

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



<b>Agenda of:</b>	November 12, 2009
<b>Item No.:</b>	7.c
<b>Staff:</b>	Jason R. Hade

## **SPECIAL USE PERMIT**

**FILE NUMBERS:** S07-0019/Olde Coloma Theatre

**APPLICANT:** Coloma Crescent Players, Inc.

**AGENT:** Robert Laurie, Esq.

**REQUEST:** Special use permit (SUP) to authorize the use of an existing building for live theatre performances with a maximum occupancy of 149 persons.

**LOCATION:** On the south side of Monument Road, approximately 100 feet west of the intersection with Cold Springs Road in the Coloma area, Supervisorial District IV. (Exhibit A)

**APN:** 006-290-04 (Exhibit B)

**LOT SIZE:** 19,602 square feet

**GENERAL PLAN:** Tourist Recreational (TR) (Exhibit C)

**ZONING:** Recreational Facilities (RF) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Categorically exempt pursuant to Section 15323 of the CEQA Guidelines

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

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15323 of the CEQA Guidelines; and

2. Approve Special Use Permit S07-0019 subject to the conditions of approval in Attachment 1, based on the findings in Attachment 2.

## **BACKGROUND**

The Olde Coloma Theatre has been in existence since 1975 when a donated structure was relocated to the site. The theatre holds regular weekend performances (one show each Friday and Saturday evening) from May through December. The theatre also provides shows for school groups visiting Marshall Gold Discovery State Historic Park, although they are not affiliated in any way with the state park. These shows run from February through June, with the peak time being in April and May with up to five shows a day. The school performances began in 1988 according to the current operators of the theatre.

The theatre previously had an agreement with the former owners of the Vineyard House to use part of that property for parking. The new owners rescinded that agreement in early 2006, resulting in parking problems that have affected neighboring property owners and the state park. Grading was done on the site to address flooding problems during the winter storms of 2006 as well as to improve on-site parking. As no permit was secured prior to the grading and a code enforcement action was initiated on February 28, 2006 for grading without a permit. The investigation also resulted in questions regarding the legality of the theater activity.

At the hearing of August 24, 2006, the applicant requested the Planning Commission make a determination that the Theatre is a legal non-conforming use. After several continuances, the Planning Commission determined on March 8, 2007 that the Theatre did not qualify as a legal non-conforming use and that an SUP would be required to continue its operations. The Planning Commission's action was subsequently appealed to the Board of Supervisors (BOS). On April 17, 2007, the BOS denied the applicant's appeal upholding the decision of the Planning Commission to require the submittal of an SUP application. The BOS also directed staff to waive the filing fee for the SUP.

The subject SUP application was submitted on June 4, 2007.

## **STAFF ANALYSIS**

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the proposal and issues for Planning Commission consideration are provided in the following sections.

**Project Description:** Special use permit (SUP) to authorize the use of an existing building for live theatre performances with a maximum occupancy of 149 persons. Hours of operation would be 9:00 AM to 8:00 PM Monday through Thursday, 9:00 AM to 10:30 PM Friday, and 1:00 PM to 10:30 PM Saturday and Sunday, May through December. Up to five special events would be authorized per year consistent with the maximum occupancy and hours of operation above. Up to 15 employees would be authorized for each performance, excluding performers. The sale of alcoholic

beverages would be prohibited. Fifteen on-site parking spaces would be provided consistent with Exhibit E.

**Site Description:** The 19,602 square foot project site lies at an elevation of approximately 877 feet above sea level. As mentioned above, the site has been used for theatre operations since 1975 when a donated structure was relocated to the site. Site improvements consist of a 4,689 square foot structure (theatre), retaining wall constructed near the western property line, and approximately eight oak trees. Existing project access is via Monument Road.

**Adjacent Land Uses**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RF	TR	Commercial/Theatre
<b>North</b>	RF	TR	State Park/Monument Road
<b>South</b>	RE-5	MDR	Residential/Single-family residence
<b>East</b>	RE-5	MDR	Residential/Single-family residence
<b>West</b>	RE-5	TR	Residential/Undeveloped

**Land Use Compatibility:** As discussed above, the subject site is surrounded by residential and public land uses. Neighboring property owners and the state park have expressed concerns regarding parking, access, noise, lighting, and grading at the subject site. Staff believes the proposed project is compatible within the context of the surrounding land uses pursuant to General Plan Policy 2.2.5.21 based on compliance with the recommended conditions of approval in Attachment 1.

**Access:** Site access would continue to be provided via Monument Road with a driveway entrance to be provided consistent with that shown on the submitted site plan (Exhibit E).

**Building Services:** Based upon recommendations from Building Services, all outstanding building code and ADA issues would need to be addressed by the applicant prior to final building occupancy under the subject SUP, if approved. Additionally, the 13 foot by 16 foot “pop-out” shown on the site plan (Exhibit E) is not shown on previous building permit records and would be subject to a building permit prior to final building occupancy.

