

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



Agenda of:	September 2, 2015
Item No.:	4.a.
Staff:	Joe Prutch

VARIANCE

FILE NUMBER: V15-0003/High Hill Ranch

APPLICANT: Jerry Visman

REQUEST: Variance to reduce the front yard setback from 30 feet to zero feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 7,743 square foot packing shed and sales area structure.

LOCATION: On the north side of Carson Road, approximately 0.75 miles west of the intersection with U.S. Highway 50 in the Camino area, Supervisorial District 3. (Exhibit A)

APN: 048-160-23 (Exhibit B)

ACREAGE: 31.1 acres

GENERAL PLAN: Agricultural Lands – Agricultural District (AL-A) (Exhibit C)

ZONING: Select Agricultural District (SA-10) and Exclusive Agricultural (AE) (Exhibit D)

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

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

1. Find that the project is Categorically Exempt pursuant to Section 15305(a) of the CEQA Guidelines and;
2. Approve Variance application V15-0003 based on the Findings and subject to the Conditions of Approval as presented.

BACKGROUND:

According to Building Services, the packing shed and sales structure was initially built in 1957 and later damaged by a storm requiring roof repairs. When repaired, the structure was built closer to the property line than the original 1957 structure. The structure was later expanded without a building permit. Evidence shows that the structure was actually expanded outside the property line and within the right-of-way for High Hill Road.

An open Code Enforcement case (153015) exists at the subject site, partially as a result of the expansion and roof repair of the structure without permits. The applicant applied for a building permit (178095) on November 15, 2006, to resolve these issues, but that permit expired. The applicant also applied for a Variance (V08-0005) on February 29, 2008, to reduce the front yard setback to four feet, but that permit expired as well. The applicant said he realigned the right-of-way so that the structure is out of the right-of-way. The applicant recently applied for a building permit (235404) on April 2, 2015, to expand/remodel the structure, and applied for this Variance on June 11, 2015 to reduce the front yard setback to zero feet.

STAFF ANALYSIS

Project Description: The applicant is requesting a variance to reduce the front yard setback from 30 feet to zero feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 7,743 square foot packing shed and sales structure (Exhibit E). The variance is requested so that the building permit can be issued by Building Services to address building code compliance issues and be able to close the code enforcement case.

Site Description: High Hill Ranch is located at the subject site, which contains a variety of ranch marketing uses and related structures, a trout pond, parking areas, two single family residences, a temporary mobile home (permit expired April 1, 2014), and apple orchards. High Hill Road bisects the property and provides the primary access to the site. The packing shed and sales area structure (Building G on the Site Plan: Exhibit 1) is located on the west side of High Hill Road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	SA-10/AE	AL-A	Agriculture/Ranch marketing and related structures
North	SA-10/AE	AL-A	Ranch marketing/Fudge Factory
South	R20K	HDR	Single family residences
East	SA-10	AL-A	Single family residences
West	TPZ	AL-A	Agriculture/Christmas tree farm

Discussion: As shown in the table above, the site is surrounded by ranch marketing, agriculture, and residential land uses. Approval of the requested variance would not impede traffic flow within the easement and would not negatively impact any of the surrounding properties currently using High Hill Road as the structure exists and is not proposed to be expanded or moved. The building permit for the structure would be after-the-fact.

Variance Findings: The granting of a variance requires four findings pursuant to Section 130.24.040 of the County Zoning Ordinance. Findings for approval are included within the Findings section of this staff report. Additionally, variance support information submitted by the applicant is attached as Exhibit F.

General Plan: The County General Plan designates the subject parcel as Agricultural Lands with an Agricultural District overlay (AL-A). A broad range of agricultural and ranch marketing activities are permitted by the AL land use designation based on the characteristics identified under General Plan Policy 8.1.1.8. The existing structure is for permitted agricultural uses. If approved, the requested variance would have no negative impact on agricultural activities currently being conducted at the site. The granting of this variance, therefore, would conform to the AL land use designation.

