

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: July 19, 2006
Item No.: 6.c.
Staff: Tom Dougherty

SPECIAL USE PERMIT

FILE NUMBER: S 06-0008

APPLICANT: Ben Fagen and Tim Cronin

REQUEST: Special Use Permit to allow the construction of living space over an existing garage, built in 1974 within the required 20-foot front yard setback, as an expansion of a non-conforming structure.

LOCATION: On the west side of Glenmore Way, approximately 1,000 feet south of the intersection with Tahoe Mountain Road in the South Lake Tahoe area. (Exhibit A).

APN: 032-341-02

ACREAGE: 0.38 acre

GENERAL PLAN: Adopted Plan (AP) (Exhibit B)

ZONING: One-family Residential (TR1) (Exhibit C)

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

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: The subject parcel was created by the Angora Highlands Unit No. 2 Subdivision Map E-2 recorded in January of 1968 and assigned the designation of Lot 80. The cover page lists the subject property has a ten-foot front public utility easement for underground and overhead utilities, a 20-foot front easement for guywires and anchorages, and the rear shows a five (5)foot public utility easement line on the subdivision plat map. The existing two-story 2,064 square-foot

single-family residence, with a detached 484 square-foot garage, has a flat deck/viewing area atop. The existing structures were built in 1974 within the 20-foot front setback required of the TR1 Zone District. The eastern portion of the garage was built at the property line along the edge shared with the 50-foot wide road easement. However, Glenmore Way does not use up the whole 50 feet and there is a distance of ten-feet from the edge of the concrete curb on the edge of the pavement to the edge of the garage. The garage was permitted to be built at the property line which was a common practice previously in the Lake Tahoe area. It was common to submit plans that ignored the easements and only considered setbacks from the physical location of the road edge. Today, this garage would be required to have a 20 foot setback from the edge of the road easement.

STAFF ANALYSIS

Project Description: The applicants propose to construct a 12 foot by 20 foot (12' x 20') game room over the rear portion of the existing 22 foot by 22 foot (22' x 22') garage, leaving a ten-foot(10') setback of that proposed living space from the parcel boundary, and twenty feet (20') from the edge of the concrete curb at the edge of Glenmore Way.

Site Description: There is an existing single-family residence and two-car garage with a flat deck/roof. The home and garage are positioned next to the road and the remainder of the parcel is covered with vegetation that includes Jeffrey pines (*Pinus jeffreyii*), white firs (*Abies concolor*), green-leaf manzanitas (*Arctostaphylos patula*) and mountain whitethorns (*Ceanothus cordulatus*).

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1	AP (Tahoe Regional Plan/TRPA).	Single-family dwelling
North	TR1	AP (Tahoe Regional Plan/TRPA).	Vacant/State of CA/Tahoe Conservancy
South	TR1	AP (Tahoe Regional Plan/TRPA).	Vacant/ Vacant/State of CA/Tahoe Conservancy
East	TR1	AP (Tahoe Regional Plan/TRPA).	Vacant/ Vacant/State of CA/Tahoe Conservancy
West	TR1	AP (Tahoe Regional Plan/TRPA).	Vacant/U.S. Forest Service

General Plan: The proposed expansion above the garage for game room is located on a parcel with an Adopted Plan (AP) General Plan land use designation. This land use category recognizes areas for which specific land use plans have been prepared and adopted, and the subject parcel is within the Angora Highlands Plan Area. The following General Plan policies also apply:

Policy 2.2.1.2: *To provide for an appropriate range of land use types and densities within the County, the following General Plan land use designations are established and defined.*

Adopted Plan (AP): The adopted plan for the Tahoe Basin is the Regional Plan for the Tahoe Basin and the Plan Area Statements, both adopted by the Tahoe Regional Planning Agency (TRPA), and the Meyers Community Plan, adopted by El Dorado County and TRPA.

Discussion: The subject parcel is located in the Angora Highlands Plan Area which allows one residential single-family dwelling and the Tahoe Regional Plan allows accessory structures and uses. The proposed accessory use of a game room is not disallowed by the Angora Highlands Plan Area or any CC&Rs associated with the parcel.

