

COUNTY OF PLACER Community Development Resource Agency

PLANNING

MEMORANDUM

Hearing Date: February 21, 2013

Hearing Time: 10:00 a.m.

DATE:

February 21, 2013

TO:

Zoning Administrator

FROM:

Development Review Committee

SUBJECT:

(PMPC 20120363) - Minor Use Permit to construct a garage prior to

construction of single-family dwelling

APPLICANT:

Herb Becker

STAFF PLANNER:

Gerry Haas, Senior Planner

ZONING:

RS-AG-B-100 (Residential Single-Family, Combining Aricultural,

Combining 100,000 Square-foot Minimum Lot Size)

APN:

076-470-005

LOCATION:

The project is located at 3073 Red Deer Court, approximately one-half mile south of Dry Creek Road in the Windsong Estates subdivision in North Auburn.

PROPOSAL:

The applicant requests approval of a Minor Use Permit to allow an existing 800 square-foot garage to remain prior to the construction of a single-family residence.

CEQA COMPLIANCE:

The project is categorically exempt from environmental review pursuant to provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050 of the Placer County Environmental Review Ordinance (Class 3, New Construction or Conversion of Small Structures).

BACKGROUND:

The subject property is Lot 5 in the Windsong Estates subdivision in North Auburn. Windsong Estates is a gated community consisting of 32 lots, each at least 2.3 acres in size, and most are developed with single-family residences. The subject property comprises 2.6 acres and is located at the west terminus of Red Deer Court, approximately one-half mile south of Dry Creek Road. The site is transected by the Combie-Ophir Canal which divides the property into a western and eastern portion. The western portion is furthest from Red Deer Court and is essentially undisturbed. The eastern portion is bordered on the west by the canal, and on the east by Red Deer Court. This eastern portion is the building site of a future residence, and it has been cleared of vegetation and is graded level. A single structure exists on the site, an 800 square-foot garage.

In 2003, the previous property owner, Steve Becker, submitted plans and obtained a Building Permit for a 3,000 square-foot single-family residence and an 800 square-foot detached garage. The garage was constructed, but the residence was never built. Placer County Code Enforcement informed Mr. Becker that, without a residence on site, the detached garage would be considered an illegal structure and would be required to be removed.

In 2005, Mr. Becker obtained a second Building Permit, this time just for the residence. But soon afterward, he and his wife encountered a series of personal and financial hardships that delayed progress and ultimately resulted in the expiration of that Building Permit as well. Upon expiration of the second Building Permit in 2007, the Building Department determined that no further extensions of time for a Building Permit should be approved. Mr. Becker then contacted Code Enforcement to determine what could be done to resolve the issue.

The Placer County Zoning Ordinance prohibits the construction of a residential accessory structure when a primary residence does not exist on the site. Specifically, the Ordinance states: "Accessory buildings....shall be constructed or otherwise established at the same time as, or after the main building or use, except where earlier construction is authorized through minor use permit approval (Section 17.56.020 (A) (1))". Upon being informed that a Minor Use Permit would be the last remaining option for legalizing the accessory structure until the residence can be constructed, Mr. Becker submitted a Minor Use Permit application.

Although the lack of a residence constituted a violation of the Placer County Code, staff had determined that the applicant, nonetheless, was entitled to the opportunity to remedy the violation through the use permit process. On May 15, 2008, the Zoning Administrator took action to approve the Minor Use Permit request subject to the construction of a residence being intitiated within two years of the approval date.

The deadline to begin construction of the residence has now expired and Mr. Becker has relocated out of state. Prior to his move, he deeded his Windsong Estates parcel to his father, who was also his next door neighbor. At this time, Herb Becker, the new owner of the parcel, has submitted a new Minor Use Permit application requesting that the garage be allowed to remain on the parcel, absent a residence. Herb Becker's intention is to legalize the garage in order to sell the property.

ANALYSIS:

As stated above, the applicant has acquired the subject parcel from his son, who had created a violation by constructing a detached garage without a residence. The applicant has no intention of building a residence at this time, and may attempt to sell the property in the near future. Alternatively, the applicant may decide to construct a residence at a later date, prior to the sale of the site. As the fate of the parcel is not currently known, the applicant is requesting approval of a Minor Use Permit to allow the garage to remain on-site indefinitely. As stated by the applicant, there is no intended use of the garage, aside from storage, until a residence is built.