**Environmental Management Department:** If the project would include the sale or give-away of food, including prepackaged food or beverages, the applicant would be required to meet the minimum requirements of the Health and Safety Code – California Uniform Retail Food Facilities Law (CURFFL). This issue has been addressed within the project’s recommended conditions of approval (Attachment 1).

**Fire Protection:** The El Dorado County Fire Protection District reviewed the proposed project and would require the installation of a fire hydrant or alternative fire protection provisions, approved fire

alarm system, and submittal of floor plans, if the project were to be approved. Fire issues are addressed within the project's conditions of approval.

**Lighting:** As recommended in Attachment 1, prior to final building occupancy under S07-0019, all outdoor lighting would need to conform to Section 17.14.170 of the County Code and be fully shielded pursuant to the Illumination Engineering Society of North America (IESNA) full cut-off designation, as determined by Planning Services.

**Parking:** Pursuant to Section 17.18.060.44 of the Zoning Ordinance, parking requirements for a theatre are one space per three seats. As such, the theatre would require a total of 50 parking spaces including one handicapped accessible space. As shown on Exhibit E, a total of 15 parking spaces are available at the subject site including one handicapped accessible space. Because insufficient on-site parking is available at the subject site for the proposed use, the applicant would be required to obtain an off-site parking agreement for the use of nearby State-owned parking lots subject to California State Parks review and approval or other party if alternative parking location is used.

Pursuant to proposed condition of approval number 10, large tour and school buses would be prohibited from parking and dropping off theatre patrons on State Route 49 and State Route 153. The Theatre may pursue obtaining a concession agreement with California State Parks to permit bus parking at the State-owned North Beach parking lot and use shuttle buses or vans to transport theatre patrons to the subject site. All passenger unloading from the shuttle buses or vans would need to occur on theatre property only. Implementation of this condition would be subject to the applicant obtaining a permit or concession agreement with the California State Parks or other party if alternative parking location is used. Proof of said agreement would need to be submitted to Planning Services prior to final building occupancy. If a permit or concession agreement could not be obtained from the California State Parks or other party, the applicant would be required to submit an SUP revision application for further evaluation of the parking management plan. A final parking management plan would be required to be submitted prior to final building occupancy as detailed in condition of approval number eight.

Overall, the provision of sufficient parking for the use is contingent upon an agreement with the California State Parks or other party. If such an agreement cannot be reached, it would be necessary for the applicant to submit an SUP revision application so that staff could further evaluate the parking management plan. Because of the limited amount of on-site parking available (15 spaces), it would likely be necessary to reduce maximum theatre occupancy to approximately 36 to 45 persons.

**State Parks:** Staff consulted the Marshall Gold Discovery State Historic Park staff in preparing the recommended conditions of approval. State Parks has indicated they may consider the use of the Marshall Monument parking lot on a case by case special event basis. According to State Parks, use of these parking lots is not ideal as it requires theatre patrons to walk along Highway 153 or Cold Springs Road to reach the theatre property placing pedestrians in a hazardous situation. State Parks also informed staff that the Marshall Gold Discovery State Historic Park may be one of the park units which are closed due to the State budget crisis. If implemented, this would put the park unit in caretaker status and would likely eliminate programs and activities such as new special event

permits or concession agreements while the park is closed. Determinations on park closures are expected to be made in September. State Parks concerns are addressed within Attachment 1.

**Trash Enclosure:** As outlined in condition of approval number seven, staff recommends, a trash enclosure (wooden or cinder block fence) be constructed to sufficiently screen the waste container located at the front of the subject site prior to final building occupancy.

## **GENERAL PLAN**

This project is consistent with all applicable policies of the adopted 2004 El Dorado County General Plan. Findings for consistency with the General Plan are provided in Attachment 2. The policies and issues that affect this project are discussed below:

***Policy 2.2.1.2 states the Tourist Recreational land use designation is to provide areas for tourist and resident serving recreational uses, transit and seasonal lodging facilities, and supporting commercial activities. Types of uses would include campgrounds, golf courses, ski areas, snow parks, riding stables, trail heads, museums, and other similar recreational and sight seeing activities.***

**Discussion:** Although not affiliated with the state park, the Olde Coloma Theatre would continue to provide County residents, visitors, and school groups with cultural and educational opportunities in proximity to Marshall Gold Discovery State Park. As such, the use would be consistent with Policy 2.2.1.2.

***Policy 2.2.5.21 directs that new development be compatible with the surrounding land uses.***

**Discussion:** As conditioned, the SUP application would be consistent with the surrounding public and residential land uses.

