

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



**Agenda of:** August 28, 2008  
**Item No.:** 9b  
**Staff:** Aaron Mount

## **SPECIAL USE PERMIT**

**FILE NUMBER:** S07-0002/Randal's Cabinet Shop

**APPLICANT:** Randy Rains

**REQUEST:** Special use permit to allow for the operation of a cabinet shop as a home occupation.

**LOCATION:** On the west side of Mulberry Lane, at the intersection with Green Valley Road in the Greenstone area, Supervisorial District IV. (Exhibit A)

**APN:** 319-040-03

**ACREAGE:** 8.11 acres

**GENERAL PLAN:** Low Density Residential (LDR) (Exhibit B)

**ZONING:** Estate Residential Five-acre (RE-5) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Statutorily Exempt pursuant to Section 15270(b) of the CEQA Guidelines.

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

1. Certify that the project is Statutorily Exempt from CEQA pursuant to Section 15270(b) of the CEQA Guidelines; and
2. Deny Special Use Permit application S07-0002 as the required findings cannot be made based on the analysis in the staff report and as noted in Attachment 1.

**BACKGROUND:** Based on statements made by the applicant, the existing cabinet shop has operated at the current site without a business license or special use permit since the early 1990's.

Code enforcement actions (C-147391) were initiated for the zoning violation by a courtesy notice sent to the owner of the subject parcel on May 6, 2003. On July 28, 2006 a Code Enforcement inspector found the following conditions:

1. Barn used as a commercial cabinet shop without required permits.
2. Addition to south and east side of barn without required permits.

This was followed by a Notice to Correct recorded on December 05, 2006 citing the above violations. Subsequently, the applicant submitted a Special Use Permit application on January 8, 2007.

**STAFF ANALYSIS**

**Project Description:** The request is for a special use permit for the operation of a cabinet shop as an expanded home occupation. The cabinet shop constructs cabinetry for residential and commercial uses. Currently, the owner and up to two employees work at the site from 7:00 am to 4:00 pm Monday through Friday. The cabinet shop is located in a 3,170 square foot existing accessory structure which includes a 170 square foot office and a 3,000 square foot work area. The work area includes the following equipment: saws, sanders, shapers, dust collection system, air compressor, and hand tools.

The cabinetry is delivered to and installed at the construction site. Approximately five delivery vehicles visit the cabinet shop each week and an average of four customers visit the shop each month.

**Site Description:** The subject parcel is at an average elevation of 1,200 feet above mean sea level. The majority of the parcel is grassland with a few scattered native trees and landscaping around the structures. An unnamed tributary of Dry Creek crosses the parcel from north to south. Structures include a single family residence, the 3,170 square foot cabinet shop, and numerous other small accessory structures. Access to the site is from Green Valley Road, which is County maintained. The structure used as a cabinet shop was approved as a barn by building permit number 93083960.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-5	LDR	Single Family Residence, Accessory Structures
<b>North</b>	R3A	MDR	Single Family Residence
<b>South</b>	RE-5	LDR	Green Valley Road/Undeveloped
<b>East</b>	RE-5	LDR	Single Family Residence
<b>West</b>	RE-5	LDR	Single Family Residence

**Discussion:** The subject and adjacent parcels are strictly residential including a medium density residential subdivision to the north. It is staff's determination that the proposed use is an unduly intensive commercial use within a residential zone district with developed properties due to the size of the operation and the traffic generated. A home occupation shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, premises, or the neighborhood.

**Noise:** An acoustical analysis was submitted by the applicant showing conformance with Table 6-2 of the General Plan. The acoustical analysis states that noise emanating from the cabinet shop does not exceed the thresholds as defined in the General Plan.

**General Plan:** The General Plan designates the subject site as Low Density Residential (LDR). The LDR land use designation permits single-family residential development in a rural setting. Policy 2.2.5.2 requires that applications for discretionary projects, such as a Special Use Permit, shall be reviewed to determine consistency with General Plan policies.

