

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



Agenda of: September 13, 2012
Item No.: 8.c
Staff: Tom Purciel

SPECIAL USE PERMIT

FILE NUMBER: S12-0004/Linders Toffee Kitchen

APPLICANT: Don and Linda Fuller

REQUEST: Special Use Permit to allow a commercial kitchen for toffee production within an attached residential accessory building. There will be no employees, retail sales or shipping traffic on site.

LOCATION: South side of Pyracantha Drive, 0.75 miles west of the intersection with South Shingle Drive, in the Shingle Springs area, Supervisorial District 2. (Exhibit A).

APN: 109-460-34 (Exhibit B)

PARCEL SIZE: 5.0 Acres

GENERAL PLAN: Low Density Residential – Important Biological Corridor (LDR-IBC) (Exhibit D)

ZONING: Estate Residential Five-Acre (RE-5) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15301(a) 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 15301(a); and
2. Conditionally approve Special Use Permit S12-0004 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

PROJECT INFORMATION:

Project Description: S12-0004 is a request for a Special Use Permit to allow a commercial kitchen for toffee production within an attached residential accessory building.

The toffee preparation facility would be fully enclosed within an existing 360 square-foot accessory building (“storage room”) attached to the applicant’s primary residence (Exhibit F). Toffee preparation would occur approximately 50 hours per year, primarily during holiday periods. Production would utilize only table-top electric cookers; there would be no grease or cooking oil used in production, and no exhaust would be generated. Finished product would be sold via internet sales and shipped off-site from the US Postal Service. There will be no employees or retail sales on site.

Site Description: The site is located in the center of a 5.0 acre parcel at an elevation of 1,360 feet above sea level. The parcel is largely flat and developed with an existing single-family residence and circular driveway (Exhibit E). Site vegetation consists of native annual grasses and non-native landscaping. The project is accessed from Pryracantha Drive, a 50-foot wide private road.

Background: The project parcel was initially created as part of the Milton Estates, Unit 2 Subdivision, recorded June 27, 1995. The existing single-family residence, including the attached storage building, was permitted in 2005 (Building Permit No. 162320). This project would convert the attached storage building into a toffee-making facility.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	LDR	Residential/Single-family residence
North	RE-5	LDR	Residential/Single-family residence.
South	RE-5	LDR	Residential/Single-family residence
East	RE-5	LDR	Residential/Vacant
West	RE-5	LDR	Residential/Single-family residence

Discussion: The surrounding parcels are designated for residential uses by the General Plan. The parcel is surrounded by residential-zoned (RE-5) land. With the exception of the parcel adjacent to the east property line, all surrounding parcels are developed with single-family residences and associated accessory structures.

STAFF ANALYSIS

Section 17.28.200.G of the Zoning Ordinance (RE-5 Zone District) requires a Special Use Permit (SUP) be processed for home occupations which require special consideration, including, but not

limited to occupations requiring the use of accessory building(s) and that will not change the residential character of the premises or adversely affect the other uses permitted in a residential area. Based on consistency with the General Plan Low Density Residential (LDR) Land Use Designation and the Development Standards of the Estate Residential Five-Acre (RE-5) Zone District, staff recommends conditional approval of the project.

Project Issues: Discussion items include noise, traffic, wastewater/waste products and land use compatibility:

Noise: General Plan **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.

The toffee-making facility could potentially generate minor amounts of noise associated with the mixing, cooking and packing of the product. However, as toffee making would be fully enclosed within an attached accessory building (“storage room”), exterior noise levels are anticipated to be negligible. Therefore, project-generated noise would not be anticipated to exceed the noise limits indicated in Table 6-2 of the General Plan, and no further environmental review shall be required. Findings for General Plan Consistency have been included in Attachment 2.

Traffic: The applicants use Pyracantha Road for access to the project parcel. This is a non-County maintained, paved road. DOT reviewed the project proposal and determined it would not have a significant impact on current traffic patterns and therefore, they had no recommended conditions of approval. This project would not generate any shipping, retail traffic or the need for additional off-street parking, as orders would be placed online and shipped directly from the US Postal Service. Staff has found that the project therefore would not generate traffic beyond what is typical within a residential area.

Wastewater and Waste Products: The Environmental Management Department, Environmental Health Division, reviewed this project for consistency with the California Retail Food Code and applicable waste disposal regulations and found that there would be no significant health issues or concerns with this project. Recommended conditions of approval from Environmental Management have been included in Attachment 1.

Land Use Compatibility: General Plan **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.

The subject parcel exists in a low density residential area and the 5-acre site is surrounded by improved residential parcels. The project has been designed to be compatible with the adjoining residential land uses by being fully enclosed within an attached accessory building.