Zoning: The proposed use is permitted in the One-family Residential (TR1) Zone District, pursuant to *Sections 17.56.020 H* permits accessory uses to the main dwelling.

Special Use Permit Request:

The proposed use is normally permitted in the One-family Residential TR1 Zone District pursuant to current *El Dorado County Zoning Code Sections 17.15.010* and *17.15.020*, however it normally must meet the current development standards in *Section 17.56.040 (D)* which requires minimum yards of: front 20 feet, sides 5 feet and rear 15 feet.

According to records supplied by the El Dorado County Assessor's Office, the current dwellings were legally permitted by Building Permit #8878 in August of 1973.

Chapter 17.20 defines non-conforming uses and ways to *provide for a means by which the use of land or buildings or any building itself which violates current zoning ordinances but which lawfully existed on the effective date of the ordinances can be effectively regulated in the public interest.*

Section 17.20.020 further defines a non-conforming use as meaning "the actual use or occupation of any land or structure or any structure itself which was lawful at the time of the adoption of the ordinance codified in this article but which has been made unlawful by the provisions of the ordinances or any amendments thereto."

Section 17.20.030 states that "any non-conforming use may be continued subject to the limitations set forth in Sections 17.20.040 through 17.20.100."

17.20.040: "Expansion. A non-conforming use shall not be expanded, enlarged or otherwise extended either on the same or adjoining parcel of land without a special use permit. The permit shall be issued in accordance with *Chapter 17.22* which describes *Special Use Permit* procedures."

Conclusion: After review of the submitted site plan and pursuant to a site inspection, it has been determined that the proposed project does not conflict with any standards contained in *Section 17.28.010 thru 17.28.040, 17.56.010 thru 17.56.040* of the *County Code*. It can be found that expansion of the top of the garage subject to this special use permit will not cause any loss of any sight distance, solar benefit, nor conflict with any use currently enjoyed by any of the surrounding parcel owners. The expansion onto the top of the garage will not increase the existing non-

conformity of the public utility easements since the expanded portion will be set back ten feet from the current non-conforming portion of the lower garage and all involved utility companies have supplied the applicant with letters that allow the 10 feet of the 20 feet reserved for guywires and anchorages furthest from the road to be abandoned.

In order to approve the use, the approving authority must find that the use 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 nor be injurious to the neighborhood.

Agency and Public Comments: The following agencies provided comments on this application. Copies of their written comments are available at the Planning Services office.

The following four agencies submitted letters to the owner which he submitted with the application that agree to abandon 10 feet of the front utility easements. It should be noted that the Angora Highlands Unit 2 cover page states that the easement of 20 feet is for guywires and anchorages, the first ten feet is for underground and overhead utilities:

Sierra Pacific Power Company stated they agree to a reduction of the front easement to ten-feet wide as long as a five foot by twenty foot (5' x 20') utility easement is maintained along the north side of the property, (Letter dated April 26, 2006).

Southwest Gas stated they agree to a reduction of the front easement to ten-feet wide, (Letter dated May 30, 2006).

South Tahoe Public Utility District stated they agree to a reduction of the front easement to ten-feet wide, (Letter from Randy Curtis, not dated).

Charter Cable stated they agree to a reduction of the front easement to ten-feet wide.

El Dorado County Department of Transportation (DOT): The department reviewed the application and stated they would allow the proposed expansion on the back half above the garage but the applicant must execute a "Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the setback encroachment from the existing garage as well as the proposed expansion subject of this permit.

