

Mono County Community Development Department

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Planning Division

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December 19, 2019

To: Mono County Planning Commission
From: Michael Draper, Planning Analyst
Re: Variance 19-001, Stang residence stream setback

Recommendation

It is recommended the Planning Commission take the following actions:

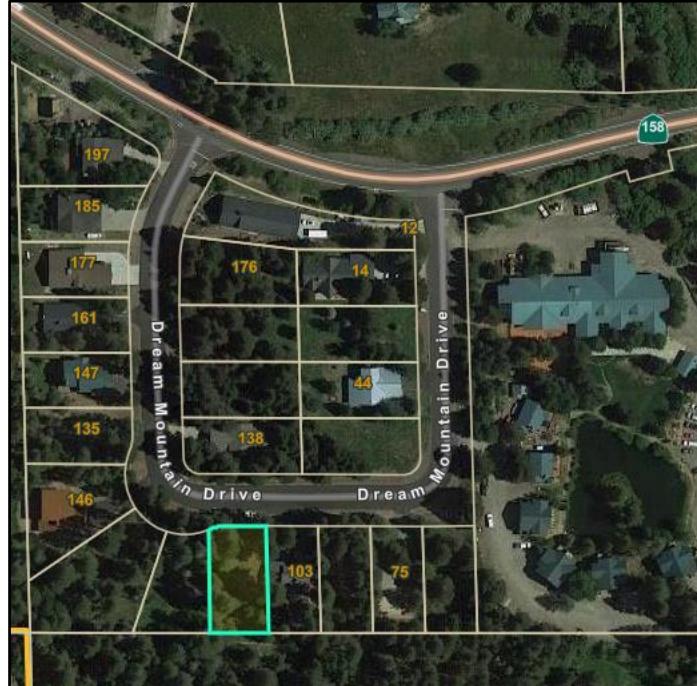
1. Find that the project is exempt from CEQA as a Categorical Exemption under CEQA guideline 15303 and direct staff to file a Notice of Exemption.
2. Adopt the findings contained in the staff report and approve Variance 19-001 to allow a 16' setback from the top of the stream bank for a single-family residence on APN 016-270-055.

Project Overview

Figure 1: Aerial view of project location

The proposal is for a 14-foot reduction of the required stream setback of 30-feet from the top of the bank, per Mono County General Plan Chapter 4 (04.120.F.b.1) in order to construct a single-family residence.

The property is Lot 5 of the Dream Mountain Subdivision on Dream Mountain Drive in June Lake (APN 016-270-005). The land-use designation is Single-Family Residential (SFR) which allows for a residential dwelling. The property owners are proposing to construct a residence on the property however setback requirements constrain the building envelope to a very small and thin portion of the lot.



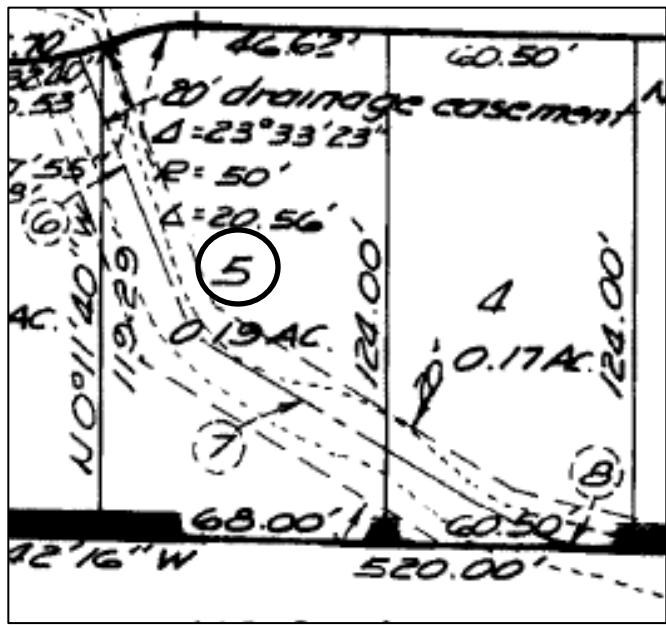
Project Setting

The property is located within the Dream Mountain subdivision, approximately eight-miles west of the intersection of U.S. Highway 395 and State Route 158. Access is taken from State Route 158 onto Dream Mountain Drive. This parcel is in the southwest corner of the subdivision and is

8,401 square-feet (sf). Neighboring properties on the west, north, and east side are designated SFR and to the south is the Inyo National Forest, designated Resource Management (RM). The property to the east and north are developed with single-family residences.

The SFR land-use designation has minimum setbacks of 20' front-yard and 10' rear and side-yard, and a maximum allowable lot coverage of 40% and a minimum lot size of 7,500-sf. The property owners are proposing a 1,249-sf two-bedroom house and garage, with a 448-sf paved driveway and 30-sf landing area. Total lot coverage would be 1,727-sf or 21%, and yard setbacks will be met.

