

**COUNTY OF EL DORADO  
COMMUNITY DEVELOPMENT AGENCY  
ZONING ADMINISTRATOR  
STAFF REPORT**



<b>Agenda of:</b>	May 15, 2013
<b>Item No.:</b>	4.a.
<b>Staff:</b>	Lillian MacLeod

## VARIANCE

**FILE NUMBER:** V13-0001

**APPLICANT:** Laurence and Kathy Warren

**AGENT:** David Shield (The Solar Company)

**REQUEST:** Variance to allow a reduction in the side yard setback from 30 feet to 10 feet to allow the installation of ground-mounted solar panels.

**LOCATION:** On the west side of Monitor Road, approximately one mile south of the intersection with Dolomite Drive, in the El Dorado area, Supervisorial District 2. (Exhibit A)

**APN:** 092-221-04

**ACREAGE:** 5 acres

**GENERAL PLAN:** Low Density Residential-Platted Land (LDR-PL) (Exhibit B)

**ZONING:** Estate Residential-5 acres (RE-5) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration.

**RECOMMENDATION:** Staff recommends the Zoning Administrator take the following actions:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff; and
2. Deny the variance V13-0001 based on the findings in Attachment 1.

### STAFF ANALYSIS

**Project Description:** The applicant is requesting a reduction in side yard setbacks from 30 feet to 10 feet on the southern property line, based on site restrictions for placing ground-mounted solar panels.

**Site Description:** The project site is located on and accessed from Monitor Road, approximately one mile south of Dolomite Drive. Its western boundary adjoins State Highway 49 but there is no vehicular access from it. The lot lies at an average of 1,620 feet above mean sea level and has a 24 percent westward slope from an elevation of 1,720 to 1,520 feet. The site is developed residentially with a single dwelling unit of approximately 3,000 square feet. The adjoining lot sharing the subject property line to the south is under the applicants' ownership and is currently undeveloped. The adjoining lot to the north is under separate ownership and is developed residentially with a single dwelling unit. Vegetation consists of landscaping and several oak trees surrounding the residential development on the east portion of the parcel; oak woodland in the mid-portion immediately west of the fire break running north/south; and oak savanna on the west portion of the parcel.

#### **Project Issues:**

**General Plan:** Under General Plan Policy 2.2.5.20, residential development of 4,000 square feet or less of living area, that disturbs less than 20,000 square feet of land through grading, and is located outside of the Important Biological Corridor (-IBC) does not require findings of consistency with the General Plan.

Discussion: The project parcel is not subject to findings of consistency as the residential living area is approximately 3,000 square feet, grading for said residence is less than 20,000 square feet, and the parcel is not within the -IBC. Because of this policy, other policies that specifically pertain to the variance request, such as the oak woodland retention standards under Policy 7.4.4.4, do not apply to development on the project parcel. The applicants are requesting a variance as they do not want to remove one of two oak trees that would allow placement of the ground mounted solar collection panels outside of the side yard setback. This is a matter of convenience since the tree retention policy would not apply to the placement of solar collectors consistent with the RE-5 development standards. Staff will address this matter further under the "Analysis" section to follow.

**Zoning:** There are no regulations under Title 17 that pertain to solar collection systems serving as personal energy sources, so the County currently defers to state law, as discussed below.

**California Public Resource Code 25980-25986 [Solar Shade Control Act ("Act")]:** Under this Act, a solar collector system is defined as a roof-mounted system, unless it "cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building." In that case, the system can be ground mounted pursuant to specific standards. Any ground-mounted system meeting this parameter must comply with "local building and setback standards", but be no less than 10 feet high and five feet in distance from the property line. For every foot of reduced height, three additional feet of setback must be applied. The Act also regulates landscaping on adjoining properties after a system is installed that restricts the placement or growth of trees and shrubs that would inhibit solar collection capabilities.

The Act does not apply to any system “designed and intended to offset more than the building’s electricity demand.”

Discussion: Electrical energy generated by the solar collection panels is being proposed for personal use by the applicants, only. The proposed solar collection panels are 420 square feet in area. The applicants have stated the existing roof is not capable of supporting a solar collection system sufficient to supply their energy needs either structurally or in orientation to the optimal southern exposure. The solar collection panels will be a maximum of six feet high compared to the minimum height requirement of 10 feet under the Act. The applicants will need to mitigate the four foot reduction by adding 12 additional feet (3 feet of added setback x 4 feet of height reduction) to the minimum five foot setback required under the Act. To be compliant with state regulations, the solar collection panels must be 17 feet from the property line.

## **ENVIRONMENTAL REVIEW**

Under CEQA Section 15305, a categorical exemption is allowed for “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: (a) . . . side yard, and setback variances not resulting in the creation of any new parcel”. Due to the 24 percent parcel slope a negative declaration was prepared. However, should the Zoning Administrator deny the variance no action is required on the document pursuant to Section 15270 of the CEQA Guidelines stating that “CEQA does not apply to projects which a public agency rejects or disapproves”.

