

**EL DORADO COUNTY DEVELOPMENT SERVICES  
PLANNING COMMISSION  
STAFF REPORT**



**Agenda of:** XXXXX  
**Item No.:** XXXXX  
**Staff:** XXXXX

**SITE PLAN REVIEW**

**FILE NUMBER:** SPR08-0002/Fawkes Reasonable Use Site Plan Review

**APPLICANT/AGENT:** Mr. & Mrs. Gordon Fawkes

**REQUEST:** Finding of Consistency with General Plan Policy 7.3.3.4 for reduction of the riparian setbacks from 100 feet and 50 feet to no less than 20 feet commensurate with recommendations made by the Applicant's biologist. A Finding of Consistency would allow the construction of a single family dwelling and an accessory structure on APN 117-040-05 1 in El Dorado County, CA as depicted on exhibit "E" of the Staff Report for project number SPR08-0002. The project site is approximately one acre in size.

**LOCATION:** At the intersection of Stonebridge Street and Berkshire Drive at the North side of Stonebridge Street approximately a thousand feet North of the intersection with White Rock Road in the El Dorado Hills Area, Supervisorial District II. (Exhibit A).

**APN:** 117-040-05 1 (Exhibit B)

**ACREAGE:** 1 acre

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

**ZONING:** One Acre Residential District (R1A – Exhibit D)

**SUMMARY RECOMMENDATION:** Conditional Approval

**BACKGROUND**

The applicant has submitted an application for building permits proposing to construct two residential structures on APN 117-040-05 1, which is approximately one acre in size. The applicant proposes to develop a single family residence with an appurtenant accessory structure that would serve as a garage. Located at the intersection of Stonebridge Street and Berkshire

Drive in the El Dorado Hills area of El Dorado County, the applicants project site is located in an area that is immediately surrounded by single family residential uses. The applicants parcel contains a perennial wetland feature that traverses the project site from north to south. As the applicant proposes to construct residential related structures and a culvert crossing through the perennial wetland feature, General Plan Policy 7.3.3.4 consistency must be achieved prior to the issuance of a ministerial building permit. In addition, permits from the Army Corps of Engineers, the Regional Water Quality Control Board and the California Department of Fish and Game must be secured in order to develop the culvert crossing, providing secondary access to the residential site.

## **DISCUSSION**

The applicant proposes to construct two residential structures on APN 117-040-05 1. The primary structure proposed is the main residence the secondary structure proposed is a detached three car garage. The site is at the intersection of Stonebridge Street and Berkshire Drive in the El Dorado Hills area of El Dorado County, the applicant's project site is located in an area that is immediately surrounded by single family residential uses.

The rectangular property consists is predominated by annual grasslands. Two sides of the property are bordered with paved roads, one side borders a residential home, and the forth side borders an empty two acre lot. The construction of residential structures and driveways would have permanent impacts on the annual grasslands. Installation of a 33-foot culvert and driveway would affect the wetlands, comprised of permanent fill and temporary dewatering to work within the area of the drainage. The property can be characterized as having low quality of habitat for plants and wildlife. This is due to the fact that the parcel is small and isolated, surrounded by areas that have already been impacted by development activities.

The applicant's proposed use of developing a single family dwelling and an appurtenant accessory structure is allowed under the land use regulatory scheme and the proposed site plan does appear to adhere to all other development standards applicable to the R1A zoning district with the only exception being that the applicant is requesting to vary from the required setbacks to perennial features.

### **Interim Interpretive Guidelines**

The Interim Interpretive Guidelines for General Plan Policy 7.3.3.4 require a minimum setback of 100 feet from all perennial streams, rivers, and lakes, and a 50 foot setback from intermittent streams and wetlands until standards for buffers and special setbacks are established in the zoning ordinance.

General Plan Policy 7.3.3.4 states, "These interim standards may be modified if more detailed information relating to slope, soil stability, vegetation, habitat or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue." Also, "For projects where the county allows an exception to wetland and riparian buffers, development in or immediately adjacent to such features shall be planned so that impacts on the resources are minimized."

### **Impacts on the Perennial Streams and Riparian Areas**

A project level biological report prepared by ICF Jones and Stokes Consultants, was submitted to Development Services (Exhibit "I" dated July 23, 2008). The report concludes that the proposed project (allowing a 20 foot setback from the drainage and wetland areas) with recommended mitigation measures and BMP's would not affect water quality or further impair the functions and values of the onsite drainage or wetlands<sup>1</sup>. Staff has reviewed the document and is satisfied that the recommendations provided therein are sound.

Subsequent to the applicant's filing of an application with Development Services, the applicant has applied for and has received a conditional permit from the ACOE authorized under Nationwide Permit #29 for residential developments. This permit allows construction of a culvert crossing for driveway access to the project site. The proposed impacts of approximately 0.007 acres to the perennial drainage have been approved by the ACOE subject to the following conditions:

1. Obtain a section 401 Clean Water Act certification from the Regional Water Quality Control Board and submit to the ACOE prior to project implementation
2. To document pre- and post project construction conditions, you shall submit pre-construction photos of the project site prior to project implementation and post-construction photos of the project site within 30 days after project completion.
3. You must allow representatives from the ACOE to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the permit.
4. You must sign the enclosed Compliance Certification and return it to the ACOE office within 30 days after completion of the authorized work.
5. The verification is valid for 2 years or until the Nationwide Permit is modified, reissued or revoked, whichever comes first.