Figure 2. Tract Map 34-06



A stream travels through the south and western portion of the site originating from Carson Peak and flowing north and west before meeting Reversed Creek. The stream is not designated by the United States Geologic Survey and may have been altered during an initial grading of Dream Mountain lots.

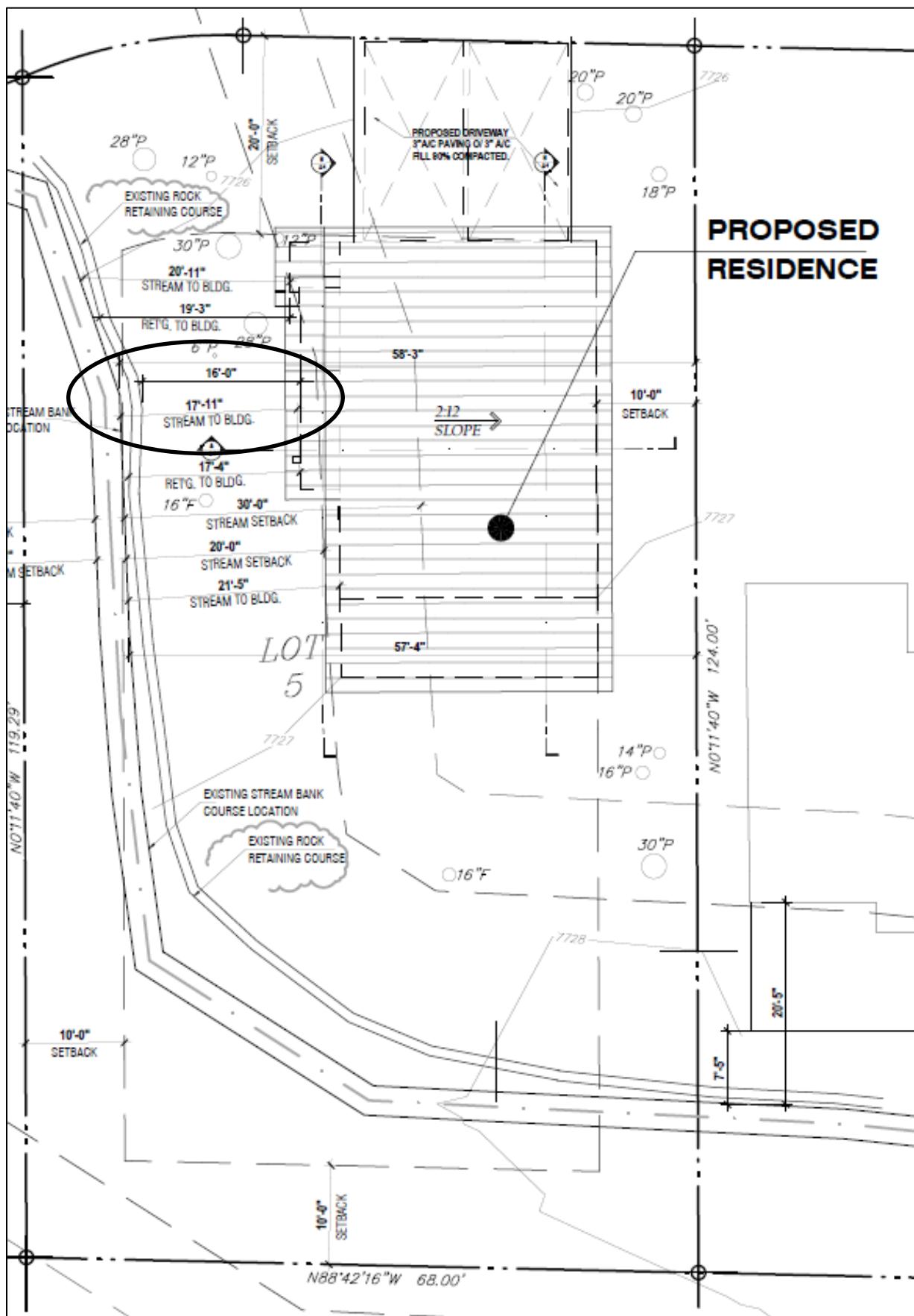
Tract Map 34-06 for lot 5 implies a 20-feet drainage easement for the creek, 10-feet on each side measured from the center of the creek, however current General Plan standards require a setback of 30-feet on each side measured from the top-of-bank. In review of this application, staff is applying the more conservative standard of 30-feet from the top-of-bank.

Staff conducted a field visit with the project designer to define the top of the streambank. The top-of-bank was determined to be at the outside edge of a cobble rock wall that was presumably constructed for the protection of the creek. Please see "Figure 4" and Attachment A photos.