## **ANALYSIS**

The granting of a variance requires four findings pursuant to Section 17.22.630 of the Zoning Ordinance. These findings are listed below with a discussion with a discussion to follow regarding this variance request.

**Required Finding No. 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.

**Discussion:** The lot is five acres in size and is served by public water and septic systems consistent with lots in the surrounding vicinity. The topography of a moderate to steep westward slope is consistent with the surrounding vicinity. The dwelling unit is single story and approximately 3,000 square feet in size and is consistent with the surrounding residential development. The applicant is proposing to place ground-mounted solar panels into the southern side yard setback due to restrictions from owner-installed landscaping material and hardscape pavers, and/or the need to remove one of two oak trees. There is nothing exceptional or extraordinary to the land or building that would support this finding.

**Required Finding No. 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.

**Discussion:** The applicants state they cannot place roof-mounted solar panels, the preferred method under state law consistent with setback standards, due to the condition and deficient size of their roof. Aerial photos confirm the roof receives solar rays primarily in an east/west orientation. A smaller amount of roof area faces the optimal southern orientation, but is not sufficient to accommodate their energy needs. The applicants also state they cannot place ground-mounted solar panels outside of setbacks on their five acre lot due to obstructive oak tree canopy, landscaping, leach fields, or the excessive trenching necessary to meet the setbacks. As discussed under the previous General Plan analysis, the applicant can meet setback requirements, avoid leach fields, and minimize trenching by removing one of two oak trees near the residence. As an alternative, the existing landscaping and hardscape materials consisting of moderate growth shrubbery and moveable keystone pavers could be relocated to another area of the property allowing for the installation of the solar panels nearer the residence and outside the setbacks. Trenching would also be reduced under this alternative. In light of these options, the requested variance is not necessary and the applicants are not denied reasonable use of their land by adhering to setback standards.

**Required Finding No. 3:** The variance is the minimum necessary for the reasonable use of the land or building.

**Discussion:** As discussed previously under the Solar Shade Control Act section of this report, State law requires a minimum setback of 17 feet from the property line even with a variance. If ground-mounting is the only option, there are other areas on the five acre parcel to place the solar panels that would be outside the required setbacks and meet state requirements, too. The removal of one of two oak trees and/or relocation of landscaping in the same vicinity as what is being proposed would allow the solar panels to be sited outside the setbacks.

**Required Finding No. 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.

**Discussion:** Photos were submitted that demonstrate the extent and visual impact of the ground-mounted solar collection panels (Exhibit G). Due to their height, state law requires the ground-mounted panels to comply with County setback standards, but be a minimum of 17 feet from the property line, thereby increasing their collective properties, but also their visibility. The adjoining lot sharing the southern property line would be most affected by the reduction in setbacks. It is currently under the applicants' ownership and is undeveloped; however, the applicant has provided infrastructure on the property to be able to sell it in the future. The reduction in setbacks would place the burden of screening the negative visual impact from the solar collection panels on future property owners. Landscape screening options would also be restricted under the Act.

## SUPPORT INFORMATION

**Attachments to Staff Report:**

Attachment 1 .....Findings  
Exhibit A.....Location Map  
Exhibit B.....General Plan Land Use Map  
Exhibit C.....Zoning Map  
Exhibit D.....Assessor’s Parcel Map  
Exhibit E.....Site Plan  
Exhibit F.....Parcel Setback Area Photos  
Exhibit G.....Ground-mounted Solar Panel Photo Simulation  
Exhibit H.....Applicants’ Findings in Support of the Variance  
Exhibit I.....Proposed Negative Declaration and Initial Study

# **ATTACHMENT 1**

## **FINDINGS FOR DENIAL**

### **Variance V13-0001/Warren Variance Zoning Administrator/May 15, 2013**

1. There are no 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 lot is located in an area zoned for five-acre residential development and is consistent with the minimum lot size; the slope and native vegetation patterns are consistent with the surrounding area; and existing development on the lot, including owner-installed landscaping, is consistent with residential development in the surrounding area.
2. The strict application of the provisions of the ordinance requested to be varied would not deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone, as the property owners have two options available that would allow the placement of the solar panels outside of setbacks while minimizing other impacts to their land, such as leach field involvement and excessive trenching.
3. The variance is not the minimum necessary for the reasonable use of the land or building since oak tree and/or landscaping removal allow the solar collection panels to be placed consistent with County development standards for the RE-5 zone and State law requirements.
4. The variance is not in conformity with the intent of this article and would be detrimental to the public health, safety and welfare, or injurious to the neighborhood because the visual impact of the solar collection panels at the reduced setback would place the developmental burden under State law and their negative visual impact on any future landowner adjoining the subject property line.