**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 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.* Planning staff has determined that the proposed home business, involving employees, access to customers, the use of a large accessory building, delivery and receiving of items on a regular basis with associated delivery vehicles, as well as the use of power tools, would not be compatible with the surrounding residential neighborhood. This would be considered a commercial/light industrial operation and not a residential use and therefore should be relocated from the residential neighborhood to a compatible commercial/industrial area.

**Policy 10.1.7.4** states that *home occupations shall be encouraged and permitted to the extent that they are compatible with adjacent or surrounding properties.* Staff has determined that the home-based business would not be compatible and the findings to support this Policy cannot be made, as it would promote a commercial use within a residential district that would not typically be permitted within the same zone district elsewhere in the County. This is a residential area not intended to be the site of a commercial business and is not compatible with surrounding RE-5 and R3A zoned properties. A home occupation is to allow the occupant of the residence to engage in a home based business and shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, premises, or the neighborhood. The proposal would generate vehicular traffic measurably in excess of that normally associated with single-family residential use including commercial delivery of products and materials to and from the property and structure associated with the business is of a size that is not subordinate to the residential uses on the site and adjacent.

**Conclusion:** The project has been reviewed in accordance with the El Dorado County 2004 General Plan policies, and it has been determined that the project is not consistent with the General Plan. Findings of inconsistency with the General Plan are provided in Attachment 1. The intent of the home base businesses is to allow for compatible commercial uses in the home by the residents and

not allow for commercial uses appropriate for commercially zoned properties. Staff does not feel that the use described qualifies as a "home occupation" but is rather a commercial use not permitted in a residential zone.

**Zoning:** The subject parcel is within the Estate Residential Five-acre (RE-5) zone district. The purpose of the RE-5 districts is to provide for the orderly development of land having sufficient space and natural conditions compatible to residential and accessory agricultural and horticultural pursuits and provide for the protection from encroachment of unrelated uses tending to have adverse effects on the development of the areas so designated.

The proposed use is not specifically listed as a home occupation permitted by right under any residential zone district described in County Code, and therefore can only be evaluated by submitting a special use permit. The following is the language used in residential zone districts to describe home occupations allowed by right:

*Home occupation such as accountant, advisor, appraiser, architect, artist, attorney, author, broker, dressmaker, draftsman, dentist, handicrafts, insurance, photographer, physician, therapist, musician, teacher and other similar occupations normally conducted by mail or telephone on the premises where the activities do not create a traffic problem; provided, that instruction is not given to groups in excess of four and concerts or recitals are not held, and no display of goods is visible from the outside of the property; such use must be carried on in the residence and be incidental to the residential use of the premises and be carried on by a resident thereon.*

The following is the language used in the residential zone districts to describe home occupation requiring a special use permit:

*...home occupations not listed in subsection...which require special consideration such as the use of power tools, accessory building, noise, and will not change the residential character of the premises or adversely affect the other uses permitted in a residential area also would require a special use permit.*

**Discussion:** Planning Services routinely reviews anywhere from 10 to 30 business license requests per day and the vast majority are for home-based occupations conducted by the occupants within the residence. As discussed above, County Code only permits home-occupation business licenses that requests to carry out the business in an accessory building, use power tools, and store materials in an accessory building in a residential district by special use permit. These same standards for home-occupations were in place in 1990's when the applicant should have applied for a County business license. If the applicant had applied, the business license would have only permitted a home office, no employees, to be carried out by residents on the subject parcel only, not to permit the use of power tools and not to be carried out within an accessory building.

The project proposal is not consistent with the General Plan and the proposed use would be detrimental to the public health, safety and welfare, or injurious to the neighborhood. The traffic is in excess of a residential use, the size of the operation is not subordinate to the residential use, and use as a cabinet shop has the potential of storage of reportable quantities of hazardous materials.

Therefore, Planning staff recommends the Planning Commission deny the subject application request as being contrary to the intent of Zoning Code and General Plan.

**Agency Comments:** The following agencies provided comments on this application:

**Air Quality Management District:** The AQMD comments stated that the applicant would have to address impacts to air quality by submitting an authority to construct permit and adhere to District rules 215 and 237 all related to the use of spray paint booths and dust collections systems which are currently being used at the site.

