

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



**Date:** August 03, 2016  
**Item No.:** 4.a.  
**Staff:** Mark Millard

**VARIANCE**

**FILE NUMBER:** V16-0004/Bates Residential Structure Expansion

**APPLICANT:** Bruce Bates

**REQUEST:** A Variance request to allow reductions in the following required setbacks in the Zoning Ordinance to allow for the expansion of an existing primary residential structure:

1. The 100-foot setback from the South Fork of the American River required under Section 130.30.030.G.7 to 26 feet; and
2. The 200-foot Forest Resources Zone setback required under Section 130.30.030.E.2.a from the south and east property lines to 47 feet 7 inches, and 110 feet 9 inches, respectively.

**LOCATION:** On the south side of Tamarack Pines Road, approximately 1,500 feet east of the intersection with U.S. Highway 50, in the Mount Ralston area, Supervisorial District 5. (Exhibit A).

**APN:** 038-061-02 (Exhibit B)

**ACREAGE:** 0.87 acres

**GENERAL PLAN:** Natural Resources (NR) (Exhibit C)

**ZONING:** Forest Resource-One Hundred Sixty-Acre (FR-160) (Exhibit D)

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

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

1. Find that the project is Categorical Exempt pursuant to CEQA Guidelines Section 15305(a); and
2. Approve Variance V16-0004 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

**BACKGROUND:** The applicant submitted Building Permit Application No. 245808 requesting an expansion to an existing primary residential structure on March 01, 2016. As part of the building permit application review, compliance with zoning and riparian setbacks are routinely analyzed. Compliance with the required 100-foot setback from the South Fork of the American River under Section 130.30.030.G.7 and the 200-foot setback from the southern and eastern property lines due to the adjacent Forest Resources Zone District pursuant to Section 130.30.030.E.2.a, is required prior to permit issuance.

#### **STAFF ANALYSIS**

**Project Description:** The applicant is requesting a Variance to reduce:

1. The 100-foot setback from the South Fork of the American River to 26-feet; and
2. The 200-foot setback along the southern property line to 47 feet 7 inches, and along the eastern property line to 110 feet 9 inches to allow the expansion of the existing residence (Exhibits E1-E4).

**Site Description:** A mix of native vegetation and trees exists on the site. The entire parcel has a gentle slope of less than or equal to approximately 14 percent from north to south. Existing improvements include a primary residential structure of approximately 1,555 square feet with a ground level deck along the eastern and southern elevations and a free-standing accessory garage with covered porch of approximately 2,122 square feet in the north central portion of the property. This existing garage is also northeast of the proposed expansion. A small stone wall separates the developed portion of the project parcel from the water's edge of the South Fork of the American River, with the actual water's edge being 18 to 20 feet south of this wall. Undeveloped land lies across the river to the south, and the eastern and western adjacent parcels are developed with residential structures. Multiple residential and accessory structures and uses populate the parcels along both sides of Tamarack Pines Road.

#### **Variance Request No. 1:**

**Riparian Setback Reduction, Zoning Ordinance Section 130.30.030.G.7:** At their closest existing points, the existing structure and deck are approximately 22 feet from edge of water, and 52 feet from the southern property line (which lies 18 to 25 feet within the river at this time) (Exhibit E1).

The properties to the west and south would not be negatively impacted by the project; no further encroachment to the western property line is proposed and the parcel to the south is undeveloped. Due to the curvature of the river's edge along the southern portion of the parcel, the applicant is

actually proposing an increased riparian setback from 22 feet for the existing structure to 26 feet for the expansion. The proposed improvements would re-develop the existing residential deck and previously disturbed areas into enclosed habitable space. A Biological Assessment of the riparian environment was submitted as part of this variance request and its conclusions support the proposed setback reductions with the requirement for any building/grading permits to follow best management practices for erosion control. This requirement is consistent with those standards which will be required under building permit review.

**Variance Request No. 2:**

**Forest Resource Setback Reduction, Zoning Ordinance Section 130.30.030.E.2.a:** The subject parcel is zoned Forest Resource-One Hundred Sixty-Acre (FR-160), which allows single-family detached dwellings and accessory uses and structures. The subject parcel is less than an acre in size. When the new Zoning Ordinance became effective on January 15, 2016, the existing structure's location became non-conforming. Pursuant to Section 130.61.030.E, a structure that is non-conforming due to non-compliance to required setbacks of zoning may be increased in size so long as there is no further encroachment into the required setbacks. Since further encroachment is proposed along both the eastern and southern property lines, discretionary setback relief is required. A building permit was issued for an accessory, detached garage that is located northeast of the existing residence. This garage building permit was issued subject to the zone district standards (One-Family Residential (R1)) in effect at the time. With the change in the zoning ordinance, this structure became non-conforming. This garage is 30 feet further east than the proposed residential expansion. As such, the residential expansion will encroach less than the permitted garage into the required 200 foot Forest Resource setback.

The properties to the west and south would not be negatively impacted by the project; no further encroachment to the western property line is proposed and the parcel to the south is undeveloped and separated from the project parcel by the South Fork of the American River. The parcel to the east also would not be impacted; the proposed location of the expansion is 30 feet further removed from the eastern property line than is the existing permitted garage. Without the granting of relief requested by this application, the ability to improve the subject property is severely constrained.

**Variance Findings:** The granting of each Variance request requires four findings pursuant to Section 130.52.070.D of the County Zoning Ordinance. These findings for approval and their respective discussions are provided in Attachment 2.

