

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



Agenda of: April 8, 2010
Item No.: 10.a
Staff: Tom Dougherty

SPECIAL USE PERMIT

FILE NUMBER: S09-0023/Vom Hognadottier's Dog Kennel

APPLICANTS: Halldora Betty Burden and Bob Harbientner

REQUEST: Special Use Permit to allow:

1. The operation of an existing commercial kennel to house a maximum of 40 dogs for the purpose of breeding and sales, and expansion of the existing storage shed by 632 square feet for a total of 992 square feet; and
2. ~~One 5.5 square foot off premise sign.~~

LOCATION: On the south side of Mandarin Lane, approximately 1,000 feet west of the intersection with Salmon Falls Road in the Pilot Hill area, Supervisorial District IV. (Exhibit A)

APNS: ~~Kennel Site:~~ 104-370-20 and 104-370-21 (Exhibit B)
~~Off Site Sign:~~ 104-370-22

ACREAGE: 10.216 acres

GENERAL PLAN: Rural Residential-Important Biological Corridor (RR-IBC) (Exhibit C)

ZONING: Estate Residential 10-Acre (RE-10) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303 of the CEQA Guidelines.

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

1. Find the project is Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures); and
2. Approve Special Use Permit S09-0023 based on the Findings in Attachment 2 and subject to the Conditions in Attachment 1.

BACKGROUND

The applicant has stated that the existing commercial kennel business has been a family-owned and operated at the site for over ten years. They breed, raise and sell Rottweilers and German Shepherds by appointment only and have no employees. Animal Services has requested the applicants obtain a commercial kennel license which has necessitated the requirement for the Special Use Permit. Under current County Code, a Special Use Permit is required for a kennel which is defined as the keeping of five or more dogs for commercial or personal purposes.

The 10.216-acre parcel is one single parcel, but identified by two Assessor Parcel Numbers for administrative purposes due to fact the parcel is located within two tax rate areas.

Building Permit History: The 2,751 square-foot primary dwelling and 704 square-foot garage were approved by Building Permit 91075424 on November 1, 1991. The 360 square-foot building marked *Existing Shed* on the Site Plan, (Exhibit F,) was approved as an Agriculture Exempt building by Building Permit 147472 on May 9, 2003.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the special use permit request and issues for Zoning Administrator Planning Commission consideration are provided in the following sections.

Project Description: The applicants are requesting a Special Use Permit pursuant to Section 17.70.100.I of the El Dorado County Code to allow a commercial kennel to house a maximum of 40 dogs for the purpose of breeding and sales by appointment only. The kennel would consist of temporary structures within the garage and an outdoor area of the property. Each dog would be contained within a chain link kennel. The existing 360 square-foot shed would be expanded by 632 square feet on an existing pad and attached to the existing chain link dog runs. No employees are proposed. ~~Also proposed is a 5.5 square foot off premises sign to be included in the Special Use Permit pursuant to Section 17.16.120.A. The sign would be located at the southwest corner of Mandarin Lane and Salmon Falls Road, on the parcel adjoining to the east and identified by Assessor's Parcel Number 104-370-22.~~

Site Description: The site is located on a 10.216-acre parcel that is located at the 1,280-foot elevation above sea level. The paved driveway begins at Salmon Falls Road and ends at a turnaround approximately 1,000 feet at the existing primary residential dwelling and attached

garage and they are shown in Exhibits F, N-1 to N-5 and O-1and O-2. The parcel is covered in native oak trees with the majority of the parcel containing annual grasses.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR-IBC	Residential/Single-family residence.
North	RE-10	RR-IBC	Residential/Vacant.
South	RE-10	RR-IBC	Residential/Single-family residence.
East	RE-10	RR-IBC	Residential/Single-family residence and one vacant parcel.
West	RE-10	RR-IBC	Residential/Four vacant lots (Safari Estates Subdivision).

Discussion: All surrounding parcels are designated for residential uses by the General Plan. The closest residence on a surrounding parcel is located approximately 800 feet to the east, Exhibits N-1 and N-2.

General Plan: The General Plan currently designates the subject site as Rural Residential-Important Biological Corridor (RR-IBC). RR establishes areas for residential and agricultural development. With an approved Special Use Permit, the project would conform to the existing General Plan land use designation of RR-IBC. The policies and issues that affect this project are discussed below:

Special Use Permit required: **Policy 2.2.5.2** states that *applications for discretionary projects or permits, including Special Use Permits, shall be reviewed to determine consistency with General Plan policies. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.*

Consistent: Kennels are permitted by Special Use Permit in the RE-10 Zone District. The applicant proposes to continue to operate a commercial kennel at the site as a home business, which would be incidental to the main use at the site. The dogs would be completely contained within a fenced yard and kennels on the 10.216-acre site. All waste generated by the dogs must be disposed of in a manner approved by the El Dorado County Environmental Health Department. It can be found through the discretionary Special Use Permit process that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan. Staff finds that the project, as conditioned, will be compatible with the adjacent and surrounding properties, and conforms to the General Plan.