Conclusion: Pursuant to Section 17.22.540 of the Zoning Ordinance, Findings for approval can be made as the project would be consistent with the General Plan and would not be detrimental to the public health, safety or welfare or be injurious to the neighborhood. Further, the proposed

use is specifically allowable by Special Use Permit pursuant to Section 17.28.200.G of the Zoning Ordinance. As discussed above, staff finds the project, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17. Findings for approval are included as Attachment 2.

ENVIRONMENTAL REVIEW

Staff has determined that this project is Categorically Exempt from environmental review pursuant to Section 15301(a) of the CEQA Guidelines for interior alterations including partitions, plumbing and electrical conveyances within an existing 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 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Page
Exhibit C	General Plan Land Use Designation Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibit F	Toffee Processing Room Floor Plan
Exhibit G	Table-Top Toffee Cooker Diagram

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit S12-0004/Linders Toffee Kitchen Planning Commission/September 13, 2012

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, hearing exhibits E-G (Site Plan, Floor Plan, Table-Top Toffee Cooker Diagram), 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 substantial 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:

Special Use Permit to allow a commercial kitchen for toffee production within an attached 360 square-foot residential accessory building (“storage room”) adjacent to the owner’s primary residence. Toffee preparation would occur approximately 50 hours per year, primarily during holiday periods. Production would utilize only table-top electric cookers with no grease or cooking oil used in production, and no exhaust would be generated. Finished product would be sold via internet sales and shipped off-site from the US Postal Service. There will be no employees, retail sales or shipping traffic on site.

The grading, development, use, and maintenance of the property, the size, shape, arrangement and location of structures 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. **Expiration:** Pursuant to County Code Section 17.22.250, implementation of the project shall be diligently pursued within twenty-four months of approval of this permit, or the permit shall become null and void.
3. **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.
4. **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.

Environmental Management, Environmental Health Division

5. The applicant shall submit two sets of project plans, to include manufacturer's specification sheets for toffee production equipment, to Environmental Health for review and approval at the time of building permit application.
6. A professional septic system evaluation shall be completed to the satisfaction of the Environmental Health Division. This evaluation shall include the requirement of a minimum 500 gallon in-ground grease interceptor.

El Dorado County Fire Protection District

7. The applicant shall provide one properly-mounted Type K fire extinguisher in the kitchen area to the satisfaction of the District.

ATTACHMENT 2

FINDINGS

Special Use Permit S12-0004/Linders Toffee Kitchen Planning Commission/September 13, 2012

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 is Categorical Exempt from environmental review pursuant to Section 15301(a) of the CEQA Guidelines for interior alterations including partitions, plumbing and electrical conveyances within an existing structure. The project will be fully enclosed within an attached residential accessory building and proposed work will be limited to interior alterations of this structure.
- 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 The project is consistent with the General Plan Land Use Designation of Low Density Residential (LDR) because the proposed home occupation is consistent with residential uses allowed in the LDR Land Use Designation.
- 2.2 The project is consistent with the following General Plan Policies:
 - a. **Policy 6.5.1.2** (Exterior Noise Standards): General Plan **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.* The toffee kitchen would be fully enclosed within an attached residential accessory building and therefore, exterior noise levels would not be anticipated to exceed the noise limits indicated in Table 6-2 of the General Plan.
 - b. **Policy 2.2.5.21** (Land Use Compatibility): General Plan **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.* The project has been designed to be compatible with the adjoining residential land uses by being fully contained and fully enclosed within an attached residential accessory building.

3.0 ZONING FINDINGS

- 3.1 The project site is zoned Estate Residential Five-Acre (RE-5). The proposed home occupation for commercial toffee production is permitted by Special Use Permit in the RE-5 Zone District, pursuant to Section 17.28.200.G 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 because sufficient setbacks, parking area, and building height have been provided.

4.0 SPECIAL USE PERMIT FINDINGS

- 4.1 **The issuance of the permit is consistent with the General Plan.** The proposed use is consistent with the policies and requirements of the El Dorado County General Plan, as set forth in Section 2.0 of these findings.
- 4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.** The project has been designed to be compatible with the adjoining residential land uses by being fully enclosed within an attached residential accessory building.
- 4.3 **The proposed use is specifically permitted by Special Use Permit.** The proposed use is consistent with the requirements of County Code Section 17.28.200.G, which allows a Special Use Permit for home occupations which require special consideration, including the use of accessory building(s) and that will not change the residential character of the premises or adversely affect the other uses permitted in a residential area. The proposed toffee kitchen would be fully enclosed and contained within an attached accessory building and therefore is not anticipated to change the residential character of the premises or adversely affect uses permitted in a residential area.