

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



Agenda of:	September 13, 2007
Item No.:	11
Staff:	Jonathan Fong

TEMPORARY USE PERMIT - APPEAL

FILE NUMBER: TUP07-0011A

FILE NAME: CC Myers Storage Yard

APPELLANT: Voices for Rural Living c/o Chrysan M. Dosh

ACTION APPEALED: Approval of Temporary Use Permit TUP07-0011 to allow a construction storage yard on a parcel identified by Assessor's Parcel Number 319-220-18.

LOCATION: The property is located on the west side of Shingle Springs Drive, adjacent to the intersection with U.S. Highway 50, in the Shingle Springs Area, Supervisorial District IV (Exhibit A).

APN: 319-220-18

ACREAGE: 34.63 acres

GENERAL PLAN: Estate Residential Five-acre (RE-5) (Exhibit B)

ZONING: Low Density Residential (LDR) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15300.1 (ministerial permit)

SUMMARY RECOMMENDATION: Deny the appeal and uphold the approval of Temporary Use Permit TUP07-0011

BACKGROUND: On June 26, 2007, Planning Services staff approved TUP07-0011 to allow a construction yard for the Shingle Springs Rancheria-U.S. Highway 50 interchange (Exhibit D). The appellant filed an appeal on July 6, 2007 (Exhibit E). In summary, the appellant stated that approval of the temporary use permit had segmented the CEQA review for the U.S. Highway 50 interchange.

Additionally, the appellant stated that the County had not identified the CEQA document for the project.

The appeal cited that there would be the potential for special status species to be located on the site, the project would be located within the Important Biological Corridor, and the County did not consult with state and federal agencies during review of the temporary use permit.

STAFF ANALYSIS: Planning Services has reviewed the project and determined the proposed use would be consistent with the Zoning Ordinance and Categorically Exempt from CEQA pursuant to Section 15300.1. Section 17.23.020 A.2 of the Zoning Ordinance establishes that temporary construction yards and offices are permitted uses within residential zoned properties. Furthermore, Section 17.22.460 establishes that temporary use permits shall be considered ministerial permits pursuant to CEQA. Section 15300.1 of the CEQA Guidelines establishes that ministerial projects are Categorically Exempt from further CEQA review.

A Notice of Decision was sent to all affected property owners within 500 feet of the project parcel. The Notice states that the approval of the temporary use permit was found to be Categorically Exempt from CEQA pursuant to Section 15300.1 of the CEQA Guidelines (Exhibit F).

DETERMINATION: Planning Services recommends that the Planning Commission take the following action:

1. Deny appeal TUP07-0011A; and
2. Uphold the approval of Temporary Use Permit TUP07-0011 based on the Findings in Attachment 1, subject to the Conditions of Approval in Attachment 2.

SUPPORT INFORMATION

Attachment 1Findings of Approval
Attachment 2.....Conditions of Approval

Exhibit A.....Vicinity Map
Exhibit BGeneral Plan Land Use Map
Exhibit CZoning Map
Exhibit D.....Site Plan
Exhibit E.....Appeal
Exhibit F.....Notice of Decision

ATTACHMENT 1 FINDINGS OF APPROVAL

FILE NUMBER TUP07-0011

1. The Temporary Use Permit was submitted on May 22, 2007, by CC Myers Inc. Planning Services reviewed the application for consistency with the zoning regulations and determined that a temporary construction yards and offices are permitted uses with the Estate Residential Five-acre (RE-5) Zone District with the issuance of a Temporary Use Permit.
2. The Temporary Use Permit was reviewed and determined that in accordance with the CEQA Guidelines, the Project would be categorically exempt pursuant to Section 15300.1, which states that *Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.*

ATTACHMENT 2 CONDITIONS OF APPROVAL

FILE NUMBER TUP07-0011

1. This Temporary Use Permit is based upon and limited to compliance with the project description and submitted Site Plans, dated May 23, 2007, 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:

Temporary Use Permit TUP07-0011 consists of the use of Assessor's Parcel Number 319-220-18 as a temporary construction yard for the Shingle Springs Rancheria-Highway 50 Interchange construction. The use is permitted until the time of completion of the Shingle Springs Rancheria-Highway 50 Interchange, as determined by Caltrans. The temporary use at the site shall be limited to the uses identified on the site plan including the storage of construction materials such as steel beams, wood panels and petroleum products and associated parking. No explosives would be placed onsite. Project lighting would be limited to a maximum of four lights which would face north away from the residences to the south and east.

Hours of operation for the site shall be limited to 7:00 AM to 7:00 PM Monday through Friday and 8 AM to 5 PM on weekends and on federally recognized holidays in accordance with Policy 6.5.1.11 of the General Plan.

The use and maintenance of the property, ~~the size, shape, arrangement, and location of structures, parking areas, and the protection and preservation of resources~~ shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Department of Transportation

2. No fencing or any other fixed object shall be placed in the right of way.
3. The applicant shall obtain an encroachment permit from the Department of Transportation (DOT) for access to ~~Greenstone Road~~ Shingle Springs Drive and shall construct the encroachment to the requirements of the County of El Dorado Design and Improvements Standards Manual (DISM) Standard Plan 103C. The proposed encroachments are

temporary, and the applicant shall subsequently submit a plan to DOT for review and approval for the ultimate encroachment(s) to serve this parcel.

Planning Services

4. All temporary uses permitted under this Temporary Use Permit shall be removed within 10 days of the completion of the Shingle Springs Rancheria-Highway 50 Interchange as determined by Caltrans. Failure to remove the temporary uses by this deadline will result in forfeiture of the submitted \$1,000 bond and potential Code Enforcement action.
5. All storage yard lighting shall be designed so as to direct light downwards (top and side shielded). Lights shall be placed so that no glare or light spills over onto an adjoining property or established road right-of-way.
6. The storage yard fencing shall be constructed as shown on the site plan and properly maintained at all times.
7. The temporary use shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.

Environmental Management Department

8. The project staging area location will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM₁₀) in the form of dust from vehicle traffic. Current county records indicate this property is not located within the Asbestos Review Area. But, District Rules 223 and 223.1, which address the regulations and mitigation measures for fugitive dust emissions shall be adhered to during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.1. In addition, a Fugitive Dust Plan (FDP) application with appropriate fees shall be submitted to and approved by the Air Management Quality District prior to start of project construction.
9. The applicant shall prepare and submit a hazardous materials business plan for review by Hazmat Division staff and pay applicable fees. A copy of the plan must be maintained onsite. All aspects of the plans emergency response procedures and training sections must be implemented. Secondary containment must be provided for fuel storage of 1320 gallons or more. The site will be subject to periodic inspections.