**Hazardous Materials Program of the Environmental Management Department:** The Hazardous Materials Program in its comments stated that the facility will be regulated under the CUPA hazardous materials and hazardous waste programs. Cabinet shops generate hazardous waste from wood finishing and tool cleaning processes. They would require the applicant to obtain a hazardous waste identification number from the California Department of Toxic Substances Control. Also, a hazardous waste contingency plan must be filed with the EMD and applicable fees paid.

**Diamond Springs-El Dorado Fire Protection District:** The Fire District determined that a fire hydrant capable of the minimum commercial complex fire flow would be required. Additionally, a site inspection would have to be performed to determine if the subject site contains adequate emergency access for the proposed commercial use.

## **ENVIRONMENTAL REVIEW**

This project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15270(a) of the CEQA Guidelines stating that CEQA does not apply to projects which a public agency rejects or disapproves.. In this case the project is inconsistent with a number of General Plan policies, thus necessitating the recommendation for denial. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

The applicant has prepared a Mitigated Negative Declaration (MND).

## **SUPPORT INFORMATION**

### **Attachments To Staff Report:**

- Attachment 1.....Findings for Denial
- Exhibit A.....Vicinity Map

Exhibit B .....General Plan Land Use Map  
Exhibit C .....Zoning Map  
Exhibit D .....Site Plan  
Exhibit E .....Site Photos  
Exhibit F .....Site Air Photo  
Exhibit G .....Recorded Notice To Correct

**ATTACHMENT 1**

**FINDINGS FOR DENIAL**

**File Number S07-0002**  
**Planning Commission/August 28, 2008**

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:

**FINDING FOR DENIAL**

**1.0 CEQA Finding**

1.1 This project is found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15270(b) of the CEQA Guidelines where the agency can determine that the project cannot be approved. The project is unapprovable due to numerous inconsistencies with General Plan policies and is a commercial use not permitted within a residential zone district.

**2.0 General Plan Findings**

2.1 The proposed special use permit is not consistent with the Low-Density Residential (LDR) General Plan land use designation. A home occupation shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, premises, or the neighborhood. The traffic is in excess of a residential use, the size of the operation is not subordinate to the residential use, and use as a cabinet shop has the potential of storage of reportable quantities of hazardous materials. The use of employees and visitation by customers are not residential use characteristics. The use is an unduly intensive commercial use within residential zone district with developed properties.

2.2 The proposal is not consistent with the intent of Policies 2.2.5.21 and 10.1.74 because current adopted County Code directs that businesses such as the subject one, with employees, visiting by customers, using accessory buildings, using power tools, and delivering and receiving items are not compatible with residential neighborhoods. The project proposal would generate vehicular traffic measurably in excess of that normally associated with single-family residential use including commercial delivery of products and materials to and from the property. The 3,170 square foot cabinet shop greatly exceeds compatibility with the residential uses on the subject and adjacent parcels. Employees are not consistent with home occupations. The project has the potential of the use and storage of hazardous substances which is not compatible with a residential use.

### **3.0 Special Use Permit Findings**

- 3.1 **The issuance of the permit is consistent with the General Plan.** The special use permit is inconsistent with General Plan Policies 2.2.5.21 and 10.1.7.4 which states that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses. The traffic is in excess of a residential use, the size of the operation is not subordinate to the residential use, and use as a cabinet shop has the potential of storage of reportable quantities of hazardous materials. The use is an unduly intensive commercial use within residential zone district with developed properties.
- 3.2 **The proposed use would be detrimental to the public health, safety and welfare, or injurious to the neighborhood,** based on the conclusions contained in the staff report. The proposed cabinet shop would be located within a residential subdivision and has the potential to impact the neighborhood through an increase in traffic above the residential levels, the size of the operation is not subordinate to the residential use, and the potential of storage of hazardous materials. These impacts have the potential of being detrimental to the public health, safety and welfare, or injurious to the neighborhood. The use is an unduly intensive commercial use within a residential zone district with developed properties.