Zoning: The existing packing shed and sales structure is located on the portion of the site zoned Exclusive Agricultural (AE) and is permitted by right within the AE zone district pursuant to 130.36.070.H and I. Minimum setbacks for the existing structure would be 30 feet for the front yard. If approved, the requested variance would result in a minimum setback of zero feet from the edge of the 50 foot road easement as shown on Exhibit E. As proposed, the requested variance is compatible with the surrounding existing agricultural uses at the site.

Conclusion: As discussed above, staff finds the variance, as proposed and conditioned, would be consistent with all applicable provisions of the County General Plan and Zoning Ordinance.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) of the CEQA Guidelines that allows minor alterations in land use limitations for a variance. No new construction is proposed. As a result, no further environmental analysis is necessary. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Conditions of Approval
Findings

Exhibit AVicinity Map
Exhibit B.....Assessor's Map
Exhibit C.....General Plan Land Use Map
Exhibit D.....Zoning Map
Exhibit E..... Site Plan – Overall
Exhibit E-1.....Site Plan – Detailed
Exhibit F.....Variance Support Information Submitted by Applicant

CONDITIONS OF APPROVAL

Variance V15-0003/High Hill Ranch Zoning Administrator/September 2, 2015

CONDITIONS OF APPROVAL

1. This variance is based upon and limited to compliance with the project description, Site Plan (Exhibit E) dated February 25, 2014, 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:

Variance to reduce the front yard setback from 30 feet to zero feet from the edge of a 50-foot wide road easement (High Hill Road) for an existing 7,743 square foot packing shed and sales area structure (Building G on Site Plan), to allow the structure to remain in its current location, as shown on Exhibit E.

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. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. 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 developer and land owner 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 a Variance.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

3. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
4. Prior to issuance of a building permit for the packing shed and sales area building, the applicant shall provide proof to Planning Services that the structure is not located within the 50-foot wide road easement for High Hill Road.

5. Prior to issuance of a building 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.
6. The variance to the front yard setback will be allowed within the area necessary to permit only the project as listed in the project description. Further encroachment or expansion into the setback area is prohibited.

El Dorado County Transportation Division

7. Prior to building permit issuance, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback variance. The form of said document shall be reviewed and approved by County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's Office. An official copy shall be sent to the Transportation Division.

FINDINGS

Variance V15-0003/High Hill Ranch Zoning Administrator/September 2, 2015

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations which do not result in any changes in land use or density, including, but not limited to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel.

2.0 GENERAL PLAN FINDINGS

- 2.1 The proposed variance is consistent with the applicable policies of the General Plan including Policy 8.1.1.8 regarding the site's Agricultural Lands land use designation because the property is currently under Williamson Act Contract 218 and located within the County's Rural Region.

3.0 VARIANCE FINDINGS

- 3.1 *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 packing shed and sales area structure was constructed in 1957 and later damaged by a storm requiring roof repairs. The structure was rebuilt closer to the property line than the original 1957 structure. Because the structure was later expanded without a building permit, the structure now has an open code enforcement case concerning building code issues and is located outside the property line and within the road easement. The applicant has realigned the road easement so that the entire building is now outside the road easement. A building permit cannot be issued to address any building and fire code issues until approval of the subject variance is granted.

- 3.2 *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 existing packing shed and sales structure is located on the portion of the site zoned Exclusive Agricultural (AE) and is permitted by right within the AE zone district pursuant to 130.36.070.H and I. As such, it is considered a reasonable use of the land to support current agricultural operations. Demolition and relocation of the existing structure to meet the 30 foot front yard setback would potentially negatively impact existing agricultural operations and cause the applicant undue financial hardship.

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

This variance request would validate the existing packing shed and sales structure in its current location, which has been conditioned to prevent any further structural encroachment within the front yard setback. Therefore, the requested variance is the minimum necessary for the reasonable use of the land.

3.4 *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 structure has existed since 1957 and staff is unaware of any known history of access, safety, or utility-related complaints or concerns.

Approval of the requested variance would not impede traffic flow within the easement and would not negatively impact any of the surrounding properties currently using High Hill Road as the structure exists and is not proposed to be expanded or moved. Therefore, the variance, as conditioned, would not be detrimental to the public health, safety, and welfare of the neighborhood.