

Agenda of: August 11, 2005
Item No.: 9.a.
Staff: Michael C. Baron

STAFF REPORT - SPECIAL USE PERMIT

FILE NUMBER: S05-0010

APPLICANT: Federated Church

AGENT: Robin Stanley

REQUEST: Special use permit to allow a community garden

LOCATION: On the east side of Farnsworth Lane, approximately 300 feet east of the intersection with Oakdell Road, in the El Dorado area. (Exhibit A)

APN: 331-301-10

ACREAGE: 1.86 acres

GENERAL PLAN: Multi-family Residential (Exhibit B)

ZONING: One-family Residential (R1) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Negative Declaration prepared

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: The parcel is located in a residential section of the El Dorado area. The parcel was created in June 1981 by a parcel map. The El Dorado Center for the Visually Impaired currently operates in a house located on the parcel under permit S04-0011. Permit S05-0010 will void permit S04-0011. The El Dorado Center for the Visually Impaired will continue to operate, and all applicable conditions will be carried over from permit S04-0011 and amended to permit S05-0010.

STAFF ANALYSIS

Project Description: A community garden with approximately 30 garden plots (ranging in size from about 10 feet by 30 feet to 20 feet by 30 feet), composting area, and parking spaces for 12 vehicles. Garden space will be rented yearly on a first-come first-serve basis.

Site Description: The project area lies at an elevation of approximately 1,700 feet above mean sea level. The parcel is 1.86 acres in size and contains an existing 1,850 square foot residence, 480 square foot garage, and two small sheds. The topography is gentle sloping with an assortment of various native trees, bushes, and grasses. The site will be accessed from Farnsworth Lane.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R1	MFR	Improved Residential Land
North	R1	MFR	Unimproved Residential Land
South	R1-R2 DC	MFR	Improved Residential Land
East	R1	MFR	Improved Residential Land
West	R1	HDR	Unimproved Residential Land

Discussion: The surrounding land uses consist of a mix of improved and unimproved residential parcels. While the proposed use is not listed under the R1 Zoning Ordinance it was determined, in this case, that a community garden would not be incompatible with the surrounding land uses. It has been designed in a manner that would not create incompatibility with the adjoining parcels.

General Plan: The General Plan designates the subject site as Multi Family Residential. General Plan Policy 2.2.5.21 applies to this project and states 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 affect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site. In the case of this project, hours of operation have been limited to 8:00 AM to 8:00 PM, restrictions have been placed on the use of pesticides and power equipment, and adequate screening limits the impacts of this use to no more than a residential garden.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, conforms to the General Plan.

General Plan Lawsuit: On February 5, 1999, Judge Cecily Bond of the Sacramento Superior Court acted to invalidate the Environmental Impact Report adopted for the 1996 General Plan. This invalidation restricted the County from acting on any discretionary project pending issuance of a Writ from the Court.

Paragraph 5, sub-paragraph 3 within the Final Writ establishes that “*The Court permits the County to issue any approvals, permits, or entitlements whether or not discretionary, for non-residential development*”; provided that such approvals, permits or entitlements comply with sub-paragraph (8) below...” Sub-paragraph 8 within the Writ establishes that the “*County cannot approve or undertake any such project unless it finds, on substantial evidence, that:*

- a. *The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.*

Discussion: The project is a non-residential development and is consistent with all applicable policies established under the 1996 and 2004 General Plans. Additionally, none of the issues identified in the February 5, 1999, Court ruling will be affected by this project.

- b. *The approval or project complies with all other requirements of law.*

Discussion: The project will comply in all instances with the provisions of County Code.

- c. *The project is consistent with the text and maps of the General Plan as of February 5, 1999, and there is no evidence that the development of the site would affect issues identified in the General Plan lawsuit that could impact the County's ability to adopt a new General Plan.*

Zoning: The proposed use is not specifically listed as a use permitted by special use permit in the R1 Zone District; however, the County has historically found that the use is similar to a community park which is permitted by special use permit pursuant to Section 17.28.030 of the Zoning Ordinance. In order to approve the use, the approving authority must find that the use 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, citizens' groups, and impacted neighbors, as discussed below, staff finds that the project would not be detrimental to the public health, safety, and welfare and would not be injurious to the neighborhood.

Discussion: While it has been determined by staff that the project would not be detrimental to the public health, safety, and welfare and would not be injurious to the neighborhood, there are some issues with the project that should be noted. For instance, parking will be provided, however, the area would consist of gravel instead of pavement. There would be the potential for excessive noise associated with an activity where a number of people are gathered. There could be potential dangers to the surrounding community from the use of pesticides and herbicides. Furthermore, approval of Permit S05-0010 will void permit S04-0011. The El Dorado Center for the Visually Impaired will continue to operate, and all applicable conditions will be carried over from permit S04-0011 and amended to permit S05-0010.