Land use compatibility: **Policy 2.2.5.21** directs that *development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the project is proposed.*

Consistent: The commercial kennel exists in a rural residential area. The 10.216-acre site is surrounded by sparse residential development. The kennels are located towards the western parcel boundary and has been in operation at the site for over ten years. It is believed that the proposed use would be compatible with the rural residential character of the neighborhood and would be compatible with the residential zoning of the property.

Noise Impacts: Policy **6.5.1.2** states that *where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design.* Policy **6.5.1.7** states that *noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.*

Consistent: The applicants submitted an *Environmental Noise Assessment* prepared by Bolland Acoustical Consultants and dated September 9, 2008. The study concluded that noise levels would not exceed the noise limits indicated in Table 6-2 of the General Plan and found that no noise mitigation is warranted. The project would be compliant with these Policies.

Important Biological Corridor: The parcel is also located within the IBC overlay. **Policy 7.4.2.9** states that *this overlay shall apply to lands identified as having high wildlife habitat values because of extent, habitat function, connectivity, and other factors.*

Consistent: The project does not propose any new impacts or land disturbance except for a 632 square-foot addition to an existing shed on an existing graded pad. The entire parcel is located within the IBC however; the project would not conflict with the intent of this policy. The project would result in the continued operation of a commercial kennel that has been in operation for ten years.

Conclusion: The project has been reviewed in accordance with the El Dorado County General Plan policies, and it has been determined that the project would be consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: The proposed commercial kennel use is permitted by Special Use Permit in the RE-10 Zone District, pursuant to Section 17.70.100.I of the El Dorado County Code. El Dorado County Animal Control would be able to consider a commercial kennel license, following approval of a Special Use Permit by the Zoning Administrator. In order to approve the project, the approving authority must find that the project is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on comments received from public agencies, staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood.

Signs: The applicants propose to include the existing off premises sign located at the southwest corner of Mandarin Lane and Salmon Falls Road on the parcel adjoining to the east and identified by Assessor's Parcel Number 104 370 22 in the subject Special Use Permit Request. Off premise signs are permitted pursuant to Section 17.16.120, with the issuance of a Special Use Permit. Section 17.70.090.D permits one unlighted sign in the RE-10 Zone District, not

~~exceeding six square feet. The proposed sign location is shown in Exhibit F, and the sign size and copy in Exhibit L. The sign measures 3 feet wide by 1.83 feet tall or 5.50 square feet, slightly less than the maximum size allowed and therefore could be approved as proposed. However, as shown on Parcel Map 13 85, provided as Exhibit E, there is a 60 foot road and public utility easement on Salmon Falls Road. From the center of Salmon Falls Road, the sign must be located outside the 30 foot portion of the easement. Condition 9 requires the relocation of the sign outside of the road easement. Planning has received a letter from the owner of the subject parcel to the east that states they give the applicants permission to locate the sign as proposed.~~

Lighting: The project proposes seven exterior lights on the primary dwelling and three on the kennel building located as shown in Exhibit K2. The lights proposed are shown in Exhibit K1 and could be approved as proposed as they meet the Illumination Engineering Society of North America's (IESNA) full cut-off designation specifications and County Code Section 17.14.170. Condition 8 requires compliance with the County's outdoor lighting standards.

El Dorado County Animal Control Division and County Code Title 6 "Animals":

Title 6 of the El Dorado County Code regulates the control and humane treatment of animals within the boundaries of El Dorado County for the protection of the safety and welfare of the public. No person shall own or operate a commercial kennel, pet shop, pet grooming parlor, public aquarium, equine rental facility, cattery, pet shop or protection dog facility without first applying to and receiving from the director of animal control a license to do so. A commercial kennel is understood to be a kennel as defined in Subsection 12 of Section 6.04.020, where such keeping, etc. is done for compensation. Because the dogs are owned for breeding and for sale as well as for showing, the El Dorado County Animal Services Officer has determined that a Commercial Kennel permit is required.

The El Dorado County Animal Services Department has reviewed the application and conducted a site visit on January 26, 2010. The owner began the process of obtaining the necessary Kennel Permit after being issued a Notice of Violation by Animal Services for operating an unpermitted Commercial Kennel in June of 2008.

