the south side of Grizzly Flat Road, approximately 0.6 miles east of the intersection with Cal Dor Road, in the Grizzly Flat area, Supervisorial District 2. (Exhibit A)

APN: 041-031-36 (Exhibit B)

ACREAGE: 86.5 acres

GENERAL PLAN: Natural Resources (NR) (Exhibit C)

ZONING: Timber Preserve Zone District (TPZ) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303(a) of the CEQA Guidelines

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

1. Find the project is Exempt from CEQA pursuant to Section 15303(a) of the CEQA Guidelines and

2. Approve Special Use Permit S12-0013, subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Project Description: This is a request for a Special Use Permit to construct a 1,190 square foot dwelling, with 354 square feet of decking, and a 545 square foot garage within the TPZ district. A site plan (Exhibit E) and elevations (Exhibit F) have been provided.

Background and Project Issues:

Zoning Consistency: The proposed residential use is permitted in the TPZ Zone District, pursuant to Section 17.44.040.B. and 17.44.050 of the County Code, with the issuance of a Special Use Permit. The Zoning Ordinance states that residential use of timberland is in general inconsistent with growing and harvesting of timber. However, in certain situations such as intensively managed minimum size acreages, nurseries, etc., in private ownership, living quarters and outbuildings are necessary in connection with the management and protection of the property. The applicant is requesting the permanent residential use to manage the property.

Building Permit No. 104427 was issued on December 30, 1996 to demolish a 1913 cabin at the subject site. This permit was never acted upon. Building Permit No. 104426 was requested for a second dwelling unit on the site. This permit was never issued. Building Permit No. 150886 was issued on September 19, 2003 to demolish the cabin and was finalized on March 16, 2005. The applicant subsequently requested Building Permit No. 203112 on August 18, 2011 for a new dwelling unit to replace the cabin. It was explained to the applicant that in accordance with Section 17.20.060.A of the County Code, the permit could not be issued because a building permit had not been obtained and actual construction had not taken place within one year of the demolition and the construction was not “diligently pursued to completion”. The applicant has decided to apply for a Special Use Permit and relief from the agricultural setbacks to allow for the new residential use within the timber preserve zone.

The primary issues addressed for this project include the parcel size, Forest Management and Harvest Plans, agricultural setbacks and Agricultural Commission Review.

Parcel Size: Section 17.44.060 of the County Code regulates development standards within the TPZ district. A single family residence could be established on a lot less than 160 acres if the parcel was a parcel of record as of October 12, 1976. The existing parcel is 86.56 acres and was an existing parcel of record prior to October 12, 1976. The parcel was originally part of 2, 80 acre patents with the parcel certified in 1997 by Certificate of Compliance COC97-0132. In 1999, the applicant recorded PM 47-36 to complete boundary line adjustment BLA 97-74, which created the current lot configuration.

Forest Management and Harvest Plans: Gary E. Gould and Robert Allen, both Registered Professional Foresters (RPF's) have provided timberland information regarding the property. The former property owner operated a Christmas tree farm at the site, which was consistent with Ag. Preserve No. 46. Since that time two Timber Harvest Plans have been obtained for the site, one in 1981 (McGee) and one in 1993 (Kozycz). A long term Forest Management Plan has not been prepared for the site and the property has not been actively harvested or under active management for 19 years.

Section 17.44.070.D of the County Code requires an owner to continuously comply with at least six of the criteria required in a Forest Management Plan in order to continue to be eligible for the timberland preserve zone (Exhibit G). These criteria must also be met to establish a residential use, in accordance with Section 17.44.050.C of the County Code. A timber inventory (Exhibit H) was prepared for the site; however, of the 86.56 acres, only 10.2 percent of the site was analyzed. The RPF's also provided a letter of support (Exhibit I) demonstrating compliance with Section 17.44.050; however, this is not the required Forest Management Plan. Both the property owner and Mr. Allen have stated that a Forest Management Plan is being prepared for the project site in accordance with the Proposition 40 Fuels Management Program. Proposition 40 provides cost-share funding to private, non-industrial forestland landowners for the development of forest management plans and the implementation of vegetation management practices to reduce fuel loads and the threat of wildfire. The project would be conditioned to require the submittal of the Forest Management Plan prior to issuance of a building permit to demonstrate compliance with Section 17.44.070.B and D of the County Code (Condition No. 7).