All of the issues associated with the project have been identified and either mitigated or conditioned. Since the proposed parking will be gravel the applicant has been conditioned to apply a four inch aggregate similar to the existing roadway. To avoid noise problems, the applicant has stated that the garden would be tilled in the spring, and tenants would not be allowed to use mechanized garden tools. Also, hours of operation are limited to 8:00 AM to 8:00 PM. The applicant has ensured that the garden will be based on organic principals, and no tenant will be allowed to use pesticides and herbicides to maintain garden plots.

Agency and Public Comments: The following agencies provided comments on this application:

Diamond Springs/El Dorado Fire Protection District
El Dorado County Environmental Management Department
El Dorado County Resource Conservation District
El Dorado County Department of Transportation
Supervisor Jack Sweeney

The El Dorado Fire Protection District provided conditions for approval. All other agencies contacted had no specific concerns regarding the proposed special use permit.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project has a significant effect on the environment. Based on the Initial Study staff has determined that there is no substantial evidence that the proposed project will have a significant effect on the environment, and a Negative Declaration has been prepared.

This project is found to be de minimis (having no effect on fish and game resources). Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Determination and Certificate of Fee Exemption with the State in accordance with State Legislation (California Fish and Game Code Section 711.4).

RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff; and
2. Approve the special use permit based on the findings in Attachment 2, subject to the conditions in Attachment 1.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2.....Findings
Exhibit A.....Vicinity Map
Exhibit BGeneral Plan Land Use Map
Exhibit CZoning Map
Exhibit D.....Site Plan
Exhibit E.....Supplemental Pictures

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER S05-0010

CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. Approval of Special Use Permit S05-0010 will void Special Use Permit S04-0011. The El Dorado Center for the Visually Impaired will continue to operate and all applicable conditions will be carried over from S04-0011 and amended to S05-0010.
2. The project, as approved, consists of the following:
 - a. A school for the blind in order to teach independent living skills in an existing residential structure. The maximum capacity for the school at any one time will consist of three staff members (two teachers, one clerical, and two students or a one on one student/teacher ratio at all times.
 - b. A community garden with approximately 30 garden plots (ranging in size from about 10 feet by 30 feet to 20 feet by 30 feet) which will be rented yearly on a first-come first-serve basis.
3. All site improvements shall conform to the site plan(s) attached as Exhibits D.
4. Prior to final occupancy all proposed on-site parking, in addition to what already exists, shall consist of a minimum 4 inches aggregate to identify the proposed additional parking spaces.
5. No pesticides or mechanized power tools (i.e. rototillers, chippers, etc.) will be used by tenants to maintain plots.
6. The Center for the Visually Impaired shall continue hours of operation from 8:00 AM to 5:00 PM Monday through Friday and the Hope Community Garden shall be open from 8:00AM to 8:00 PM Daily.
7. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance.

8. In the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resource Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.

Diamond Springs/El Dorado Fire Protection District

9. All vegetation along Farnsworth Lane that encroaches onto the roadway shall be cleared, as well as a 15-foot vertical clearance in the overhead areas.
10. The applicant shall install approved signage at the intersection of Farnsworth and Oakdell, identifying the street name of Farnsworth Lane, meeting El Dorado County Design and Improvement Standards.
11. The applicant shall install approved signage and addressing identifying the Hope Community Gardens and the El Dorado Center for the Visually Impaired.
12. The applicant shall install a Knox box security lock system for any and all gates on the involved properties.
13. The applicant shall install approved signage/markings in the circular turnaround area identifying parking areas, i.e. No Parking, Keep Clear, Fire Lanes.

ATTACHMENT 2 **FINDINGS**

FILE NUMBER S05-0010

1. The proposed project will not have a significant effect on the environment, based on the analysis contained in the Initial Study, and a Negative Declaration has been filed. A de minimis finding on the project's effect on fish and wildlife resources can be found, and the project is therefore not subject to the payment of State Fish and Game fees pursuant to State Legislation (California Fish and Game Code Section 711.4).
2. The proposed use is consistent with the policies in the El Dorado County General Plan, as amended through February 4, 1999, as discussed in the General Plan section of this staff report.
3. The use is found to comply with the requirements of Chapter 17.22, Special Use Permits, and the proposed use is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report and the analysis of potential impacts in the Initial Study.
4. This project may be approved subject to the following findings established in Paragraph 5, Sub-Paragraph 3, which permits the County to approve permits, and Sub-paragraph 8 in the Final Writ issued by the Court on July 19, 1999, as follows:
 - a. The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.
 - b. The approval or project complies with all other requirements of law.
 - c. The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.