

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



Agenda of:	December 8, 2011
Item No.:	8.a
Staff:	Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S11-0008/China Hill Road Industrial Building

APPLICANT: Thelma Steward

AGENT: Douglas Zeller

REQUEST: Special Use Permit to memorialize the continued operation of an industrial facility located on a residentially zoned parcel.

LOCATION: Northwest side of China Hill Road, approximately 1/3 mile west of the intersection with State Highway 49, in the El Dorado Community Region, Supervisorial District 3. (Exhibit A)

APN: 092-060-70 (Exhibit B)

ACREAGE: 2.0 acres

GENERAL PLAN: Medium Density Residential (MDR) (Exhibit D)

ZONING: Single-Family Two-Acre Residential (R2A) (Exhibit E)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15303(c) of the CEQA Guidelines.

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

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15303(c); and
2. Conditionally approve Special Use Permit S11-0008 subject to the Conditions in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Background: The project parcel contains an existing 16,257 industrial structure that was built in the 1960's and was initially used as a machine shop. Prior to March 27, 1987 the project parcel along with an adjacent parcel were zoned industrial. The parent parcel, a total of 7.8 acres in size, had a General Plan land use designation and zoning of Industrial since the 1969 General Plan and during the adoption of the El Dorado/Diamond Springs Area Plan on December 4, 1979. On March 27, 1987 the land was subject to a General Plan Amendment and Rezoning (A86-19/Z86-41), which changed the property's General Plan land use designation to MDR and zoning to R2A. Subsequent to this action the building has been used for a sign company that included uses such as printing, machine shop, cabinet shop, and other light industrial manufacturing.

Project Description: Request for a special use permit to memorialize the nonconforming uses occurring at the project site. The following uses have historically and currently taken place in the industrial building on the project parcel:

- Light Manufacturing
- Light Industrial
- Storage
- Printing
- Machine Shop
- Cabinet Shop
- Wine Storage

An expansion of the nonconforming uses to include automotive repair and restoration was requested by the applicant but has been withdrawn by the applicant. Automotive repair would have been an expansion of the nonconforming uses and may have required extensive modifications to the existing structure.

The applicant has requested a single-family residence within the project description. A residence would currently be allowed by-right, however it may not be compatible with the industrial uses existing on the site. It is common to have a residence for a caretaker at commercial and industrial sites however, and that has been added as a condition of approval.

Site Description: The site is located on an approximately 2-acre parcel that is located at an average elevation of 1,600-feet above sea level. China Hill Road is a paved road providing access to the parcel. The site contains an existing 16,257 square foot commercial structure, a concrete loading area, and gravel parking. The remainder of the parcel is undeveloped.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R2A	MDR	Light Industrial/Commercial-Industrial Building

North	RE-5	MDR	Residential/Single-family residences
South	AE	AL	Agricultural/Vacant; Agricultural Preserve 163
East	R2A	MDR	Residential/Single-family residence
West	AE	RR	Agricultural/Vacant; Agricultural Preserve 163

Discussion: The surrounding parcels are designated for residential and agricultural uses by the General Plan. The project parcel and the parcels to the north and west are within the El Dorado/Diamond Springs Community Region.

Project Issues: Discussion items include noise, traffic, wastewater and water, and fire safety:

Noise: All uses at the project site have historically taken place within the existing structure. Letters from adjacent home owners have been submitted stating that there have not been any land use conflicts. The project has been conditioned to only allow industrial uses to take place within the structure and for any exterior storage to be temporary.

Traffic: The existing structure is accessed by China Hill Road, which is a County maintained road and connects to State Highway 49. The site is not anticipated to have traffic levels that the existing roads can not handle. The Department of Transportation reviewed the project and did not have any concerns or comments.

Wastewater and public water: The project building utilizes a septic system for sewage disposal. The Environmental Health department reviewed the application and had no comment on the project. The project site is served by public water supplied by the El Dorado Irrigation District.

Fire Safety: The project was reviewed by the Diamond Springs/El Dorado Fire Protection District. The Fire District stated that the existing structure and uses are nonconforming to their current standards but did not find any substantial issues that would not allow the continued industrial uses within the building. They did state that any expansion of the uses, such as automotive repair, would require additional fire flow requirements.

General Plan: The General Plan currently designates the subject site as Medium Density Residential (MDR). MDR establishes areas suitable for detached single-family residences with larger lot sizes which will enable limited agricultural land management activities. With an approved Special Use Permit required by Section 17.70.100.A of the Zoning Ordinance, the project would conform to underlying R2A Zone District and therefore, the existing General Plan land use designation of RR as well. The policies and issues that affect this project are discussed below:

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.*

Discussion: The parcel exists in a rural residential area. The 2-acre site is surrounded by residential development and agricultural uses. The surrounding parcels to the south and east are zoned for agricultural uses. The existing nonconforming uses have existed since the 1960's and were established as legal uses. No significant land use conflicts have existed at the site and all industrial uses will continue to take place within the structure.

Adequate Access for Emergencies: **Policy 6.2.3.2** directs the applicant to *demonstrate that adequate access exists, or can be provided for emergency vehicles and private vehicles to access and evacuate the area.*

Discussion: The proposed project plans were reviewed by the Diamond Springs/El Dorado Fire Protection District. The Fire District had minimal comments and stated that the uses could continue with no expansion. The project is served by public water and is accessed by a paved public road. Therefore, the project would be in compliance with the General Plan Policy.

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.*

Discussion: As discussed above in the Project Issues, Noise section, the project would be anticipated to be compliant with these Policies.