Administrative Relief from the Agricultural Setbacks: The applicant is requesting administrative relief from the 200-foot setback required by Section 17.06.150 of the County Code to develop the proposed single family residence. A 130-foot setback is being requested. The Agricultural Commission considered the administrative relief on October 17, 2012. The Commission may approve a reduction of up to one hundred percent of the special agricultural setback when it can be demonstrated that a natural or man-made barrier or buffer already exists such as, but not limited to topography, roads, wetlands, streams, utility easements and swales that would reduce the need for the setback. The Commission agreed that the request to rebuild a residence on the original home site seemed appropriate and would not negatively affect timber production or harvesting on the project site or surrounding parcels. The Commission recommended approval of the request for administrative relief of the agricultural setbacks to allow the single-family dwelling to be placed 130-feet from the TPZ property to the north, as several man-made barriers exists between the building site and the TPZ parcel to the north, including Grizzly Flat Road and an electric utility easement.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TPZ	NR	Timber Production Land/Undeveloped (Kozycz)
North	TPZ	NR	Timber Production Land/Single Family Residence (Kozycz)
South	A	NR	Agricultural/USA Forest Service Lands
East	A	NR	Agricultural/USA Forest Service Lands
West	TPZ/RA-20	NR	Timber Production Land/Undeveloped (Kozycz) Residential Agricultural/Single Family Residence

Agricultural Commission Review: The Agricultural Commission reviewed the project on October 17, 2012. The staff report and memorandum of the Commission’s action has been provided (Exhibits J and K). The Commission found the project to be consistent with General Plan Policy 8.4.2.1 and found in accordance with the *California Timberland Productivity Act of 1982, Section 51104 (h)(6)* “...A residence or other structure necessary for the management of land zoned as timberland production” is considered a “compatible use” if it “...does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber...” The soils at the site are included in the Woodland Suitability Group 2, which are deep to very deep with a surface layer of course sandy loam to silt loam and are considered of high site quality for timber production. In addition, the applicant is working toward the preparation of a Forest Management Plan and Harvest Plan. The proposed single family dwelling will not detract from the use of the property for growing and harvesting timber. The owner will be able to better manage the timber by living on-site. The criteria for residential use in the TPZ District have been met in accordance with Section 17.44.050 of the County Code.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from CEQA pursuant to Section 15303 (a) new construction. This CEQA exemption allows for one single-family residence, or a second dwelling unit on a legal parcel within a residential zone. This is an example of the exemption, and is not a limitation. The subject site is a legal TPZ parcel, which would allow for the development of one single-family residence. There is no reasonable possibility that the construction of the owner or caretaker occupied single-family detached dwelling will have a significant effect on the environment due to unusual circumstances. A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments:

Attachment 1	Conditions of Approval
Attachment 1	Findings
Exhibit A	Location Map
Exhibit B	Assessors Plat Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibit F	Elevations
Exhibit G	Section 17.44.070 of County Code (Zoning Ordinance)
Exhibit H	Timber Inventory
Exhibit I	R. Allen (Forester) Letter of Support; May 9, 2012
Exhibit J	Agricultural Commission Staff Report; October 5, 2012
Exhibit K	Agricultural Commission Memo; October 18, 2012

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S12-0013/Kozycz Family Home
Planning Commission/December 13, 2012**

Conditions of Approval:

1. This Special Use Permit approval is based upon and limited to compliance with the project description and following hearing Exhibits:

Exhibit ESite Plan
Exhibit FElevations

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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:

Special Use Permit for the construction of a 1,190 square foot dwelling, 354 square feet of decking, and a 545 square foot garage. Domestic water shall be supplied by a well and sewage disposal shall be provided by septic facilities.

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. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this permit the applicant shall provide a written

description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.

4. **Hold Harmless Agreement:** 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.

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

5. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services upon project approval.
6. **Permit Implementation:** Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this Special Use Permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with conditions of approval.
7. **Forest Management Plan:** The owner shall provide Planning Services with a Forest Management Plan prepared by a Registered Professional Forester in compliance with Section 17.44.070.B and Section 17.44.070.D of the County Code prior to issuance of any building permit.
8. **Archeological Resources:** In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance.

In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

El Dorado County Department of Transportation

9. The applicant shall finalize existing Encroachment Permit No. 203118-3, issued on August 22, 2011 prior to the issuance of any other building permit or grading permit.