During the site inspection, twenty five full grown dogs were observed. They determined the construction of the kennel is adequate for the intended use. The El Dorado County Animal Service Department has no objections with the completion and approval of this project as a commercial animal establishment with restrictions that are included as Conditions of Approval 13-15 12-14.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines consisting of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

- Attachment 1Conditions of Approval
- Attachment 2Findings

- Exhibit ALocation Map
- Exhibit BAssessor's Parcel Map
- Exhibit CGeneral Plan Land Use Map
- Exhibit DZoning Map
- Exhibit EParcel Map 13-85
- Exhibit FSite Plan, sheet 1, dated November 1, 2009
- Exhibit GFloor/Foundation Plans, sheet 2, dated April 10, 2009
- Exhibit HElevations, sheet 3, dated November 1, 2009
- Exhibit IElectrical plan, sheet 4, dated April 10, 2009
- Exhibit JApplicant submitted *Project Description*
- Exhibits K-1, K-2Lighting fixture specification sheet and location map
- Exhibit LFront entrance sign
- Exhibit MPilot Hill U.S.G.S. Quadrangle
- Exhibits N-4M-1 to N-5 M-5Site visit photos
- Exhibits Θ-1 N-1, Θ-2 N-2Aerial photos

ATTACHMENT 1 **CONDITIONS OF APPROVAL**

SPECIAL USE PERMIT

File Number S09-0023/Vom Hognadottier's Dog Kennel

April 8, 2010 Planning Commission Hearing

El Dorado County Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits A through O-2 N-2, 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:

Approval of this Special Use Permit allows a commercial kennel to house a maximum of 40 dogs wherein the dogs are kept and maintained for breeding and sales, by appointment only. Each dog will be contained within a chain link kennel. There will be no employees and all operations will be carried out by the persons residing on the premises. The following structures/facilities are included in the Special Use Permit approval as they are located and described in Exhibits F through L K-2. Any improvements or modifications to this accessory structure that would change the size, capacity or uses allowed would require the review of Development Services:

- a. The 2,751 square-foot primary dwelling and attached 704 square-foot garage labeled as *Existing House* in Exhibit F and as approved by Building Permit 91075424 for residential and home office purposes;
- b. The existing shed and dog runs labeled as *Existing Shed* (approved by Building Permit 147472) and (*E*) *Dog Runs* and (*N*) *Dog Shelter* as shown in Exhibit F. The resulting square footage of the combination of the *Existing Shed* and the (*N*) *Dog Shelter* addition shall be 992 square feet and for kennel uses;
- c. The 8-foot by 40-foot structure labeled as *Storage Container* and as located in Exhibit F, shall be allowed only with an approved Building Permit and then for storage purposes only;
- d. The 110-foot by 15-foot fenced kennel are labeled as *Existing Dog Run* and located east of the *Existing House* as shown in Exhibit F for dog kenneling purposes;
- e. The 10-foot by 10-foot structure labeled as (*E*) *Well House* and located as shown in Exhibit F to house the well support facilities;

- f. ~~One 3 feet wide by 1.83 feet tall, (5.5 square feet), unlighted identification sign shown in Exhibit L and located on the parcel adjoining to the east and identified by Assessor's Parcel Number 104 370 22, as shown in Exhibit F but as directed by Condition 9 below, outside the Salmon Falls Road easement. Said sign is authorized for the identification of the dog kennel only.~~

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. 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.

2. Project improvements shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein and shall substantially comply with Exhibits F through L K-2. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require review and approval by the Planning Services prior to project modifications.
3. Prior to 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 for verification of compliance with applicable conditions of approval. The operator shall pay Planning Services for the time spent reviewing the site on a time and materials basis. All future development plans shall include this condition on the submitted plans.
4. The applicant shall be responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are ultimately the responsibility of the property owner.
5. The applicant shall make the actual and full payment of all Planning Services processing fees for the Special Use Permit application within 30 days following its approval or prior to issuance of a Building Permit, whichever occurs first.
6. A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services after the end of the ten working day appeal period of a final project decision.
7. The 8-foot by 40-foot sea land container labeled as *storage container* in Exhibit F shall be subject to a County Building Permit or removed. No new use authorized by this Special Use Permit shall commence prior to issuance of final occupancy.

8. The approval of this Special Use Permit allows seven exterior lights on the primary dwelling and three on the kennel building located as shown in Exhibit K-2. All outdoor lighting shall conform to the approved Exterior Lighting Plan (Exhibits K-1, and K-2), County Code Section 17.14.170, and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. The final lighting plan shall be submitted for review and approval by Planning Services with the building permit application and shall be reviewed for conformance with the approved Exterior Lighting Plan shown in Exhibits K-1, and K-2 prior to issuance of a building permit.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Planning Services.

