

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



**Agenda of:** June 2, 2010  
**Item No.:** 4.a.  
**Staff:** Aaron Mount

**SPECIAL USE PERMIT**

**FILE NUMBER:** S09-0013/ Phillips TPZ Caretaker Residence

**APPLICANT:** Elizabeth Phillips

**REQUEST:** Special Use Permit for a 1,200 square foot owner or caretaker occupied single-family detached dwelling and 600 square foot garage within in the Timber Preserve Zone District.

**LOCATION:** On the east side of Syd Road 370 feet east of the intersection with Sliger Mine road in the Greenwood area, Supervisorial District IV. (Exhibit A)

**APN:** 061-100-29

**ACREAGE:** 11.97 acres

**GENERAL PLAN:** Rural Residential-Important Biological Resources (RR-IBC) (Exhibit B)

**ZONING:** Timberland Preserve Zone (TPZ) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Exempt pursuant to Section 15303 of the CEQA Guidelines

## RECOMMENDATION

Staff recommends that the Zoning Administrator take the following action:

1. Find the project is Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines and,
2. Approve Special Use Permit S09-0013, subject to the Conditions of Approval in Attachment 1, and based on the Findings in Attachment 2.

## BACKGROUND

The project site property was purchased in 1975 by Charlie and Marilyn Cameron who cleared the land and started planting Christmas trees in 1977. The property was rezoned to Timber Production Zone (TPZ) in 1978 and tree harvest began in 1981. The applicant proposes to cultivate the approximately 2,600 White fir, Douglas fir, Scotch pine, Cedars, and Leyland spruce, nurture the additional 4,800 seedlings planted since fall of 2006, and plant an average of 2,000 new trees each year.

The TPZ district is used by property owners, traditionally timber companies, to pay property taxes based on the yield of the harvest rather than traditional ad valorem tax.

## STAFF ANALYSIS

Staff has reviewed the project for compliance with County regulations and requirements. An analysis of the permit request and issues for the Zoning Administrator to consideration are provided in the following sections.

**Project Description:** The applicant is requesting a Special Use Permit pursuant to Section 17.44.040 of the El Dorado County Code, to allow construction of one 1,200 square foot owner or caretaker occupied single-family detached dwelling and one 600 square foot detached garage within the TPZ district.

**Site Description:** The 11.97-acre subject parcel is at an average elevation of 2,120 feet above mean sea level in the Greenwood area. Soil types include Mariposa very rocky silt loam (MbE), 3-50 percent slopes, and Boomer very rocky loam (BkD), 3-30 percent slopes. The property has been continually used as a Christmas tree farm since 1975. The non-native vegetation consists of approximately 2,600 White fir, Douglas fir, Scotch pine, Cedars and Leyland spruce, plus an additional 4,800 seedlings planted in 2006. An average of 2,000 new trees will be planted every year. Physical improvements include two (2) sheds, an existing gravel parking area and dirt roads. The project parcel is accessed by Syd Road which is a typical private rural residential road. Syd Road encroaches onto Sliger Mine Road which is a County maintained road.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	TPZ	RR	Christmas tree farm
<b>North</b>	RE-5	LDR	Undeveloped
<b>South</b>	RE-5	LDR	Undeveloped
<b>East</b>	RE-10	RR	Undeveloped
<b>West</b>	TPZ	RR	Residential/single-family residence

**General Plan:**

The General Plan designates the subject site as Rural Residential (RR). This designation establishes areas for residential and agricultural development. These lands will typically have limited infrastructure and public services and will remain for the most part in their natural state. His category is appropriate for lands that are characterized by steeper topography, high fire hazards, and limited or substandard access as well as “choice” agricultural soils. Typical uses include single-family residences, agricultural support structures, a full range of agricultural production uses, recreation, and mineral development activities. Additionally, the following General Plan policies also apply to this project:

*Policy 2.2.5.2: Applications for discretionary projects or permits, including special use permits, shall be reviewed to determine consistency with General Plan policies. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.*

Residential use of timberland is in general inconsistent with growing and harvesting of timber. However, it is recognized that 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; therefore, the applicant has applied for the required Special Use Permit. The application has been reviewed in accordance with Section 17.44.050 of the County Code, which states that the applicant must show and demonstrate that the land has been under intensive management for three consecutive years for the Special Use Permit to be granted by the Zoning Administrator. The applicant has provided documentation and a site visit has confirmed that the project site is an active christmas tree farm. It can be found through the discretionary Special Use Permit process that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan. Staff finds that the project, as conditioned, will be compatible with the adjacent and surrounding properties, and conforms to the General Plan.

*Policy 2.2.5.21 Development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed. Development projects that are potentially incompatible with*

*existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.*

The proposed development is consistent with the development standards of the TPZ Zone District and should not have an impact on the adjacent TPZ zoned parcel or residential uses.

*Policy 8.4.2.1: The County Agricultural Commission shall evaluate all discretionary development applications involving identified timber production lands which are designated Natural Resource or lands zoned Timberland Production Zone (TPZ) or lands adjacent to the same and shall make recommendations to the approving authority. Prior to granting an approval, the approving authority shall make the following findings:*

- a. The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area;*
- b. The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities;*
- c. The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected;*
- 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; and*
- e. The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.*

The Agricultural Commission reviewed the application on July 8, 2009, and found that three consecutive years of intensive management of lands had been shown by the landowner, and that a 1,200 square foot owner or caretaker occupied single-family detached dwelling and a 600 square foot garage could be constructed on the property. The Agricultural Commission stated that the size of the caretaker unit appears reasonable and would not impact the growing areas of the parcel.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, does not conform to the General Plan.

