

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



Agenda of:	September 9, 2010
Item No.:	8.b
Staff:	Jason R. Hade

SPECIAL USE PERMIT

FILE NUMBER: S09-0006/Fat Kitty City

APPLICANT: Ed and Cindy Minghelli

REQUEST: Special Use Permit (SUP) to authorize a cat sanctuary (cattery) for up to 150 cats.

LOCATION: On the east side of Sweet Valley Road, approximately 0.5 mile north of the intersection with Hickok Road, in the El Dorado Hills area, Supervisorial District IV. (Exhibit A)

APN: 102-180-09 (Exhibit B)

PARCEL SIZE: 20.14 acres

GENERAL PLAN: Rural Residential – Ecological Preserve (RR-EP) (Exhibit C)

ZONING: Estate Residential Ten-Acre (RE-10) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines

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

1. Certify that the project is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines; and
2. Approve Special Use Permit S09-0006 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND

Tentative parcel map application P06-0028 was submitted on August 8, 2006 and approved by the Zoning Administrator on July 18, 2007 authorizing the creation of two 10-acre parcels at the subject site. As shown on the site plan (Exhibit E), the proposed SUP activities would take place on the parcel with the existing residence, garage and other accessory structures (proposed parcel 1).

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 a cattery on the subject site to serve as a cat sanctuary for up to 150 cats. The facility would be comprised of one existing 2,025 square foot garage, four 120 square foot "tuff" sheds, a 392 square foot acclimation cage, trash cans and gravel parking area within a two acre fenced area. The facility would not be open to the public and no employees are proposed. The express purpose of the facility would be to rescue, rehabilitate, spay and neuter and care for domestic cats for future adoption. Visitation would be appointment only.

Site Description: The 20-acre project is located within the Pine Hill Preserve (Martel Creek Unit) and is developed with an existing residence and accessory structures. Slopes on the site are moderate with the majority falling within the zero to 20 percent range. Martel Creek bisects the project site. Vegetation covers approximately 50 percent of the site and is clustered near the creek. The vegetation is comprised of scattered brush, walnut trees and oak trees. Access to the project site would continue to be provided via Sweet Valley Road which is a non-County maintained private road.

Adjacent Land Uses

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR-EP	Residential/Single-family residence
North	RE-10	RR-EP	Residential/Single-family residence
South	RE-10	OS-EP	Bureau of Land Management/rare plant preserve
East	OS	OS-EP	Bureau of Land Management/rare plant preserve
West	OS	OS-EP	Bureau of Land Management/rare plant preserve

Land Use Compatibility: As discussed above, the subject site is surrounded by residential and public lands. Potential land use compatibility issues such as access, lighting, parking, noise and waste management are discussed in greater detail below. 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 Sweet Valley Road which is a non-County maintained private road, with a driveway entrance to be provided consistent with that shown on the submitted site plan (Exhibit E).

Environmental Management Department: According to the applicant, all animal waste would be collected daily, double bagged and disposed of at least weekly. The waste disposal proposal was reviewed and approved by Environmental Management Department. No other issues or concerns were reported by the Environmental Management Department. Waste disposal requirements are addressed within the recommended conditions of approval (Attachment 1).

Fire Protection: The Rescue Fire Protection District and CAL FIRE reviewed the proposed project and would require implementation of the approved fire plan for the previously approved parcel map application, preparation of a cat removal plan in the event of a disaster and appropriate vegetation clearance prior to final occupancy. Fire issues are addressed within the project's conditions of approval.

Lighting: No additional lighting is proposed other than the existing lighting shown in the applicant's submitted photographs (Exhibit F). Prior to final occupancy, the lighting would need to be in compliance with Section 17.14.170 of the County Code and to be fully shielded pursuant to the Illumination Engineering Society of North America (IESNA) full cut-off designation.

Parking: Pursuant to Section 17.18.060.44 of the Zoning Ordinance, parking requirements for the proposed uses are as follows:

Veterinary clinics and hospitals: 1 space/250 square feet of gross floor area exclusive of kennel boarding area.

Proposed uses and parking calculations are as follows:

Garage/"tuff sheds"/acclimation cage: 2,897 square feet = 12 spaces

Based on the proposed use square footage, a total of 12 parking spaces would be required. As shown on Exhibit E, an estimated total of 20 parking spaces are available at the subject site. Because the facility would be closed to the public with most adoptions completed off-site and no employees are proposed, it is unlikely that even 12 parking spaces would be used on a regular basis.

Staff believes that the site has sufficient parking to accommodate several volunteers and occasional adoption visits by appointment only.