In the RS-AG (Residential Single-Family, combining Agriculture) zone district, residential or agricultural development is the primary purpose. Although storage is only allowed as accessory to a primary residential use, the Zoning Ordinance provides for accessory structures to be constructed prior to a residence as discussed above.

Staff has determined that if the garage remains on-site and is only used for interior storage, then it would not create a visual nuisance on the site and would not be detrimental to the safety, peace, comfort or general welfare of people residing in the neighborhood. Conditions regarding use of the garage and limiting use of the remainder of the site until such time as a residence is being constructed are recommended below.

RECOMMENDATION:

Staff recommends approval of this Minor Use Permit (PMPC 20120363) based on the following findings and recommended conditions of approval.

FINDINGS:

Minor Use Permit

- 1. The proposed use (with approval of this use permit) would render the subject property consistent with all applicable provisions of Placer County Code, Chapter 17, and any applicable provisions of other chapters of this code.
- 2. The proposed use is generally consistent with applicable policies and requirements of the Placer County General Plan.
- 3. The existence of the garage will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort or general welfare of people residing or working in the neighborhood of the proposed buildings, nor will it be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
- 4. Although the property is not consistent with the character of the immediate neighborhood and is contrary to its orderly development, the purpose of this Minor Use Permit is to ensure that the project is ultimately completed and that the site will become consistent with surrounding development.

CEQA

The project is categorically exempt from environmental review pursuant to provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050 of the Placer County Environmental Review Ordinance (Class 3, New Construction or Conversion of Small Structures).

RECOMMENDED CONDITIONS OF APPROVAL:

- 1. This Minor Use Permit (PMPC 20120363) authorizes the continued use of an 800 square foot garage prior to construction of a single-family residence on APN 076-470-005.
- 2. A Building Permit shall be obtained to ensure that the garage structure is designed strictly for the purpose of storage, not habitation. The applicants shall submit for a Building Permit within 60 days of approval of this Minor Use Permit.
- 3. The garage shall not contain any kitchen or cooking facilities, nor shall it be used for residential habitation, nor the operation of any home-based business. The purpose of the garage shall be for storage and eventually workspace until such time as a residence is completed.
- 4. Aside from the garage, the subject parcel shall otherwise remain free of any form of exterior storage, unless the applicant is actively involved in the construction of a residence in compliance with the Placer County Building Services Division.
- 5. This Minor Use Permit shall be considered exercised upon final approval of a Building Permit from the Placer County Building Services Division for the conversion of the garage to a storage structure.
- 6. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer, the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorneys' fees awarded by a certain development project known as Becker Minor Use Permit PMPC 20120363. The applicant shall, upon written request of the County, pay or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating to the approval of the Project. Upon request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provision of this condition. (County Counsel)

7. The applicant shall have 24 months to exercise this Minor Use Permit. Unless exercised, this approval shall expire on March 3, 2015.

ATTACHMENTS

Memo from the Placer County Department of Public Works Memo from the Placer County Department of Environmental Health Services



COUNTY OF PLACERCommunity Development Resource Agency

ENGINEERING & SURVEYING

MEMORANDUM

TO:

GERRY HAAS, PLANNING DIV

DATE:

JANUARY 11, 2013

NICOLE HAGMAIER, PLANNING DIV

FROM:

SHARON BOSWELL, ESD

SUBJECT:

PMPC 20120363: TEMP ACCESSORY STRUCTURE; RED DEER CT, AUBURN;

BECKER; (APN: 076-470-005)

The Engineering & Surveying Division (ESD) **supports** the Development Review Committee's recommendation for this Minor Use Permit Application and has no concerns or recommended conditions of approval.



Placer County Health and Human Services Department

Richard J. Burton, M.D., M.P.H.Health Officer and Department Director

Wesley G. Nicks, R.E.H.S.
Director of Environmental Health,
Public Health and Animal Services

MEMORANDUM

DEPARTMENT OF HEALTH & HUMAN SERVICES ENVIRONMENTAL HEALTH SERVICES

To:

Zoning Administrator

From:

Justin Hansen

Land Use and Water Resources Section

Date:

January 3, 2013

Subject:

PMPC 20120363, Becker, APN 076-470-005

Environmental Health Services has reviewed the proposed minor use permit and has no objections or recommended conditions of approval.