**Zoning:** The proposed use is permitted in the TPZ Zone District, pursuant to Section 17.44.050 and 17.44.040.B. In order to approve the project, the approving authority must find that the project is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on comments received from public agencies as discussed below, staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood.

*17.44.050 Criteria for residential use.*

*A. Residential use of timberland is in general inconsistent with growing and harvesting of timber. However, it is recognized that 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. Therefore, by recommendation of the agricultural commission acknowledging that three consecutive years of intensive management of his lands have been shown by the landowner, the zoning administrator may grant a special use permit for construction of one owner or caretaker occupied single-family detached dwelling or a mobile home on an approved foundation.*

*B. The following criteria will aid the agricultural commission in determining what constitutes intensive management and must be in any case considered in granting a special use permit for a residence.*

*C. Where a landowner has:*

- 1. A timber inventory of his stand;*
- 2. Conducted commercial harvesting operations;*
- 3. Provided legal and physical access to his property so commercial operations can be carried out;*
- 4. Made a reasonable effort to locate the boundaries of the property and has attempted to protect his property against trespass;*
- 5. Conducted disease or insect control work;*
- 6. Performed thinnings, slash disposal, pruning and other appropriate silvicultural work;*
- 7. Developed a fire protection system or has a functioning fire protection plan;*
- 8. Provided for erosion control on existing roads and skid trails and has maintained existing roads;*
- 9. Planted a significant portion of the understocked areas of his parcel*

**Discussion:** The Christmas tree farm has been planted and irrigated every year since 1977. Harvesting began in 1981 and has continued every year since then. In 2008 600 silver tips were planted for Christmas trees. The parcel is described by Parcel Map PM 7/62/B. Disease control work is done as needed and an average of 2,000 trees are planted every year. The parcel has adequate access from privately and County maintained roads. At its regularly scheduled meeting on July 8, 2009 the Agricultural Commission recommended approval of the residence.

*17.44.060 Development standards. The following area and building regulations shall apply in TPZ districts unless a variance is first obtained from the planning commission or zoning administrator:*

*A. Minimum parcel area:*

- 1. Any use permitted in Sections 17.44.040 or 17.44.050 shall be allowed on any existing parcel of record as of October 12, 1976,*
  - 2. Any use permitted in Sections 17.44.040 or 17.44.050 shall be allowed on a parcel of not less than one hundred sixty contiguous (as defined in Section 51100(b) of Article 7, Chapter 6.7 of the Government Code) acres or the equivalent of a quarter of a section or sections within which the parcel is located, whichever is less, where the parcel is created after October 12, 1976;*
- B. Minimum setback, one hundred feet on any side;*

*C. Maximum building height shall not exceed fifty feet, nor shall buildings exceed any applicable height restrictions imposed by airport approach districts. (Ord. 3452 §1, 1984: prior code §9432(F))*

**Discussion:** The subject parcel was created March 14, 1975. The location of the structures exceeds the required 100 foot setback and all structures will not exceed the height limit of 50 feet.

## **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 in a residential zone. The subject property is TPZ land; however, it is believed that the exemption applies because the exemption is not limited to the example. 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. The project will not result in damage to a scenic resource. The project is not located on a hazardous waste site. The project will not cause a substantial adverse change in the significance of a historical resource. A \$50.<sup>00</sup> 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 .....	Agricultural Commission Memo

# **ATTACHMENT 1**

## **CONDITIONS OF APPROVAL**

### **Special Use Permit S09-0013/Phillips TPZ Caretaker Residence Zoning Administrator/June 2, 2010**

#### **Conditions of Approval:**

1. This special use permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibits E and F, dated June 2, 2010, 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:

Special use permit (SUP) authorizes construction of a 1,200 square foot caretaker's residence and a 600 square foot attached or detached garage within the building area shown on Exhibit E. Domestic water will be supplied by a well and sewage disposal will 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 improvements shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein and shall substantially comply with Exhibits E through F. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, and access ways shall require review and approval by the Planning Services prior to project modifications.
3. All Planning Services fees shall be paid in full prior to issuance of the building permit.
4. The owner shall obtain a timber conversion permit or timber conversion exemption from Cal Fire prior to issuance of any building permit.
5. 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 after the end of the ten working day appeal period of a final project decision.

6. Condition Compliance: Prior to issuance 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.
7. 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.

8. 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.

# **ATTACHMENT 2**

## **FINDINGS FOR APPROVAL**

### **Special Use Permit S09-0013/Phillips TPZ Caretaker Residence Zoning Administrator/June 2, 2010**

#### **1.0 CEQA FINDING**

- 1.1 The caretaker's residence and garage are found to be Categorical Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines which exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure from further environmental review.
- 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 SPECIAL USE PERMIT FINDINGS**

##### **2.1 The issuance of the permit is consistent with the General Plan;**

The proposed project has been analyzed for consistency with General Plan Policies 2.2.5.2 (General Plan Consistency), 2.2.5.21, and 8.4.2.1 (Ag Commission review of TPZ Projects) and has been found to be consistent with these policies. The proposed project is also consistent with the General Plan Land Use Designation of RR.

##### **2.2 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 and associated agricultural structures 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 project has been designed to comply with setback requirements and all other development standards. The project would not be detrimental to adjacent timberland or residential uses.

##### **2.3 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.