Variance 19-001 will approve a 16-feet setback from what staff has defined to be the top-of-bank, for the purpose of building a residential unit. This will be a 14-feet reduction from the required 30-feet setback.

A public notice was sent to property owners 300-feet from the project site and published in a newspaper 10 days prior to the Planning Commission public hearing. No comments have been received.

Figure 3. Proposed site plan



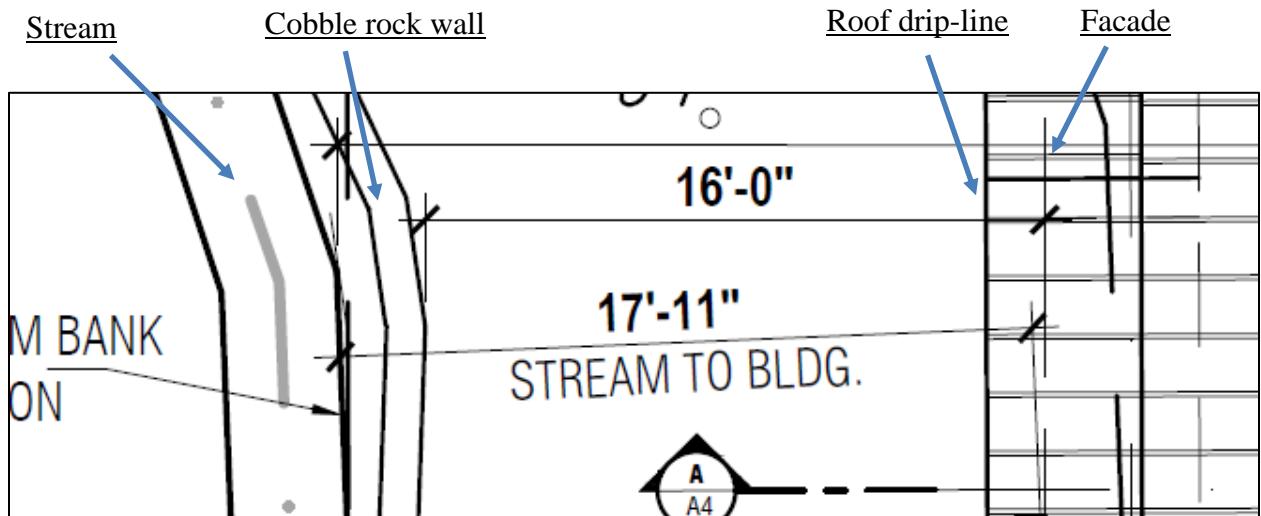


Figure 4. Cobble wall and stream



General Plan Consistency

Single-Family Residential projects are required to meet setbacks of 20 feet in the front, 10 feet in the rear, and 10 feet on side property lines (General Plan 04.120). The project proposal meets all required setbacks other than the stream setback.

General Plan Section 04.120.F.b.1 requires any proposed structure, including associated impervious surfaces, to be located a minimum of 30 feet from the top of the bank. The project proposes a 16-foot setback from the building facade to the top of the stream bank with approval required through Variance 19-001.

In order to deviate from required setbacks, a variance must be approved. A variance is a permit issued to a landowner by an administrative agency, in this case the Planning Commission, to construct a

structure or carry on an activity not otherwise permitted under the land use designation. The statutory justification for a variance is that the owner would otherwise suffer unique hardship under the general land use regulations because his or her parcel is different from the others to which the regulation applies due to size, shape, topography, or location.

The concept is that the property owner is allowed to use his property in a manner consistent with the established regulations, without changing the basic land use designation, with such minor variations that will place him in parity with other property owners in the same designation. All of

the required findings specified in Mono County General Plan Chapter 33.010 A-D must be made in order to issue a variance.

Environmental Review

CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.

The project qualifies for a CEQA exemption under Section 15303 Class 3, New Construction or Conversion of Small Structures, “*Class 3 consists of construction and location of limited numbers of new, small facilities or structures... (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption*”

Variance Findings

The Planning Commission can approve a variance based only on the provisions of the General Plan and only when all of the findings can be made:

- A. *Because of special circumstances (other than monetary hardship) applicable to the property, including its size, shape, topography, location or surrounding, the strict application of the provision of this title deprives such property of privileges (not including the privilege of maintaining a nonconforming use or status) enjoyed by other property in the vicinity and in an identical land use designation because:*

The property is significantly constrained by a creek running through the western portion of the parcel. A 30-foot setback from the top of the bank is required and substantially limits the potential for the Single-Family Residential (SFR) property. Absent the creek, the site could reasonably accommodate a single-family dwelling while meeting setbacks. Decreasing the setback from 30' to 16' allows for the creation of modest building envelope.