California Department of Forestry and Fire Protection (CAL FIRE)

10. If trees of any size are removed as part of the project, the landowner may be required to apply for a Timberland Conversion Permit or Exemption and file a Timber Harvest Plan (THP) with CAL FIRE. These documents must be prepared by a Registered Professional Forester (RPF), and when approved, tree removal must be done by a Licensed Timber Operator (LTO).
11. Any development at the site must comply with Public Resource code (PRC) 4290 and California Code Regulations (CCR) 1270-1276 which address fire and life safety regulations. These regulations include, but are not limited to the following issues; roadway design and length, driveway grades, dead-end road lengths, turnarounds, turnouts, signage, and emergency water standards.

ATTACHMENT 2

FINDINGS FOR APPROVAL

Special Use Permit S12-0013/Kozycz Family Home Planning Commission/December 13, 2012

1.0 CEQA FINDING

- 1.1 The single-family residence and garage are found to be Categorical Exempt from CEQA pursuant to Section 15303(a) of the CEQA Guidelines which allows for one single-family residence, or a second dwelling unit on a legal parcel within a residential zone. This is an example of the exemption, and is not a limitation. The subject site is a legal TPZ parcel, which would allow for the development of one single-family residence. There is no reasonable possibility that the construction of the owner or caretaker occupied single-family detached dwelling will 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 Policies 2.2.5.21 and 8.1.3.2**

General Plan Policy 2.2.5.21 requires development projects to be designed to avoid incompatibility with adjoining land uses. The TPZ district requires that agriculturally incompatible uses adjacent to TPZ land provide greater setbacks to protect the timber resources. The subject parcel and adjacent parcels are subject to a 200-foot setback for non-compatible uses, which would be a single family residential unit. The applicant has requested Administrative relief to these setbacks, in accordance with General Plan Policy 8.1.3.2. The Agricultural Commission reviewed the request for Administrative relief on October 17, 2012 and recommended approval of the request for administrative relief of the 200-foot setbacks, as several man-made barriers exist between the proposed building site and the TPZ parcel to the north, including Grizzly Flat Road and an electric utility easement. The 130-foot setback requested would not impact the adjacent parcels.

2.2 **The project is consistent with General Plan Policy 8.4.2.1.**

The Special Use Permit application meets the five findings for allowing a residential uses as set forth in Policy 8.4.2.1, and as determined by the Agricultural Commission on October 17, 2012:

- A. *The proposed use will not be detrimental to the parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area.*

Due to the location of the proposed single family dwelling, the proposed use will not be detrimental to the subject parcel or adjacent parcels for long-term forest resource production.

- B. *The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities.*

The proposed dwelling location is adjacent to Grizzly Flat Road and directly west of the Steely Fork of the Consumnes River.

- C. *The proposed use will not create an island effect where in timber production lands located between the project site and other non-timber production lands are negatively affected.*

The proposed dwelling will not create an island effect.

- D. *The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting.*

The proposed dwelling will not hinder timber production and harvesting access to water or public roads or conflict with the continuation or development of timber production harvesting.

- E. *The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.*

The proposed dwelling will not affect the size of the parcel or adjacent parcel sizes.

3.0 ZONING FINDINGS

3.1 The proposed use is consistent with Title 17

In accordance with Section 17.44.050 of the County Code, a Special Use Permit may be granted for construction of one owner or caretaker occupied single-family detached dwelling where it can be found that the landowner requires a residence for maintaining intensively managed land. The owner has demonstrated that a residential unit is needed for the management of the timber land.

4.0 ADMINISTRATIVE FINDINGS FOR A SPECIAL USE PERMIT

4.1 The issuance of the permit is consistent with the General Plan.

The project meets the intent of the General Plan because the proposed residential use is allowed within the Natural Resource land use designation, as it would not interfere or conflict with the primary use of the land identified as timber production.

4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.

The proposed project will comply with the Development Standards of the TPZ zone district. The proposed Special Use Permit for the residence has been found to comply with the requirements of Chapter 17.22, Special Use Permits, and the proposed use is not considered detrimental to the public health, safety and welfare, nor injurious to the neighborhood, because the primary timberland use will not be impacted by the establishment of the residential use. The project would not be detrimental to adjacent timberland or residential uses.

4.3 The proposed use is specifically permitted by special use permit pursuant to this Title.

The proposed use is specifically permitted in the TPZ Zone District pursuant to Section 17.44.040.B and 17.44.050 of the Zoning Ordinance which states that permanent structures and residences are allowed only after obtaining a Special Use Permit.