Noise: The facility would not generate noise in excess of the General Plan noise standards contained in Policy 6.5.1.7 and Table 6-2.

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 Rural Residential land use designation establishes areas for residential and agriculture development. Typical uses include single-family residences, agricultural support structures, a full range of agricultural production uses, recreation, and mineral development activities.*

Discussion: The proposed cattery, as conditioned, is considered a compatible use as noted above and would be consistent with Policy 2.2.1.2.

Policy 2.2.2.4 *states that the purpose of the Ecological Preserve (-EP) overlay designation is to identify those properties in public or private ownership which have potential to be established or have been established as habitat preserve areas for rare or endangered plant and animal species and/or critical wildlife.*

Discussion: Due to the parcel location within the Pine Hill Preserve, a rare plant study was performed for the site. The study had determined that no listed endangered plants were found on the parcel (Strange Aquatic Resources, 2000). During the tentative parcel map application review process the study was forwarded to the California Department of Fish and Game and the United States Fish and Wildlife Service for comment and review. Both agencies reviewed the study and determined that the findings of the study were adequate and no further review was necessary.

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 residential land uses and federally owned public lands.

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 Rescue Fire Protection District and CAL FIRE recommend that the project be required to implement the previously approved fire safe plan, 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 Rescue Fire Protection District and CAL FIRE support the SUP application. Existing site access is consistent with Policy 6.2.3.2.

ZONING

Although not specifically listed as a use permit by a SUP in the RE-10 zone district, Section 17.70.100.I permits kennels by SUP. Staff considers a cattery to be similar in use to a kennel for the keeping of five or more dogs and is recommending that the Planning Commission find that a cattery may be considered through the SUP permitting process. 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.

SPECIAL USE PERMIT

The applicant proposes a SUP for the operation of a sanctuary for neglected and unwanted domestic cats until such time as they may be adopted. When reviewing this application, the Planning Commission should consider land use issues concerning the compatibility of the proposed use with the surrounding area and the mitigation of potential nuisances associated with the keeping of a large number of cats in confined quarters. Issues concerning proper housing, care, and welfare of the cats, including the provision of adequate space, air, light, food, water, sanitation and medical treatment, fall under the jurisdiction of El Dorado County Animal Services, which has the authority under Title 6 of the County Code to license catteries.

- a. **Proposed Use:** The applicant is proposing to establish a domestic cat sanctuary for the purpose of providing for a permanent home to neglected, unwanted and homeless cats. Cats having suitable health and disposition would be available for adoption. No breeding of cats is proposed. New cats to the facility would be spayed and neutered within a reasonable time period as specified by the cattery license to be issued by Animal Services. The facility would be comprised of one existing 2,025 square foot garage, four 120 square foot “tuff” sheds, a 392 square foot acclamation cage, trash cans and gravel parking area within a two acre fenced area. The facility would not be open to the public and no employees are proposed. Visitation would be by appointment only. The applicant has obtained a non-profit corporation status for Agee Memorial Wildlife Fund, Inc. for operation of “Fat Kitty City.”
- b. **Building Design/Space/Air:** A standard minimum space needed for each cat (at 10 to 20 pounds) was found to be five square feet (Humane Society of the United States, HSUS). Adding the space occupied by litter boxes (one box per three cats) at 150 square feet (50 litter boxes x three square feet per box) provides a total of 900 square feet needed for the sanctuary to meet the minimum HSUS standards. The following information provides a summary of the proposed sanctuary space:

SANCTUARY FACILITY SUMMARY

Animal Housing:	480 square feet
-----------------	-----------------

Garage:	<u>2,025 square feet</u>
Total Indoor:	2,505 square feet
Outdoor Enclosure:	<u>87,120 square feet</u>
Total Facility:	89,625 square feet

The facility itself would need to be permitted by Building Services and licensed by Animal Services as a condition of approval for the SUP.

- c. **Food/Water:** The proper handling of the food and water and proper cleaning of bowls is necessary to prevent the spread of diseases common to domestic cats. These concerns would be addressed by the licensing of the facility by Animal Services and would be monitored through periodic inspections by Animal Services staff.
- d. **Sanitation:** According to the applicant, all animal waste would be collected daily, double bagged and disposed of at least weekly. The waste disposal proposal was reviewed and approved by Environmental Management Department. No other issues or concerns were reported by the Environmental Management Department. Waste disposal requirements are addressed within the recommended conditions of approval (Attachment 1).