- B. *The granting of a variance will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the land use designation in which the property is situated because:*

Surrounding properties are designated Single-Family Residential and Resource Management. The adjacent property to the west, 103 Dream Mountain Drive, contains a single-family residential unit that was constructed in 1983/84 and is setback 20' 5" from the creek. An exterior deck was constructed 7' 5" from the creek. Neither of these projects were required to receive a Variance at the time of construction, based on the 1983 General Plan Standards.

Due to setback constraints of the parcel, the applicant has asked for a 16' setback from the top of the creek bank to allow development of their property in a manner that is consistent with the established surrounding parcels. The proposed development, a single-family residence, will be designed with the roof-pitch oriented away from the creek and towards the eastern boundary in order to prevent roof-shedding towards the creek.

The variance permit process provides the public the opportunity to comment on the proposed setback reductions. Following a notice to surrounding property owners, no comments have been received.

C. *The granting of a variance will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is situated because:*

The property is located in an area characterized by low density, single-family residence and the proposed project would be consistent with adjoining uses. California Department of Fish and Wildlife was notified of the project and did not have concerns regarding the reduced creek setback but asked that a Condition of Approval be included (#5).

D. *The granting of a variance will not be in conflict with the established map and text of the general and specific plans and policies of the county because:*

June Lake Area Plan

- *Land Use, Objective C, Policy 13.C.1. states: Encourage compatible development in existing and adjacent to neighborhood areas.*

The project is permitted subject to uses approved for the SFR land use designation and will be compatible with uses on surrounding parcels that are also designated SFR.

- *Land Use Objective E, Policy 13.E.1. states: Encourage infilling and/or revitalization in areas designated for development in the Area Plan.*

The proposed project is within an existing subdivision of 23 total lots. 12 lots are currently developed with single-family residence and 11 are vacant. This project will allow the development of a vacant lot consistent with the land use designation, and therefore provide suitable infill.

- *Policy 18.A.1. Mitigate impacts or limit development to an appropriate level in environmentally and visually sensitive areas. Environmentally sensitive areas include riparian areas, potential high groundwater table zones, wetlands, and steep hill slopes.*

The level of development on this parcel is appropriate in size and limits impact to the riparian area. The project is required to comply with applicable County floodplain requirements for construction that seek to mitigate impacts. The applicants are also required to fulfill any requirements set by the California Department of Fish and Wildlife.

- *Action 18.A.3.b. Applicants on lots near or adjacent to Rush, Reversed (starting at Gull Lake), Fern, Yost, Alger and Snow creeks will be encouraged to design facilities that do not encroach upon waterways. After demonstrating that all reasonable measures have been taken to prevent development in streamside zones, applicants will be able to pursue setback deviations. In no case shall foundations be located closer than 20 feet from the bank of these creeks.*

The project is not located adjacent to any of the designated creeks mentioned. The subject creek is a tributary to Reversed Creek, which flows approximately 700' from the property.

The proposed single-family residence has been designed to minimize site disturbance. A single car garage will be located underneath the two-bedroom residence and no ground level patios will exist.

This staff report has been reviewed by the Community Development Department Directors.

Attachments

Attachment A – Site Photographs

Attachment B – Public Hearing Notice

MONO COUNTY
Planning Division
NOTICE OF DECISION / VARIANCE

VARIANCE #: 19-001

APPLICANT: Heather and Dallon Stang

ASSESSOR PARCEL NUMBER: 016-270-005-000

PROJECT TITLE: Stang Residence

PROJECT LOCATION: Dream Mountain Drive, June Lake, CA

ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHELD AND SHALL BE ACCCOMPANIED BY THE APPROPRIATE FILING FEE.

DATE OF DECISION/USE PERMIT APPROVAL: December 19, 2019

EFFECTIVE DATE USE PERMIT: December 30, 2019

MONO COUNTY PLANNING COMMISSION

DATED: _____

Community Development Director

cc: Applicant
 Engineer
 Assessor's Office
 Compliance Specialist

CONDITIONS OF APPROVAL

Variance 19-001/Stang

1. The project shall be in substantial compliance with project description and site plan.
2. Buildings and paved areas shall not extend past sixteen-feet (16') top of the stream bank, as identified on the site plan.
3. No construction or disturbance shall occur within the stream setback and the streambed shall not be altered.
4. The applicant shall complete a flood study to establish the base-flood-elevation and comply with the suitable County floodplain requirements for construction.
5. The applicant shall be responsible for obtaining all necessary agreements, permits, and/or licenses from the California Department of Fish and Wildlife.
6. Project shall comply with applicable standards in the General Plan Appendix: Low Impact Development practices.
7. Project shall provide a “will serve” letter from the June Lake PUD.
8. Project shall provide a “will serve” letter from the June Lake FPD.
9. Project shall comply with standards and requirements of the General Plan and County Code, including Public Works, Environmental Health, and Community Development.
10. Best management practices, as required by the Building Division and/or the Department of Public Works, shall be required and implemented.