The following agencies had no specific concerns regarding the proposed special use permit:

El Dorado County Pioneer Cemeteries

Lake Valley Fire District
South Tahoe Public Utility District
El Dorado County Environmental Management, Environmental Health, SLT
El Dorado County Environmental Management, Hazardous Waste
Air Quality Management District
El Dorado County Environmental Management, Environmental Health
At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 (a) of the CEQA Guidelines stating that minor alterations in land use limitations in areas with an average slope of less than 20 percent, 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. Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Staff recommends that the Zoning Administrator take the following actions:

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15305 (a);
and
2. Approve Special Use Permit S 06-0008 subject to the Conditions of Approval in Attachment 1 and Findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2Findings

Exhibit AVicinity Map
Exhibit BGeneral Plan Land Use Map
Exhibit CZoning Map
Exhibits D1 and D2.....Subdivision Map pages E-2 and E2A
Exhibit ESite Plans dated March 30, 2000
Exhibit FProposed Floor Plan
Exhibit G1Building Permit 8878 Application Form
Exhibit G2Site plan, dated August 14, 1973
Exhibit G3Assessor’s Office Residential Building Record
Exhibits H1 thru H3Site Photos
Exhibit IAerial Photo

ATTACHMENT 1

CONDITIONS OF APPROVAL

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El Dorado County Planning Services

1. The project, as approved, consists of the following:

Construction of a 12 foot by 20 foot (12'x20') addition over the rear portion of the existing 22 foot by 22 foot (22' x 22') garage, leaving a ten-foot setback of that proposed living space from the parcel boundary, and 20 feet from the edge of the existing concrete curb at the northwest edge of Glenmore Way. The space is proposed to include a game room and bath.
2. All site improvements, building locations, building orientations, and materials shall comply with the approved site plan identified as Exhibit E, attached.
3. A notice of restriction shall be recorded with the El Dorado County Recorder's Office prior to final approval of the building permit. Said notice shall prohibit the subject addition for use as a second residential unit. A copy of the recorded Notice of Restriction shall be received by Planning Services Permit Center prior to final approval of the building permit.
5. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

El Dorado County Department of Transportation (DOT)

6. The applicant must execute and record a "Hold Harmless and Indemnification Agreement" protecting the County from liability arising as a result of the setback encroachment from the existing garage as well as the proposed expansion subject of this permit. This recorded agreement shall be reviewed and approved by DOT prior to issuance of a building permit. The applicant shall provide a copy of the agreement and confirmation of DOT approval to Planning Services for the project file.

ATTACHMENT 2 FINDINGS

File Number S 06-0008 – Ben Fagen and Tim Cronin
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1.0 CEQA FINDING

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 (a) of the CEQA Guidelines stating that minor alterations in land use limitations in areas with an average slope of less than 20 percent, 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
- 1.2 The Zoning Administrator finds that the proposed project could not have a significant effect on the environment.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.
- 1.4 The project will not affect wetlands, water courses, riparian lands, unique plant or animal life and habitats, or other terrestrial matters under the jurisdiction of the State Department of Fish and Game. Therefore, the project has a de minimis impact on the environment and a Certificate of Fee Exemption (DFG 753.5-5/91) is applicable.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 It can be found the proposed use is consistent with the policies in the 2004 El Dorado County General Plan, as discussed in the General Plan section of this staff report.
- 2.2 It can be found the proposed use is consistent with the policies in the 2004 El Dorado County General Plan because the General Plan designates the parcel as Adopted Plan (AP) and is included in the Angora Highlands Plan Area. This designation permits single-family residential development uses and accessory uses as those subject of this permit.

3.0 SPECIAL USE PERMIT FINDINGS

- 3.1 It can be found the proposed use complies 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, or injurious to the neighborhood, because the proposed project does not conflict with any standards contained in Section 17.28.010 thru 17.28.040, 17.56.010 thru 17.56.040 of the County Code.

- 3.2 It can be found that the expansion of the top of the garage subject to this permit will not cause any loss of any sight distance, solar benefit, nor conflict with any use currently enjoyed by any of the surrounding parcel owners. The expansion onto the top of the garage will not increase the existing non-conformity of the public utility easements since the expanded portion will be set back ten feet from the current offending portion of the lower garage and all involved utility companies have supplied the applicant with letters that allow the 10 feet of the 20 feet reserved for guywires and anchorages furthest from the road to be abandoned.