***Policy 5.2.1.2 directs that an adequate quantity and quality of water for all uses, including fire protection, shall be provided for discretionary development.***

**Discussion:** As mentioned above, the El Dorado County Fire Protection District recommends that the project install a new fire hydrant or alternative fire protection provisions, as conditioned in Attachment 1.

***Policy 6.2.3.2 directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.***

**Discussion:** As conditioned and discussed above, the El Dorado County Fire Protection District supports the SUP application. Existing site access is consistent with Policy 6.2.3.2.

***Policy 7.4.4.4 requires all new development projects to adhere to oak tree canopy retention and replacement standards outlined in Option A or to contribute to the County's INRMP conservation fund (Option B).***

Discussion: No oak trees are proposed to be removed as part of project implementation. Any future removal of oak tree canopy would be subject to compliance with Policy 7.4.4.4.

**Policy 10.1.6.1** *directs that the County shall encourage expansion of the types of local industries that promote tourism including but not limited to Christmas tree farms, wineries, outdoor sports facilities, Apple Hill and other agricultural-related activities, the County Fairground, bed and breakfast inns, and ranch marketing activities.*

Discussion: Approval of the requested SUP would be consistent with Policy 10.1.6.1 because the theatre would promote continued tourism within the Coloma area.

## **ZONING**

As conditioned in Attachment 1, staff believes the proposed project is consistent with the lighting, parking, and applicable development standards within Section 17.48.070 of the Zoning Ordinance. The proposed use is permitted by special use permit in the Recreational Facilities zone district, pursuant to Section 17.48.060.E. In order to approve the use, the Planning Commission 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 staff analysis and comments received from affected public agencies, staff recommends the Planning Commission find that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. Findings for conditional approval are provided in Attachment 2.

## **ENVIRONMENTAL REVIEW**

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15323 of the CEQA Guidelines which states that “the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is past history of the facility being used for the same or similar kind of purpose” are exempt from further environmental review. For the purposes of this section “past history” shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include, but are not limited to, racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and amusement parks. A \$50.00 proceeding 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 Page  
Exhibit C .....General Plan Land Use Map  
Exhibit D .....Zoning Map  
Exhibit E .....Site Plan  
Exhibit F .....State Parks Letter, August 17, 2009

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**  
**Old Coloma Theatre**  
**FILE NUMBER S07-0019**

**El Dorado County Planning Services**

**I. PROJECT DESCRIPTION**

1. This special use permit is based upon and limited to compliance with the project description, hearing exhibit marked Exhibit E, 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:

Special use permit (SUP) authorizes the use of existing building for live theatre performances with a maximum occupancy of 149 persons. Hours of operation are 9:00 AM to 8:00 PM Monday through Thursday, 9:00 AM to 10:30 PM Friday, and 1:00 PM to 10:30 PM Saturday and Sunday, May through December. Up to five special events are authorized per year consistent with the maximum occupancy and hours of operation above. Up to 15 employees are authorized for each performance, excluding performers. The sale of alcoholic beverages shall be prohibited. Fifteen on-site parking spaces shall be provided consistent with Exhibit E.

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 (such as Site Plans and Landscape Plans) must be submitted for review and approval and shall be implemented as approved by the County.

**II. PROJECT CONDITIONS OF APPROVAL**

2. 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.

3. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
4. Within 120 days from the date of SUP approval, the applicant shall provide a written description, together with appropriate documentation, demonstrating conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services staff within 120 days from the date of SUP approval for verification of compliance with applicable conditions of approval.
5. Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) 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.
6. Prior to final building occupancy, all outdoor lighting shall conform to Section 17.14.170 of the County Code and be fully shielded pursuant to the Illumination Engineering Society of North America (IESNA) full cut-off designation, as determined by Planning Services.
7. Prior to final building occupancy, a trash enclosure (wooden or cinder block fence) shall be constructed to sufficiently screen the waste container located at the front of the subject site.
8. The applicant is responsible for providing 15 off-street parking spaces at all times while the theatre is in operation pursuant to 17.18.060 of the Zoning Ordinance. All on-site parking shall meet the parking lot design standards contained in Section 17.18.030 of the County Code. The required parking shall be provided as shown on the approved site plan, Exhibit E. A final parking management plan shall be submitted for review prior to final building occupancy.
9. No off-site parking on property adjacent to the theatre shall be permitted. If additional off-site parking is desired, the theatre may pursue the use of the parking lot on State Park lands which are near the Theatre property. The use of State-owned parking lots is at the discretion of State Parks and contingent upon the Theatre reaching agreement with State Parks.
10. Large tour and school buses are prohibited from parking and dropping off theatre patrons on State Route 49 and State Route 153. The Theatre may pursue obtaining a concession agreement with California State Parks to permit bus parking at the State-owned North Beach parking lot and use shuttle buses or vans to transport theatre patrons to the subject site. All passenger unloading from the shuttle buses or vans shall occur on theatre property only. Implementation of this condition is subject to the applicant obtaining a permit or concession

agreement with the California State Parks or other party if alternative parking location is used. Proof of said agreement shall be submitted to Planning Services prior to final building occupancy. If a permit or concession agreement is not obtained from the California State Parks, the applicant will be required to submit an SUP revision application for further evaluation of the parking management plan.