**ENVIRONMENTAL REVIEW**

This project is Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations such as setback variances. The project parcel qualifies on the basis that it has an average slope less than 20-percent. The proposed project is requesting the reduction of two zoning setbacks created by the adoption of the new Zoning code. The proposed project has had a biological assessment prepared in support of the reduction of the riparian setback. No further environmental analysis is necessary.

## SUPPORT INFORMATION

**Attachments to Staff Report:**

- Findings
- Conditions of Approval
  
- Exhibit A .....Vicinity Map
- Exhibit B.....Assessor’s Parcel Map
- Exhibit C.....General Plan Land Use Map
- Exhibit D.....Zoning District Map
- Exhibit E1, E2, E3, E4.....Plans: Site, Lower Floor, Upper Floor, Elevations

# FINDINGS

## V16-0004/Bates Residential Expansion Zoning Administrator/August 03, 2016

### 1.0 CEQA FINDINGS

- 1.1 The modification of the structural setbacks are found to be Categorical Exempt from CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations such as setback variances for parcels with an average slope of less than 20-percent.
- 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 VARIANCE FINDINGS

- 2.1 **There are exceptional or extraordinary characteristics or conditions relating 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,**

**Riparian Setback Relief:** The proposed improvements would re-develop the existing residential deck and previously disturbed areas into enclosed habitable space. A Biological Assessment of the riparian environment was prepared and its conclusions support the proposed setback reductions with only the requirement for any building/grading permits to follow best management practices for erosion control.

**Forest Resource Setback Relief:** The project parcel has an average width, adjusted for minimum zoning setbacks of less than 149 feet. The parcel's average depth, adjusted for minimum setbacks is less than 188 feet. The subject parcel is less than an acre in size. Without the granting of relief from the 200 foot setback requested by this application, the ability to improve the subject property is severely constrained.

- 2.2 **The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other property in the vicinity and the same zone;**

**Riparian Setback Relief:** The new expansion into the riparian setback to 26 feet has been supported by a Biological Assessment. Further, the adjacent parcels have been developed consistent with the more favorable and lenient setbacks of the previous R1 Zone District development standards. Allowing the reduced setbacks for the expansion of the existing residential structure would not impact adjoining properties.

**Forest Resource Setback Relief:** The adjacent parcels have been developed consistent with the more favorable and lenient setbacks of the previous R1 zoning. Allowing the reduced setbacks for the expansion of the existing residential structure would not impact adjoining properties.

- 2.3 **A variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; and**

**Riparian Setback Relief:** The setbacks requested are the minimum necessary to allow the applicant to improve his property consistent with uses and structures existing on properties in the vicinity. The riparian setback reduction does not increase the existing non-conforming encroachment. It proposes an increase to the existing riparian setback of 22 feet for the existing development to 26 feet for the proposed expansion and this expansion has been supported by a professionally prepared riparian assessment.

**Forest Resource Setback Relief:** The setbacks requested are the minimum necessary to allow the applicant improve his property consistent with uses and structures existing on properties in the vicinity. Without the granting of relief requested by this application, the ability to improve the subject property is severely constrained due to size and dimensions of the parcel. The proposed expansion is less intrusive into the setback to the east than the existing non-conforming garage. The proposed expansion to the south is buffered by the South Fork of the American River

- 2.4 **The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.**

**Riparian Setback Relief, Forest Resource Setback Relief:**

The El Dorado County Zoning Ordinance was adopted to implement General Plan Consistency. The Riparian and Forest Resource setbacks are both eligible for relief through the Variance and Administrative processes, as identified in the El Dorado County Zoning Ordinance, Section 130.30.030.G.7, and 130.30.030.E.4 respectively. Given that two different types of setback relief was requested, the Variance process was determined to be the best method to provide the requested relief. The project request was supported by a professionally prepared biological assessment and will be subject to all Best Management Practices as implemented by the required building permit process. The evidence presented in the record to date demonstrates that the proposed Variance allowing reductions in the riparian and Forest Resource Zone setbacks will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area.

# CONDITIONS OF APPROVAL

## V16-0004/Bates Residential Expansion Zoning Administrator/August 03, 2016

### Conditions of Approval:

1. This Variance approval is based upon and limited to compliance with the project description and following hearing Exhibits:

Exhibit E1 .....Site Plan  
Exhibit E2 .....Lower Floor Plan  
Exhibit E3 .....Upper Floor Plan  
Exhibit E4 .....Elevations

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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 allow the expansion of an existing single-story residence to a two-story residence comprising a new total square footage of approximately 3,827 to have relief from the required riparian setback for the South Fork of the American river of 100 feet to 26 feet, and to have relief from the required Forest Resource setback of 200 feet along the southern property line to 47 feet 7 inches, and along the eastern property line to 110 feet, 9 inches.

The grading, development, use, and maintenance of the property and the size, shape, arrangement and location of structures 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 Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the design of building, and/or the location of buildings shall require Planning Services review and approval.
4. **Notice of Exemption Fee:** 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 upon project approval and prior to building permit issuance.

5. **Permit Implementation:** Pursuant to County Code Section 130.54.020, implementation of the project shall become effective 11 days from the decision by the review authority where no appeal of the approval has been filed in compliance with Section 130.52.090 (Appeals). A properly filed appeal shall stay the issuance of any such permit or authorizations until the appeal is decided.
6. **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.