

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



**Agenda of:** August 6, 2008  
**Item No.:** 4.b.  
**Staff:** Jason Hade

**VARIANCE**

**FILE NUMBER:** V08-0005

**APPLICANT:** George Visman

**AGENT:** Jerry Visman

**REQUEST:** Variance to reduce the front yard setback from 30 feet to four feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 6,180 square foot packing shed and sales structure.

**LOCATION:** On the north side of Carson Road, approximately 0.75 miles west of the intersection with U.S. Highway 50 in the Camino area, Supervisorial District III. (Exhibit A)

**APN:** 048-160-23 (Exhibit F)

**ACREAGE:** 31.11 acres

**GENERAL PLAN:** Agricultural Lands – Agricultural District (AL-A) (Exhibit B)

**ZONING:** Select Agricultural District (SA-10) / Exclusive Agricultural (AE) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt pursuant to Section 15305(a) of the CEQA Guidelines

**RECOMMENDATION**

Staff recommends the Zoning Administrator take the following actions:

1. Find that the project is Categorical Exempt pursuant to Section 15305(a) of the *CEQA Guidelines* and;
2. Approve Variance application V08-0005 subject to the conditions in Attachment 1 based on the findings in Attachment 2.

**BACKGROUND:** According to the agent, the existing packing shed and sales structure was constructed in the early 1930's. As such, the applicant believes the structure should be considered a legal non-conforming use. However, Building Services research indicates that the structure was initially built in 1957 and later expanded without a building permit. Staff believes the structure was built closer to the property line than the original 1957 structure when it was expanded. An open Code Enforcement case (number 153015) exists at the subject site, partially as a result of the expansion and roof repair of the structure without permits. The agent has applied for a building permit (number 178095) to resolve these issues, but that permit cannot be issued until the setback issue discussed below is addressed by the subject variance application.

**STAFF ANALYSIS**

**Project Description:** The applicant is requesting a variance to reduce the front yard setback from 30 feet to four feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 6,180 square foot packing shed and sales structure (Exhibit D). The variance is requested so that building permit number 178095 may be issued by Building Services to address building code compliance issues.

**Site Description:** High Hill Ranch is located at the subject site. As such, the site contains a variety of ranch marketing uses and related structures, a trout pond, parking areas, a single family residence, and apple orchards. High Hill Road bisects the property and provides the primary access to the site.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
Site	SA-10/AE	AL-A	Agriculture/Ranch Marketing and related structures
North	SA-10/AE	AL-A	Ranch Marketing/Fudge Factory
South	R20K	HDR-PL	Single Family Residences
East	R20K	HDR-PL	Single Family Residences

West	TPZ	AL-A	Single Family Residence
------	-----	------	-------------------------

Discussion: As shown in the table above, the site is surrounded by ranch marketing and residential land uses. Approval of the requested variance would not impede traffic flow within the easement and would not negatively impact any of the surrounding properties currently using High Hill Road.

**Variance Findings:** The granting of a variance requires four findings pursuant to Section 17.24.040 of the County Zoning Ordinance. Findings for approval are included within Attachment 2 of this staff report. Additionally, variance support information submitted by the applicant is attached as Exhibit G.

**General Plan:** The County General Plan designates the subject parcel as Agricultural Lands with an Agricultural District overlay (AL-A). A broad range of agricultural and ranch marketing activities are permitted by the AL land use designation based on the characteristics identified under General Plan Policy 8.1.1.8. The existing structure is a permitted agricultural use. If approved, the requested variance would have no negative impact on agricultural activities currently being conducted at the site. The granting of this variance, therefore, would conform to the AL land use designation.

**Zoning:** The existing packing shed and sales structures is located on the portion of the site zoned Exclusive Agricultural (AE) and is permitted by right within the AE zone district pursuant to 17.36.070.H and I. Minimum setbacks for the existing structure would be 30 feet for the front yard. If approved, the requested variance would result in a minimum setback of four feet from the edge of the 50-foot road easement as shown on Exhibit D. As proposed, the requested variance is compatible with the surrounding existing agricultural uses at the site.

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

## ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) of the CEQA Guidelines that allow minor alterations in land use limitations for a variance. No new construction is proposed. As a result, 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 ..... General Plan Land Use Map  
Exhibit C ..... Zoning Map  
Exhibit D ..... Site Plan  
Exhibit E ..... Photo of Site  
Exhibit F ..... Assessor’s Map  
Exhibit G ..... Variance Support Information Submitted by  
Applicant

## **ATTACHMENT 1**

### CONDITIONS OF APPROVAL

#### **File Number V08-0005/ High Hill Ranch Variance Zoning Administrator/August 6, 2008**

#### **CONDITIONS OF APPROVAL**

1. This variance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibit marked as Exhibit D 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:

Variance to reduce the front yard setback from 30 feet to four feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 6,180 square foot packing shed and sales structure, to allow the structure to remain in its current location, 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.

#### **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.

3. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
4. 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.
5. The variance to the setback will be allowed within the area necessary to permit only the project as listed in the project description. Further encroachment into the setback area is prohibited.

**El Dorado County Department of Transportation**

6. Prior to building permit issuance, 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 variance. 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**

#### **File Number V08-0005/High Hill Ranch Variance 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 15305(a)* that allows minor alterations in land use limitations which do not result in any changes in land use or density, including, but not limited to minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

#### **2.0 GENERAL PLAN FINDINGS**

- 2.1 As stated above, the proposed variance is consistent with the applicable policies of the General Plan including Policy 8.1.1.8 regarding the site's Agricultural Lands land use designation because the existing use is a permitted agricultural ranch marketing use.

#### **3.0 VARIANCE FINDINGS**

- 3.1 *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.*

As stated above, the structure was constructed in 1957 and later damaged by a storm requiring roof repairs. The structure was built closer to the property line than the original 1957 structure when it was expanded. Because the structure was later expanded without a building permit, by the property owner, the structure now has an open code enforcement case concerning building code issues. A building permit cannot be issued to address these building and fire code issues unless approval of the subject variance is granted.

- 3.2 *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 existing packing shed and sales structures is located on the portion of the site zoned

Exclusive Agricultural (AE) and is permitted by right within the AE zone district pursuant to 17.36.070.H and I. As such, it is considered a reasonable use of the land to support current agricultural operations. Demolition and relocation of the existing structure would potentially negatively impact existing agricultural operations and cause the applicant undue financial hardship.

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

This variance request would validate the existing structure in its current location, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Therefore, the requested variance is the minimum necessary for the reasonable use of the land.

3.4 *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 structure has existed since 1957 and staff is unaware of any known history of access, safety, or utility-related complaints or concerns. Approval of the requested variance would not impede traffic flow within the easement and would not negatively impact any of the surrounding properties currently using High Hill Road. Therefore, the variance, as conditioned, would not be detrimental to the public health, safety, and welfare of the neighborhood.