11. This permit shall be subject to review one year from the date of occupancy for possible modification of conditions, as necessary.

#### **El Dorado County Building Services**

12. All outstanding building code and ADA issues shall be addressed to the satisfaction of Building Services prior to final building occupancy.
13. The 13 foot by 16 foot “pop-out” shown on the site plan is not shown on previous building permit records and shall be subject to a building permit prior to final building occupancy.

#### **El Dorado County Fire Protection District**

14. A site inspection/review fee of \$150.00 shall be submitted to the El Dorado County Fire Protection District (EDCFPD) prior to final building occupancy.
15. Prior to final building occupancy, an approved fire alarm system shall be installed to the satisfaction of the EDCFPD.
16. Within six months from the date of SUP approval, a fire hydrant shall be installed at a specific location to be determined by EDCFPD. Alternative fire protection provisions, such as the development of a private water system with 3,000 gallon storage tank, in-lieu of the required fire hydrant may be approved at the discretion of the EDCFPD.
17. Within six months from the date of SUP approval, the applicant shall submit plans showing the location of the tank and how the fire service will take water from the tank to the EDCFPD for review.
18. Within three months of the date of SUP approval, a high security knock box shall be installed near the right side of the front door subject to review and approval by the EDCFPD.
19. A fire inspection shall be scheduled by the applicant with the El Dorado County Fire Prevention Bureau within one month from the date of SUP approval.
20. Prior to final building occupancy, a building floor plan shall be submitted to the EDCFPD and Building Services for review and approval to address building assembly issues (exiting).

#### **El Dorado County Environmental Management Department**

21. If the project will include the sale or give-away of food, including prepackaged food or beverages, the applicant shall be required to meet the minimum requirements of the Health and Safety Code – California Uniform Retail Food Facilities Law (CURFFL). Prior to final occupancy of the facility, plans and a permit shall be submitted to the El Dorado County Department of Environmental Management for review and approval.

## **ATTACHMENT 2** **FINDINGS**

**FILE NUMBER S07-0019**

### **FINDINGS FOR APPROVAL**

#### **1.0 CEQA FINDINGS**

- 1.1 The Planning Commission has determined that the proposed project will have no significant impact on the environment and is exempt from CEQA pursuant to Section 15323 of the CEQA Guidelines.
- 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, 95667.

#### **2.0 GENERAL PLAN FINDINGS**

- 2.1 As proposed, the project is consistent with the Tourist Recreational (TR) land use designation of the subject site as defined within General Plan Policy 2.2.1.2 because the TR land use designation is intended to provide areas for tourist and resident serving recreational uses, transit and seasonal lodging facilities, and supporting commercial activities, such as the Olde Coloma Theatre.
- 2.2 As conditioned, the proposal is consistent with General Plan Policies 2.2.5.21, land use compatibility, 5.2.1.2, water quality, 6.2.3.2, emergency access, 7.4.4.4, oak tree canopy retention, and 10.1.6.1, tourism promotion. Because of the project's compatibility with surrounding land uses, provision of sufficient water, emergency access, adequate oak tree canopy retention, and tourism promotion, it is consistent with the General Plan policies identified above.

#### **3.0 ZONING FINDINGS**

- 3.1 The proposed use is permitted by special use permit in the Recreational Facilities (RF) zone district, pursuant to Section 17.48.060.E provided that the administrative findings outlined below can be made by the Planning Commission.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because sufficient parking is provided and outdoor project lighting will be fully shielded.

#### **4.0 ADMINISTRATIVE FINDINGS (SPECIAL USE PERMIT)**

##### *4.1 The issuance of the permit is consistent with the General Plan.*

As discussed above, the proposal is consistent with the following applicable General Plan Policies 2.2.5.21, land use compatibility, 5.2.1.2, water quality, 6.2.3.2, emergency access, 7.4.4.4, oak tree canopy retention, and 10.1.6.1, tourism promotion.

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

The proposed use will not be detrimental to the public health, safety and welfare or injurious to the neighborhood as it will fit within the context of the surrounding mix of residential and public land uses adjacent to the subject site. Concerns expressed by neighboring property owners and the state park regarding parking, access, noise, lighting, and grading at the subject site will be addressed through compliance with the conditions of approval in Attachment 1.

##### *4.3 The proposed use is specifically permitted by special use permit pursuant to this Title.*

The proposed use is specifically permitted by special use permit pursuant to Section 17.48.060.E of the El Dorado County Zoning Ordinance as the required findings detailed above may be made by the Planning Commission.