

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



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

**VARIANCE**

**FILE NUMBER:** V08-0004

**APPLICANT:** Joseph and Ingrid Herrick

**REQUEST:** A variance request to allow a reduction in the rear yard setback from 30 feet to 22 feet and the side yard setback from 15 to 12.5 feet to legitimize an existing shed/carport structure which was constructed without benefit of permit within the required setbacks.

**LOCATION:** On the east side of Boulder Lane, approximately 157 feet south of the intersection with Cold Springs Road, in the Placerville area, Supervisorial District III (Exhibit A).

**APN:** 323-250-45 (Exhibit B)

**ACREAGE:** 2.01 acres

**GENERAL PLAN:** Medium-Density Residential (MDR) (Exhibit C)

**ZONING:** One-Acre Residential (R1A) (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 V08-0004 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

**BACKGROUND:** The applicant submitted a tentative parcel map for the subject parcel on May 4, 2007 to create two lots out of the 2.01 acre site. The 2.01 acre site is a result of a boundary line adjustment which increased the overall parcel size and increased the rear yard setback for the existing shed/carport structure. During review of the proposed parcel map, it was determined that there was an existing open code enforcement case (# 174902-7) on the project site related to grading without benefit of permit, construction of a shed/carport structure greater than 120 square feet without benefit of permit, and construction of storage shed greater than 120 square feet without benefit of permit. Both structures were constructed approximately 5 years ago. The existing shed/carport structure was also constructed within the rear and side-yard setbacks. This variance application seeks to legitimize the existing carport structure included in open code enforcement case. The applicant will need to resolve and close the open code enforcement case with Code Enforcement staff.

**STAFF ANALYSIS**

**Project Description:** The applicant is requesting to reduce the rear yard setback from 30 feet to 22 feet and the side yard setback from 15 to 12.5 feet to legitimize an existing shed/carport structure which was constructed without benefit of permit within the required setbacks (see Exhibit E and F).

**Site Description:** The 2.01 acre subject parcel is located in the Placerville area approximately 157 feet south of the intersection of Boulder Lane and Cold Springs Road, at an approximate elevation of 1,760 feet above mean sea level. The site slopes from east to west, from the rear of the parcel down toward the driveway encroachment (see Exhibit E and F). Existing improvements include a single-family residence with gravel driveway accessed from an existing gate, several residential accessory structures including the shed/carport structure, several small agricultural structures, and hardscape and landscape features. The existing residence is currently located within the required rear yard setback. The residence is considered a legal non-conforming structure with regard to setbacks. A mix of native and non-native vegetation exists on the site.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	R1A	MDR	Developed with single-family residence
<b>North</b>	R1A	MDR	Developed with single-family residence
<b>South</b>	R1A	MDR	Developed with single-family residence
<b>East</b>	R1A	MDR	Developed with single-family residence
<b>West</b>	RE-5	MDR	Developed with single-family residence

**Discussion:** The permitting of the proposed variance to allow reduction of the rear yard setback from 30 feet to 22 feet and the side yard setback from 15 to 12.5 feet to legitimize an existing shed/carport structure is not anticipated to negatively impact other residential uses in the project

area. Boulder Lane is developed with single-family residences that contain accessory residential structures. The applicant has submitted letters of support from the owners of the lots most affected by the proposed variance request (see Exhibits G1, G2, and G3). These adjoining properties are located to the north, northeast, and east of the property lines affected by the existing shed/carport structure (see Exhibit H).

Due to the amount of improvements installed on the property in conjunction with the shed/carport structure, removal and relocation of the structure would likely require additional grading and removal of existing improvements and vegetation. Therefore, the applicant seeks to legitimize the existing structure in its current location, and utilize the existing improvements associated with the shed/carport structure including driveways and retaining walls. Comments were received from the Department of Transportation (DOT) with regard to the setback reduction and have been incorporated into the Conditions of Approval (see Attachment 1). In general, DOT supports the variance request.

**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 Placerville Community Region. The County General Plan designates the subject parcel as Medium-Density Residential (MDR). This land use designation establishes areas suitable for detached single-family residences with larger lot sizes which will enable limited agricultural land management activities. The maximum allowable density for the Medium-Density Residential designation is one (1) dwelling unit per 1.0 acres. The subject parcel is currently 2.01 acres and contains a single-family residence. If the applicant's parcel map reaches finalization the subject parcel would be 1.01 acres in conformance with the General Plan land use designation. The lot currently contains a permitted residential structure and associated accessory structures, and legitimization of the shed/carport structure 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.