## **CONCLUSION**

As conditioned, the project incorporates "Best Management Practices" to minimize impacts on the perennial wetland and the riparian areas and the request to reduce the 100 foot and 50 foot setback requirements from streams and riparian areas would be consistent with the intent of El Dorado County General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for that Policy.

## **RECOMMENDATION**

Staff recommends that the Planning Commission find that the proposed reductions in setbacks from riparian areas are consistent with the intent of General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for said Policy based on the above discussion, subject to the Conditions of Approval in Attachment 1, and based on the Findings in Attachment 2.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1: Conditions of Approval

Attachment 2: Findings of Fact

Exhibit A: Vicinity Map

Exhibit B: Assessor's Parcel Maps

Exhibit C: General Plan Land Use Map

Exhibit D: Zoning Map

Exhibit E: Site Plan Exhibit

Exhibit F: Twenty Foot Riparian Buffer Exhibit

Exhibit G: Army Corps of Engineers Nationwide Permit

Exhibit H: CEQA Notice of Exemption

Exhibit I: July 23, 2008 Memo from Jones & Stokes Biologists

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**  
**File Number SPR08-0002**  
**Planning Commission/xxxxxx**

1. The project is based upon and limited to compliance with the project description, the Planning Commission hearing exhibits marked Exhibits E, F, and G approved xxxxx, 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 proposed project will result in direct permanent impacts on approximately 0.02 acres of wetlands, including the drainage. The project will also result in temporary impacts on 0.01 acres of wetlands during dewatering for culvert construction. Given the small scale of the project, its setting within a residential area, and the degraded nature of the onsite drainage, we believe the following mitigation measures and Best Management Practices (BMP's) will be sufficient to protect the biological resources in the project area and prevent indirect impacts on downstream biological resources. Construction could therefore occur between 20 and 100 feet of the drainage without adverse effects on biological resources.
  
2. The project Description is as follows:  
  
*Finding of Consistency with General Plan Policy 7.3.3.4 for reduction of the riparian setbacks from 100 feet and 50 feet to no less than 20 feet commensurate with recommendations made by the Applicant's biologist. A Finding of Consistency would allow the construction of a single family dwelling and an accessory structure on 117-040-05 1 in El Dorado County, CA as depicted on exhibit E of the Staff Report for project number SPR08-0002. The project site is approximately one acre in size.*
  
3. The applicant must adhere to the following development standards for the R1A residential zone:
  - a. Maximum building coverage shall not exceed 35%
  - b. Minimum setbacks for yards shall be:
    - i. Front = 35 feet
    - ii. Sides = 15 feet, except the side yard shall be increased one foot (1') for each additional foot of building height in excess of twenty-five feet (25')
    - iii. Rear = 30 feet
  - c. Maximum building height = 45 feet.
  
4. Construction of the primary residential building and appurtenant accessory structure including grading and paving both on and off-site shall be subject to the issuance of a building permit and encroachment permit form El Dorado County Building Services.
  
5. Obtain a Section 404 Clean Water Act permit from the Army Corps of Engineers. Written satisfaction of the permit conditions must be provided to Development Services prior to the commencement of any development activities on the project site. A grading

- permit shall not be issued unless the 404 permit has been issued and all conditions of said permit have been satisfied.
6. Obtain a Section 401 Water Quality Certification from the Central Valley RWQCB. As a condition of the Section 404 permit, the project is subject to review and approval by the Central Valley RWQCB. Obtaining water quality certification would ensure that the proposed project will not violate State water quality standards. It is the applicant's responsibility to obtain approval from the RWQCB before beginning any grading, clearing, or excavation, and to comply with all requirements.
  7. Obtain a Section 1602 Streambed Alteration Agreement from DFG. The project is subject to review and approval by DFG because it would affect the bed and banks of a stream. It is the applicant's responsibility to obtain approval from DFG before beginning any grading, clearing, or excavation below the banks of the drainage, and to comply with all requirements.
  8. Obtain a Grading and Encroachment Permit from El Dorado County. The project is subject to review and approval by El Dorado County. It is the applicant's responsibility to obtain approval from the County before beginning any grading, clearing, or excavation, and to comply with all requirements.
  9. Install Temporary Construction Fencing to Protect Wetlands. The applicant and/or his contractors will install a 1.2-meter-tall (4-foot-tall), orange, synthetic mesh-material fence (or an approved equivalent) 20 feet from the eastern boundary of the wetlands abutting the creek before any construction activities take place. No construction activities, including grading, should be allowed until this condition is satisfied. No encroachment within this area should be permitted. This restriction applies to both onsite and offsite improvements. The temporary fencing must be maintained until all construction activities are complete.
  10. Minimize Disturbance of Wetlands. The following measures will be employed to minimize disturbance of wetlands:
    - a. Construct the culvert and driveway during the low flow season (May 1-October 1)
    - b. Avoid operating equipment in saturated soils or within wetlands to the maximum extent possible. Use geotextile fabric or other mats in saturated conditions to minimize damage to the substrate and wetland vegetation from equipment.
    - c. Prior to placing the culvert, if water is present and dewatering is necessary, maintain downstream flows by installing small temporary coffer dams and a small diversion pipe.
    - d. Stabilize exposed slopes and streambanks, remove temporary fills, and recontour to pre-project conditions immediately upon completion of construction activities in the drainage.
    - e. During construction of the culvert and access road, remove vegetation, debris, or soils that are inadvertently deposited below the ordinary high-water mark in a manner that minimizes disturbance of the drainage bed and bank.
    - f. Complete all activities within wetlands promptly to minimize the duration of impact.

