

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



Agenda of: June 25, 2009
Item No.: 7
Staff: Michael C. Baron

SPECIAL USE PERMIT

FILE NUMBER: S09-0007/Smith Flat House Courtyard

APPLICANT: John Conforti

REQUEST: Special Use Permit request to allow outdoor events including concerts, theatre, craft shows, exercise and dance instruction, workshops, and children's events within an outdoor courtyard.

LOCATION: On the north side of Smith Flat Road, one-fourth mile east of the intersection with Broadway in the Placerville area, Supervisorial District III (Exhibit A).

APN: 048-240-14 (Exhibit B)

ACREAGE: 1.81 acres

GENERAL PLAN: Commercial (C) (Exhibit C)

ZONING: Commercial-Design Control (C-DC) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15301(a) of the CEQA Guidelines

RECOMMENDATION:

Staff recommends that the Planning Commission take the following action:

1. Certify that the project is Categorically Exempt from CEQA pursuant to Section 15301(a); and
2. Approve Special Use Permit S09-0007 subject to the Conditions of Approval in Attachment 1 and Findings in Attachment 2.

BACKGROUND: The building has historically been known as the “Smith Flat House” and has been at the same location for more than 100 years and was used as a bar and restaurant. At some point the bar and restaurant closed and the building fell into disrepair. Recently the building was restored and the current property owner rents space in the restored building to tenants who cater to the medical wellness industry. A courtyard area with a cement wall and parking area are located along the north and east sides of the building.

STAFF ANALYSIS: Staff has reviewed the project for compliance with County regulations and requirements. An analysis of the permit request and issues are provided in the following sections.

Project Description: The Special Use Permit request would allow special events including concerts, theatre, craft shows, exercise and dance instruction, workshops, and children’s events as an expansion to the existing medical wellness offices. Events could occur any day of the week with no restrictions to the number of events per year. In order to minimize noise impacts to the surrounding neighborhood all special events would be required to end by 7:00 PM with a maximum of 200 people in attendance.

Site Improvements: A six foot solid fence would need to be constructed along the north and east property line to minimize noise impacts to the surrounding neighborhood. The applicant would also be required to pave the existing gravel parking are at the north end of the property to minimize noise and dust.

Traffic: The proposed use would be an expansion of the existing facility. As determined by the Department of Transportation, the proposed expansion would not result in a significant increase in vehicular traffic in the project area.

Parking: The site currently has a total of 67 parking stalls (42 paved parking spaces and 25 unpaved parking stalls) available to tenants and their clientele. By paving and striping the existing gravel lot the available on-site parking would be sufficient to serve both the current and proposed uses.

Circulation: The site is currently accessed via an existing encroachment onto Smith Flat Road. The internal parking area provides two-way access throughout the site. The proposed expansion would not create circulation problems on-site or on the local roadway system.

Noise: Based on the proximity to adjoining residential uses to the site, an Acoustical Analysis was prepared to evaluate the potential noise impacts with respect to noise thresholds established by the General Plan. Table 6-2 of the General Plan establishes noise thresholds for sensitive land uses:

TABLE 6-2 NOISE LEVEL PERFORMANCE PROTECTION STANDARDS FOR NOISE SENSITIVE

LAND USES AFFECTED BY NON-TRANSPORTATION [*] SOURCES						
Noise Level Descriptor	Daytime 7 a.m. - 7 p.m.		Evening 7 p.m. - 10 p.m.		Night 10 p.m. - 7 a.m.	
	Community	Rural	Community	Rural	Community	Rural
Hourly L _q , dB	55	50	50	45	45	40
Maximum level, dB	70	60	60	55	55	50

The Acoustical Analysis prepared by Bollard Acoustical Consultants, Inc. dated March 3, 2009 for the project analyzed the anticipated noise levels in the project area for a typical DJ setup or live band, crowd noise and parking lot noise. The Acoustical Analysis determined that the potential noise levels as a result of typical DJ or live band noise, crowd noise and parking lot noise in the project area would exceed the nighttime noise thresholds from Table 6-2. In order to ameliorate excessive noise to the surrounding neighborhood and ensure consistency with the nighttime noise thresholds from table 6-2 the Special use Permit would be conditioned requiring that all events end by 7:00 PM. In order to ameliorate excessive noise to the surrounding neighborhood and ensure consistency with the daytime noise thresholds from table 6-2 the Special Use Permit would be conditioned to add a six foot high solid fence along the north and western property lines.

Lighting: No additional parking lot or courtyard lighting has been proposed as part of the current application request.