9. ~~The existing 3 feet wide by 1.83 feet tall, (5.5 square feet), unlighted identification sign located at the intersection of Mandarin Lane and Salmon Falls Road on the southwest corner, as located in Exhibit F and shown in Exhibit L, shall be re-located outside of the 60 foot Road and Public Utility Easement on Salmon Falls Road as shown on Parcel Map 13-85. Proof of compliance of said re-location shall be received by Planning Services prior to initiation of any new use authorized by this Special Use Permit. Said sign shall be immediately removed upon termination of the dog kennel use authorized on APNs 104-370-20 and 21.~~
- 10.9. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the applicant and landowner agrees 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 applicant and land owner shall defend, indemnify, and hold harmless County of El Dorado and its agents, officers, and employees from any claim, action, or proceeding against County of El Dorado or its agents, officers, or employees to attack, set aside, void, or annul an approval of County of El Dorado concerning a Special Use Permit.

~~THE COUNTY SHALL NOTIFY THE APPLICANT/OWNER OF ANY CLAIM, ACTION, OR PROCEEDING AND~~

El Dorado County Environmental Management Department-Hazardous Materials Division

- 11.10. All solid waste, including animal waste must be stored in trash containers with tight fitting lids and hauled from the site at least once every seven days for proper disposal. Provide enough space for both a trash dumpster and a recycling dumpster.
- 12.11. Any and all infectious medical waste and sharps must be properly handled, stored, transported and disposed of in accordance with the California Medical Waste Act.

El Dorado County Animal Services Department

- 13.12. No commercial boarding or grooming shall be allowed under this Special Use Permit.
- 14.13. A commercial kennel license shall be obtained from Animal Services within 90 days of approval of this Special Use Permit.
- 15.14. Boarding of dogs not owned by the owner of the establishment shall be prohibited.

ATTACHMENT 2 **FINDINGS**

SPECIAL USE PERMIT

File Number S09-0023/Vom Hognadottier's Dog Kennel

April 8, 2010 Planning Commission Hearing

1.0 CEQA Findings

- 1.1 The commercial kennel is found to be Categorically Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines which exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure from further environmental review.
- 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, at 2850 Fairlane Court, Placerville, CA.

2.0 General Plan Findings

- 2.1 As conditioned, the proposal is consistent with the intent of 2.2.5.2 (review for General Plan consistency), 2.2.5.21 (compatibility with surroundings), 6.5.1.2 and 6.5.1.7 (noise impacts), and 7.4.2.9 (biological corridor) because the project seeks to expand an existing kennel structure on a previously graded pad, would have minimal impacts on visual resources, existing utilities, and on the existing surrounding residences. There are adequate services to facilitate the site, such as water, power and solid waste. The project would not add excessive noise levels nor affect biological resources.

3.0 Zoning Findings

- 3.1 The commercial kennel use is permitted in the RE-10 Zone District, pursuant to Section 17.70.100.I of the El Dorado County Code, with the issuance of a Special Use Permit.
- 3.2 ~~The off premises sign to be located on the parcel identified by Assessor's Parcel Number 104 370 22, is permitted pursuant to Section 17.16.120, with the issuance of a Special Use Permit, as the 5.5 square foot size is less than the maximum 6 square foot size permitted in the RE-10 Zone District, and as it is conditioned to be located outside of the 60 foot road and public utility easement on Salmon Falls Road.~~
- 3.3 3.2 The project, as shown in Exhibits F through L K-2, and as conditioned, meets all applicable development standards contained within the El Dorado County Zoning Ordinance Sections 17.70.110 A-G.

4.0 Special Use Permit Findings

- 4.1 The issuance of the permit is consistent with the General Plan. The applicant's proposal has been determined to be in compliance with County regulations, addressing environmental issues and health and safety concerns. The proposed use is consistent with the policies in the El Dorado County General Plan, as discussed in the General Plan section of this staff report. The proposed use is consistent with all applicable policies and will occupy existing facilities with the exception of a 632 square-foot expansion of an existing storage building on an existing graded pad, will not create excessive noise, waste or additional traffic. The project allows a commercial kennel operation, carried out by the owners and their family. Therefore, staff finds that the project, as conditioned, conforms to the General Plan.
- 4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report. The use will not conflict with the adjacent uses as it is. The project will result in insignificant environmental, visual, noise, and traffic impacts to surrounding residents. After review of the submitted site plan and upon consultations with concerned agencies, it has been determined that the impacts of allowing the project, will not have a detrimental affect nor be injurious to the neighborhood. The proposed use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the Staff Report.
- 4.3 The proposed use is specifically permitted by Special Use Permit. Section 17.70.100.I of the County Code requires a Special Use Permit within the RE-10 zoning district. The project must be found to not change the residential character of the premises or adversely affect the other uses permitted in a residential area. After review of the submitted information and with consultation from concerned agencies, staff has determined that, as proposed, the project is consistent with these requirements and would not affect the existing area in a significant manner.