11. Minimize Potential Disturbance to California Red Legged Frog. The proposed work within the drainage should be conducted during the low flow season (May 1 to October 1). This is because CRLF are unlikely to be present in the drainage at this time because there are no deep pools. Notwithstanding, the applicant shall minimize the period of time that construction work will occur within the active channel.
12. Implement the following Best Management Practices (BMPs) throughout all phases of construction to avoid and minimize potential direct and indirect effects on wetland resources:
  - a. Install temporary erosion control measures (e.g., silt fences, staked straw bales/wattles, and geofabric) to control erosion from disturbed areas and protect downstream offsite areas from sedimentation.
  - b. Establish grass, vegetative cover, or erosion control on disturbed areas within the construction site as soon as possible after disturbance. Vegetative application will be completed by September 15 to allow plants to establish. No disturbed surfaces will be left without erosion control measures in place between October 1 and April 30.
  - c. Excavated material shall be deposited or stored away from aquatic resources, and the disposal or storage area shall be graded to minimize surface erosion.
  - d. Construction activities within 20 feet of the wetlands and within the drainage channel shall be limited to annual low-flow periods.
  - e. Cover or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more) that could contribute sediment to waterways.
  - f. Enclose and cover exposed stockpiles of dirt or other loose, granular construction materials that could contribute sediment to waterways.
  - g. No earth or organic material shall be deposited or placed where it may be directly carried into the stream or adjacent wetlands.
  - h. Prohibit the following types of materials from being rinsed or washed into the streets, shoulder areas, or gutters: concrete; solvents and adhesives; thinners; paints; fuels; sawdust; dirt; gasoline; asphalt and concrete saw slurry; and heavily chlorinated water.
  - i. Lawn chemical use (fertilizers, herbicides, fungicides, etc.) will be minimized to the maximum extent practicable. Only chemicals approved for use by El Dorado County will be used.
  - j. If adverse weather conditions threaten the transport of disturbed soils off site, the applicant will install temporary erosion control measures immediately. Soil disturbance will cease if weather conditions worsen and increase the likelihood of transporting soil off site.
  - k. To reduce potential contamination by spills, no refueling, servicing, or maintenance of equipment will be performed within 50 feet of the drainage. Any fluids drained from the machinery during servicing will be collected in leak-proof containers and taken to an appropriate disposal or recycling facility. If such activities result in spillage or accumulation of a product on the soil, the contaminated soil will be assessed and disposed of properly. Under no circumstances will contaminated soils be added to a spoils pile.
  - l. The job site will be kept clean and orderly as practicable.

13. The applicant will be required to provide ongoing monitoring for the duration of the construction period commensurate with the requirements of the permits from ACOE, DFG and RWQCB. The monitoring requirements of the permits acquired for the project (Nationwide #29, Water Quality Certification and Streambed Alteration Agreement) would be sufficient to maintain the biological integrity of the creek and associated wetlands.
14. 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.
15. 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 of El Dorado County concerning the site plan review, which action is brought within the time period provided for in Section 66499.37. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.



**ATTACHMENT 2  
FINDINGS OF FACT  
File Number SPR08-0002  
Planning Commission/xxxxx**

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 project site is approximately an acre in size and there is a perennial wetland feature onsite that traverses the property from north to south. Very few of the parcels in the vicinity have this same, unique physical feature.

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 project site is surrounded by similar residential uses. The applicant has followed the process set forth by General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines for that Policy. Strict application of the provisions would deprive the applicant of the reasonable use of the land for residential development.

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

The applicant's biologist has recommended a minimum setback of twenty feet from the perennial feature to protect the integrity of the riparian habitat. This is the minimum variance that is necessary for the reasonable use of the land as a residential home site.

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 reduction in setbacks perennial feature on the project sit has been designed for sufficient protection of the integrity of the riparian habitat and would not be detrimental to the public health, safety and welfare, or be injurious to the neighborhood.

5. *The alternative setback is consistent with the General Plan.*

The proposed project has been designed in a manner to ensure that alternative setbacks would not have an adverse effect on the perennial feature. The proposed project, therefore, is consistent with intent of General Plan Policy 7.3.3.4 by providing for an adequate setback for protection of natural and man-made wetlands, vernal pools, wet meadows, and riparian areas from impacts related to development for their importance to wildlife habitat, water purification, scenic values, and unique and sensitive plant life.