

**EL DORADO COUNTY DEVELOPMENT SERVICES  
ZONING ADMINISTRATOR  
STAFF REPORT**



<b>Agenda of:</b>	August 6, 2008
<b>Item No.:</b>	4.c.
<b>Staff:</b>	Robert Peters

**VARIANCE**

**FILE NUMBER:** V07-0009

**APPLICANT:** Louis and Christine Green

**REQUEST:** A variance to allow a reduction in the front yard setback from 30 feet to eight (8) feet to allow construction of a two-story attached residential addition consisting of a 740 square-foot garage structure with 740 square feet of living space above.

**LOCATION:** On the south side of Tai Pan Drive, approximately 0.80 miles west of the intersection with Thompson Hill Road, in the Gold Hill area, Supervisorial District IV (Exhibit A).

**APN:** 089-100-32 (Exhibit B)

**ACREAGE:** 3.35 acres

**GENERAL PLAN:** Low-Density Residential (LDR) (Exhibit C)

**ZONING:** Estate Residential Five-Acre (RE-5) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Categorically exempt pursuant Sections 15303(e) and 15305(a) of the CEQA Guidelines.

**RECOMMENDATION:** Staff recommends the Zoning Administrator 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 V07-0009 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

**STAFF ANALYSIS**

**Project Description:** The applicant is requesting a variance to allow a reduction in the front-yard setback from 30 feet to eight (8) feet to allow construction of a two-story attached residential addition consisting of a 740 square-foot (28’6” x 24’ with a 7’ x 8’ pop-out) structure with 740 square feet of living space above (see Exhibit E). Also, an interior staircase to the second-floor living space will be located within the proposed garage footprint. Off-street parking for the subject parcel will be located within the proposed garage. The applicant proposes to locate the garage on a previously graded pad located immediately north of the existing residence. The proposed garage would be located approximately 30 feet from the existing edge of pavement of Tai Pan Drive and would be attached to the northern most wall of the existing residence (see Exhibit E).

**Site Description:** The 3.35 acre subject parcel is located in the Gold Hill area approximately 0.80 miles from the intersection of Tai Pan Drive and Thompson Hill Road, at an approximate elevation of 1,550 feet above mean sea level. The site slopes steeply from the northwest to the southeast, from the driveway encroachment to the rear of the parcel. The northwestern property line is bounded by a 30-foot road and public utilities easement (see Exhibit E). Existing improvements include a single-family residence with a paved driveway, and hardscape and landscape features. The existing residence is located within the required side-yard setback. The northwestern corner of the residence is located approximately 28 feet from the western property line and 15 feet from the 30-foot roadway easement. The residence is considered a legal non-conforming structure with regard to setbacks. The site also contains a previously graded pad north of the existing residence between the residence and the front property line. The graded pad is located slightly lower in elevation than the existing roadway. A mix of native and non-native vegetation exists on the site.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-5	LDR	Developed with single-family dwelling
<b>North</b>	RE-5	LDR	Developed with single-family dwelling
<b>South</b>	RE-10	AL	Undeveloped residential property
<b>East</b>	RE-5	LDR	Developed with single-family dwelling
<b>West</b>	RE-5	LDR	Developed with single-family dwelling

**Discussion:** The permitting of the proposed variance to allow construction of a garage structure within the front yard setback is not anticipated to negatively impact other residential uses in the project area. Tai Pan Drive is developed with single-family residences that contain garage structures. Due to the steep slopes of the project site, the location of the garage elsewhere on the site would likely require significant grading and removal of vegetation. Therefore, the applicant intends to utilize an existing, previously graded pad for the proposed garage site. Comments were received from the Department of Transportation (DOT) with regard to the setback

reduction adjacent to a public right-of-way and have been incorporated into the Conditions of Approval (see Attachment 1).

**Variance Findings:** The granting of a variance requires four findings pursuant to *Section 17.24.040* of the *County Zoning Ordinance*. These findings for approval and their respective discussions are listed in Attachment 2 of this report.

**General Plan:** The subject parcel is located in the Gold Hill area. The County General Plan designates the subject parcel as Low-Density Residential (LDR). This land use designation establishes areas suitable for single-family residential development in a rural setting. The maximum allowable density for the Low-Density Residential designation is one (1) dwelling unit per 5.0 acres. The subject parcel is currently less than five acres and contains a single-family residence. *Policy 2.2.5.1* allows existing legal lots of record with a lot size less than the minimum area indicated by the designation of the General Plan land use map to be permitted to develop at a density of at least one dwelling unit per lot provided that minimum health and safety requirements are met. The lot currently contains a permitted residential structure and the proposed garage with living space addition is conditioned to require a building permit from El Dorado Building Services. The minimum health and safety requirement would be met through the building permit process.

The existing residence was legally constructed, however is currently located within the required side-yard setback resulting in a legal non-conforming structure. The proposed variance request would legitimize the expansion of the legal non-conforming structure.

*Policy 2.2.5.21* requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land use that are permitted by policies in effect at the time the development project is proposed. The applicant proposes an accessory use to a previously established single-family residential use in conformance with the Low-Density Residential designation and consistent with land uses in the project vicinity. Also, the project design would locate the proposed structure approximately 30 feet from the edge of the existing roadway which would allow for a seemingly adequate setback for the residential addition.