Conclusion: The project has been reviewed in accordance with the 2004 General Plan policies, and it has been determined that it is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: The project site is zoned Single Family Two-Acre Residential (R2A). The existing structure and uses are nonconforming as they are not consistent with the uses allowed by the R2A zone district; however they are consistent with Chapter 17.20 of the Zoning Ordinance.

Chapter 17.20, Nonconforming Uses, purpose is to provide for a means by which the use of land or buildings or any building itself which violates current zoning ordinances but which lawfully existed on the effective date of the ordinances can be effectively regulated in the public interest. Section 17.20.020 states, "The term "nonconforming use" as referred to in this chapter means the actual use or occupation of any land or structure or any structure itself which was lawful at the time of the adoption of the ordinance codified in this article but which has been made unlawful by the provisions of the ordinances or any amendments thereto". When the uses on the project parcel were initiated they were consistent with the existing land use and zoning of industrial. The nonconforming uses have continued consistent with the requirements of Section 17.20.030.

Termination of the nonconforming uses is consistent in Section 12.20.110 for nonconforming uses and special use permits in Section 17.22.260 with both stating that if the use has ceased for a period of one year than the use is effectively terminated.

Special Use Permit Request: The Special Use Permit (SUP) application is consistent with Chapters 17.20 and 17.22 of the Zoning Ordinance. Based on consistency with the General Plan, compatibility with adjacent land uses, and less than significant environmental impacts, Findings for conditional approval of the SUP are included in Attachment 2.

The Special Use Permit findings are required by Section 17.22.540 of the Zoning Ordinance:

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

Discussion: As discussed in the General Plan and Project Issues sections of the staff report, the project, as conditioned, would be consistent with the General Plan.

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

Discussion: The addition of conditions would insure that the project would not have a significant impact on the neighborhood and that the continued use would be consistent with Chapter 17.20 of the Zoning Ordinance, as it was a previously legal conforming use.

3. *The proposed use is specifically permitted by Special Use Permit pursuant to this Title.*

Discussion: As discussed above, the uses are specifically permitted by Chapter 17.20 of the Zoning Ordinance, as they were initiated when the zoning and land use allowed them.

Conclusion: Based on comments received from public agencies, and as described in Attachment 2, Findings, staff finds that the project, as conditioned and with adherence to County Code, would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. As discussed above, staff finds the project, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

ENVIRONMENTAL REVIEW

Staff has determined that, pursuant to Section 15301 of the CEQA Guidelines that *consists of 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.* As conditioned the project will not be expanding the structures or uses beyond what currently exists. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibits F1-F6	Letters Received

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit S11-0008/China Hill Road Industrial Building Planning Commission/December 8, 2011

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Exhibit ESite Plan

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 the Special Use Permit to memorialize the nonconforming uses at the project site that have historically taken place within the existing 16,257 square foot structure. The following uses are allowed:

Light Manufacturing
Light Industrial
Storage
Printing
Machine Shop
Cabinet Shop
Wine Storage

All uses shall take place wholly within the existing 16,257 square foot building. No permanent storage shall take place outside of the structure. Expansion beyond the uses listed above will require a revision to this Special Use Permit.

2. **Caretaker Residence:** A residence for a caretaker, watchman, or person primarily employed in the industrial uses of the premises and their immediate family may be constructed on the project parcel. No persons shall reside within the existing 16,257 square foot structure.
3. **Expiration:** Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit

and make diligent progress toward implementation of the project and compliance with conditions of approval.

4. **Project Conformance:** 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. 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 listed in Condition of Approval 1 above. Minor variations are allowed, however, any major changes in any element of the approved project shall require review and approval by the Development Services Director. The Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit. This review shall always occur prior to any approved project modifications.
5. **Lighting:** All exterior lighting shall comply with 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. Security lighting shall be activated with motion-sensor or timer.

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.

6. **Notice of Exemption Fee:** A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee must be delivered to the El Dorado County Planning Services prior to the issuance of any development permit being issued on the project parcel.
7. **Hold Harmless Agreement:** 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.

ATTACHMENT 2

FINDINGS

Special Use Permit S11-0008/China Hill Road Industrial Building Planning Commission/December 8, 2011

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines that *consists of 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*. As conditioned the project will not be expanding the structures or uses beyond what currently exists.
- 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 GENERAL PLAN FINDINGS

- 2.1 As conditioned, the proposal is consistent with the intent of 2.2.5.21 (compatibility with surroundings), 6.2.3.2 (adequate access), and 6.5.1.2 (noise exposure), and 8.2.2.2 (adverse impacts on surrounding lands), concerning compatibility with the surrounding neighborhood, and access and public safety. As conditioned, the project provides adequate access, parking and site design that insure compatibility with the surrounding permitted land uses, and is consistent with the General Plan policies identified above. The El Dorado County Department of Transportation has determined that traffic impacts will be less than significant, and the El Dorado County Fire Protection District has determined adequate emergency access exists.

3.0 ZONING FINDINGS

- 3.1 The project site is zoned Single Family Two Acre residential (R2A). The existing structure and uses are nonconforming as they are not consistent with the uses allowed by the R2A zone district; however they are consistent with Chapter 17.20 of the Zoning Ordinance.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance as the building and uses were legal at the time of inception.

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 and requirements in the El Dorado County General Plan, as discussed in the Staff Report, and known potential project-related environmental issues, and the benefits to the community have been evaluated. Therefore, the Planning Commission 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 they will be wholly contained within the building. After review of the submitted site plan and upon consultations with responsible agencies, it has been determined that the continued industrial uses at the project site are not anticipated to have a detrimental affect nor be injurious to the neighborhood.
- 4.3 **The proposed use is specifically permitted by Special Use Permit.** The uses are specifically permitted by Chapter 17.20 of the Zoning Ordinance, as they were initiated when the zoning and land use allowed them.