*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 seeks to legitimize an accessory structure/use to a previously established single-family residential use in conformance with the Medium-Density Residential designation and consistent with land uses in the project vicinity. The applicant has submitted letters of support from the property owners most affected by the proposed variance (see Exhibits G1, G2, G3, and H). The existing location of the structure would be 22 feet from the rear property line and 12.5 feet from the side property line, and the proposed reduction in setback would allow for a seemingly adequate setback for the residential accessory structure.

**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 One-Acre Residential (R1A), which permits a minimum parcel size of one (1) acre and allows single-family detached dwellings and accessory uses and

structures including but not limited to a garage, swimming pool, pump house, and boat house. With the exception of the proposed zoning setback variance, the construction of the shed/carport structure would be permitted by right in the R1A 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 17.28.080(E)* identifies a rear yard setback of 30 feet and a side yard setback of 15 feet in the R1A zone district. The applicant proposes to legitimize an accessory structure/use to a previously established single-family residential use in conformance with the R1A zone district and consistent with land uses in the project vicinity. The applicant has submitted letters of approval from the property owners most affected by the proposed variance (see Exhibits G1, G2, G3, and H). The existing location of the structure would be 22 feet from the rear property line and 12.5 feet from the side property line, and the proposed reduction in setback would allow for a seemingly adequate setback for the residential accessory structure.

**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 Shed/Carport
Exhibit G1, G2, and G3.....	Letters from Affected Neighbors
Exhibit H.....	Affected Parcels Map

# **ATTACHMENT 1**

## **CONDITIONS OF APPROVAL**

### **Variance Application V08-0004/Herrick 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 the rear yard setback from 30 feet to 22 feet and the side yard setback from 15 to 12.5 feet to legitimize an existing shed/carport structure which was constructed without benefit of permit within the required setbacks, as shown on Exhibit E.

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 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.

3. The reduction in setback shall apply only to the existing shed/carport structure located in the

northeast corner of the property. All other structures shall conform to all setback requirements pursuant to Section 17.28.080.

4. All existing or proposed exterior lighting installed as a result of this variance, legitimizing the existing carport structure, 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 to legitimize the existing shed/carport structure.

#### **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 Application V08-0004/Herrick 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 unique in that the site has more than one building located within the rear yard setback, including the existing single-family residence. The existing shed/carport was built at the same elevation as the residence and also within the rear yard zoning setback. The owner/applicant did construct the existing structure without benefit of permit within the existing setback; however, the applicant has obtained a boundary line adjustment from the adjoining neighbor to the east to create the largest rear yard setback possible, and shall obtain a building permit to legitimize the structure. Without the proposed variance, the existing shed/carport structure, previously graded pad, and existing driveways could not be utilized by the applicant. The applicant has submitted letters from each of the adjoining property owners most affected by the proposed variance, and all have stated support for the proposed variance to legitimize the existing shed/carport structure (see Exhibits G1, G2, G3, and H). The proposed variance has been conditioned to require a building permit be obtained for the existing shed/carport structure (see Attachment 1, Conditions of Approval).

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 shed/carport structure, previously graded pad, and existing driveways could not be utilized by the applicant. The steepness of the terrain and locations of existing improvements including driveways, hardscape and landscape features, and the existing septic would limit the applicant's ability to place additional structures, such as the

proposed shed/carport structure, on the subject parcel without the need for significant grading and removal of existing improvements and vegetation. The applicant has obtained a boundary line adjustment to increase the proposed setback, and shall obtain a building permit to legitimize the existing structure.

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

This variance request will legitimize the existing shed/carport structure and will remove the existing zoning violation. The applicant has obtained a boundary line adjustment to increase the proposed setback as much as is possible. The proposed rear yard setback of 22 feet and side yard setback of 12.5 to the existing property lines is the minimum necessary to allow the applicant to legitimize the existing shed/carport structure and to utilize existing on-site improvements without the need for further grading or removal of existing improvements and vegetation.

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 applicant has submitted letters from each of the adjoining property owners most affected by the proposed variance, and all have stated support for the proposed variance to legitimize the existing shed/carport structure (see Exhibits G1, G2, G3, and H). The proposed variance has been conditioned to require a building permit be obtained for the existing shed/carport structure (see Attachment 1, Conditions of Approval). 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 north, northeast, and east.