**Conclusion:** As discussed above, staff finds that the variance, as proposed and conditioned, conforms to the County General Plan.

**Zoning:** The subject parcel is zoned Estate Residential Five-Acres (RE-5), which permits a minimum parcel size of one (5) acres and allows one-family detached dwellings and accessory uses and structures including but not limited to a garage. The 3.35 acre subject parcel was legally created by parcel map and recorded with the El Dorado County Recorder's Office in February, 1975. The parcel is currently non-conforming with regard to parcel size, however, due to its legal creation, is allowed to develop under the RE-5 zone district.

The project requests a variance based on the regulations established by *Section 17.22(X)* for encroachment into required yards for the garage. *Section 17.28.210(D)* identifies a front yard setback of 30 feet in the RE-5 zone district. *Section 17.20.105* allows for the application of setbacks applicable to the zone district which prescribes a minimum parcels size closet to the

size of the subject parcel. The subject parcel is three (3) acres in size. The front yard setback in the Single-Family Three-Acre (R3A) zone district is also 30 feet.

With the exception of the proposed zoning setback variance, the construction of the attached garage structure with living space above would be permitted by right in the RE-5 zone district. *Section 17.18.060* requires two parking spaces not in tandem for a single family residence. At this time the subject parcel contains two spaces, however, those parking spaces are located in tandem. The proposed garage will provide the applicant an enclosed area for vehicle parking and the ability to meet the parking requirement for two parking spaces not in tandem.

**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, carports, 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. The project proposes development in the least sensitive parts of the property and impacts to the environment will not occur with the approval of a variance. No further environmental analysis is necessary. Pursuant to Resolution No. 240-93, 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 .....	Vicinity Map
Exhibit B .....	Assessor's Parcel Map
Exhibit C .....	General Plan Land Use Map
Exhibit D .....	Zoning District Map
Exhibit E .....	Variance Site Plan
Exhibit F .....	Photos of Existing Residence

# **ATTACHMENT 1**

## **CONDITIONS OF APPROVAL VARIANCE V07-0009/Green Zoning Administrator/August 6, 2008**

### **Planning Services**

1. This variance is based upon and limited to compliance with the project description, the Planning Commission hearing Exhibits A through F, dated August 6, 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 reduction in front yard setback from 30 feet to eight (8) feet to allow construction of a two-story attached residential addition consisting of a 740 square-foot garage structure with 740 square feet of living space above, as shown on Exhibit D.

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.

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 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 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.

3. The reduction in setback shall apply only to the two-story attached residential addition. All other structures shall conform to all setback requirements pursuant to Section 17.28.210.

4. Any exterior lighting installed as a result of the construction of the two-story attached residential addition shall be shielded to prevent light and glare from leaving the property and must conform to the provisions of *Section 17.14.170* for *Outdoor Lighting*.
5. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
6. Prior to issuance of a building 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, as well as conformance with the General Plan checklist and all applicable “Fire Safe” regulations.

**El Dorado County Building Department**

7. The applicant shall apply for a building permit for the proposed two-story attached residential addition. All necessary permits shall be issued prior to construction.

**El Dorado County 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 County Counsel, and once approved, shall be recorded with the El Dorado County Recorder’s Office. An official copy shall be sent to the Department of Transportation, Placerville office.

## **ATTACHMENT 2**

### **FINDINGS**

### **VARIANCE**

### **V07-0009/Green**

### **Zoning Administrator/August 6, 2008**

#### **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, carports, 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.*

The subject site is constrained by the steepness of the terrain and existing vegetation. These factors in conjunction with the required 30-front setback requirement pursuant to Section 17.28.210 and the configuration of the existing 30-foot road and public utilities easement, limit the possible locations for placement of a residential addition on the project site. Additionally, the previously graded pad which takes access from a previously graded driveway would allow for placement of the proposed residential addition without the need for significant grading or vegetation removal. The proposed variance would result in the best use alternative to allow construction of the residential addition on the existing pad.

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.*

Without the proposed variance, the existing pad could not be utilized for development. The steepness of the terrain and existing vegetation would preclude the applicant's ability to place additional structures, such as the proposed residential addition, on the subject parcel without the need for significant grading and vegetation removal. The proposed garage would be utilized to meet the off-street parking requirement pursuant to Section 17.18.060 of the County Zoning Ordinance.

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

This variance request will authorize the construction of a garage structure, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). To utilize the existing graded pad and attach the addition to the northern end of the existing residential structure, thus avoiding significant grading and removal of vegetation, the proposed setback of eight (8) feet is the minimum variance necessary for the reasonable use of the land.

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, and no comments were received to prevent approval of the variance. The adaptive reuse of the existing graded pad will ensure that the parcel meet the on-site parking requirements pursuant to *Section 17.18.060*. The residential addition is proposed to be constructed on a graded pad located approximately at a distance of approximately 30 feet from the existing edge of the pavement for Tai Pan Drive. This distance from the edge of pavement will allow an adequate setback from the roadway and the proposed variance is not anticipated to negatively impact the public health, safety, and welfare, or injurious to the other residential uses in the project area, specifically those to the east and west.