Site Description: The project site is an existing medical office. Tennant space within the building is currently leased by health professionals with similar uses. The leased areas directly adjoin the proposed outdoor events area. Parking is located along the western property line.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	C-DC	C	Existing Commercial
North	R1	HDR	Existing single-family residential
South	C	C	Existing/Vacant commercial
East	R1	HDR	Existing Single-family residential
West	C-DC	C	Existing Multi-family Residential Units

General Plan

The project site is designated Commercial (C) which allows a range of commercial retail, office, and service uses. The existing medical wellness center is consistent with the Commercial land use designation. The request to allow outdoor events including concerts, theatre, craft shows, exercise and dance instruction, workshops, and children’s events within and outdoor courtyard would also be

considered consistent with the Commercial land use designation. The following General Plan policies are applicable to the project:

Table 6-2 of the General Plan establishes maximum noise thresholds for non-transportation noise sources. As discussed above, an Acoustical Analysis was prepared which determined that special events could generate noise levels exceeding the thresholds of the General Plan noise standards. Therefore, the project would be conditioned for special events to end by 7:00 PM and required to construct a 6-foot solid fence to address the potential excessive noise. Therefore, staff finds the Special Use Permit request would be consistent with the General Plan.

Zoning

The project site is designated Commercial-Design Control (C-DC) which permits a range of retail uses and activities. During review of the Special Use Permit request, Planning Services determined that the use would be consistent with the Commercial Zone District and could be approved through a Special Use Permit pursuant to Zoning Ordinance Section 17.32.030 D, which allows for places of entertainment not enclosed in a building.

Section 17.32.040 of the County Code establishes Development Standards within the Commercial Zone District. With the exception of paving the existing gravel parking lot and constructing a fence, no additional development would be proposed as part of the application. The existing medical wellness center is in conformance with the Development Standards of the Commercial Zone District.

Section 17.22.540 of the County Code requires the approving authority make specific Findings of Approval prior to approving a Special Use Permit. As discussed above, the project would be an expansion of an existing use and would be consistent with the Development Standards of the Commercial Zone District. Therefore, staff finds that the Special Use Permit request would be consistent with the Zoning Ordinance and Findings of Approval have been included in Attachment 2.

Other Departments/Agencies Comments

The Environmental Management Department has provided conditions of approval to address the potential for food preparation on the site. The Department of Transportation had no comments. The Environmental Management Department provided conditions of approval related to possible outdoor food and beverage preparation. No other departments or agencies provided comments or concerns with the Special Use Permit request.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 (a) of the CEQA Guidelines which apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use

beyond that existing at the time of the lead agency's determination. 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:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	Assessor's Parcel Number
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Design Review District
Exhibit F	Site Plan
Exhibit G	Project Photos
Exhibit H	Acoustical Analysis

ATTACHMENT 1
CONDITIONS OF APPROVAL
File Number S09-0007
Smith Flat House Courtyard
Planning Commission/June 25, 2009

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

This special use permit is based upon and limited to compliance with the project description, the exhibits marked Exhibit F dated March 9, 2009 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.

Project Description: This Special Use Permit shall allow special events including concerts, theatre, craft shows, exercise and dance instruction, workshops, and children's events as an expansion to the existing medical wellness offices. Events can occur any day of the week with no restrictions to the number of events per year. In order to minimize noise impacts to the surrounding neighborhood all special events will end by 7:00 PM with a maximum of 200 people in attendance.

Planning Services

2. All site improvements shall conform to Exhibit F.
3. 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 Special Use Permit.

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

4. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
5. Prior to issuance of a building permit or commencement of any use authorized by this 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. The applicant shall also schedule an inspection by Planning Services prior to issuance of a building permit for verification of compliance with applicable conditions of approval.

6. All outdoor special events shall not occur after 7:00 PM any day of the week.
7. The applicant shall construct a six foot solid fence along the north and western property lines, prior to commencement of any special events.

Environmental Management Department

8. For onsite food preparation, the facility shall provide a commercial kitchen that complies with the California Health and Safety, Retail Food Code.
9. Plans shall be submitted for review and approval and a yearly permit to operate must be obtained from the County environmental Health department.

ATTACHMENT 2

FINDINGS FOR APPROVAL

File Number S09-0007

Smith Flat House Courtyard

Planning Commission/June 25, 2009

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15301(a) of the CEQA Guidelines which apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department, Planning Services Division at 2850 Fairlane Court, Placerville, CA.

2.0 SPECIAL USE PERMIT FINDINGS

2.1 **The issuance of the permit is consistent with the General Plan;**

The proposed use would be consistent with the Commercial Land Use Designation which allows for a range of commercial activities. The Acoustical Analysis prepared for outdoor events at the site determined that the anticipated noise levels could exceed established thresholds of the General Plan.

Hours of operation have been established in order to avoid negative impacts within the project area. Project conditions of approval require that event end by 7:00PM and that a six foot solid fence be constructed along the north and east property boundaries to ensure consistency with the daytime maximum allowable noise levels listed under Table 6-2 of the General Plan.

2.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood;**

The proposed outdoor event types would not generate excessive noise levels or other impacts that would be detrimental to the neighborhood. Limiting the hours of operation for special events and construction of a solid fence would ensure that the surrounding neighbors would not be negatively impacted as a result of the proposed project.

2.3 **The proposed use is specifically permitted by special use permit pursuant to this Title.**

The Commercial Zone District permits outdoor events of this type through approval of a Special Use Permit.