COUNTY CODE TITLE 6 “ANIMALS”

Title 6 of the El Dorado County Code regulates the control and humane treatment of animals within the boundaries of El Dorado County for the protection of the safety and welfare of the public. Chapter 6.04.020(8) of the County Code defines a “Cattery” as any place operated by any person where five (5) or more live domestic cats are kept, maintained, or harbored. A “Commercial Cattery” is defined as any place where five (5) or more live domestic of at least four (4) months of age are kept or maintained for sale, barter or hire. A “Noncommercial Cattery” is defined as any place where five (5) or more live domestic cats of at least four (4) months of age are kept or maintained solely for the use or hobby of the householder or owners. Based on these definitions, the applicant’s proposal would fit the definition for a “Commercial Cattery.” The proposal is for a commercial non-profit organization known as “Fat Kitty City.” The applicant’s plan is to provide daily care for up to 150 cats and to find appropriate homes for the unwanted cats.

Section 6.24.010 of the El Dorado County Code states that “no person can own or operate a cattery without first applying to and receiving from the Director of Animal Control a license to do so.” Upon receipt of an application for a commercial animal establishment license, the Animal Control Officer is required to forward the application to Planning Services to ascertain whether or not the applicant’s plan is in conformity with the zoning regulations. Planning Services must either approve or deny the permit. If all approvals were to be obtained from Planning Services and the Environmental Management Department, the Animal Control Officer would then investigate the application further and render a decision. In the case of the subject application, a SUP is required for the cattery to be allowed within the RE-10 zone district. Therefore, for Animal Services to be

able to consider a commercial cattery license, a SUP would need to be approved by the Planning Commission subject upon attainment of a license to operate a cattery.

A cattery license would require the person operating the facility to comply with the regulations set forth in Section 6.24.020 of the County Code.

PUBLIC COMMENTS

The project was reviewed by the El Dorado Hills Area Planning Advisory Committee (EDH APAC) on April 8, 2009. As shown in the attached comments (Exhibit H), the committee expressed several concerns and did not support the request by a 3-2 vote. However, the project has since been reduced from the initially proposed 500 cats to the currently proposed 150 cats. Staff believes the reduction in project scope addresses many of the initial committee concerns identified in Exhibit H.

ENVIRONMENTAL REVIEW

The Special Use Permit request has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines which states that existing “accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences” are exempt from further environmental review. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2.....Findings

Exhibit ALocation Map
Exhibit BAssessor’s Parcel Map Page
Exhibit CGeneral Plan Land Use Map
Exhibit DZoning Map
Exhibit ESite Plan
Exhibit FApplicant’s Site Photographs
Exhibit GApplicant’s Project Description
Exhibit H.....El Dorado Hills APAC Letter – April 10, 2009

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S09-0006/Fat Kitty City
Planning Commission/September 9, 2010**

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) authorizing a commercial cattery on the subject site (APN 102-180-09) serving as a cat sanctuary for up to 150 cats. The facility will be comprised of one existing 2,025 square foot garage, four 120 square foot “tuff” sheds, a 392 square foot acclimation cage, trash cans and gravel parking area within a two acre fenced area. The facility will not be open to the public and no employees are proposed. Visitation shall be by appointment only.

Should approved tentative parcel map P06-0028 record, the cattery authorized herein shall be permitted on parcel 1.

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) must be submitted for review and approval and shall be implemented as approved by the County.

II. PROJECT CONDITIONS OF APPROVAL

2. Applicant shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County’s approval of the Special Use Permit. In the event that the County fails promptly to notify the applicant of

any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

3. Prior to final building occupancy under S09-0006, the applicant shall pay all Development Service fees.
4. Prior to final building occupancy under S09-0006, 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 permit center staff prior to final occupancy 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 under S09-0006, 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. The applicant is responsible for providing 12 off-street parking spaces at all times while the facility is in operation pursuant to 17.18.060 of the Zoning Ordinance. The required parking shall be provided as shown on the approved site plan, Exhibit E.
8. Applicant is permitted one unlighted sign not exceeding six square feet of message area and eight feet above ground level identifying the cat sanctuary in accordance with County Code Section 17.70.090.D.

Animal Services

9. The cat sanctuary shall obtain a commercial cattery license issued by El Dorado County Animal Services. This special use permit shall not become effective until a license is obtained from Animal Services. The license must be kept current for the duration of this special use permit. If the property is sold, the new owner must obtain a license or all animals must be removed. Said license shall permit the reasonable access by Animal Services staff to conduct the necessary inspections of the facility.
10. In compliance with County Code Section 6.20.015, should the applicant take possession of any stray animal, the applicant shall notify the Animal Control Officer within six hours after finding or receiving the animal and shall surrender the animal to the Animal Control Officer upon demand.

California Department of Forestry and Fire Protection (CAL FIRE)

11. Prior to final building occupancy, vegetation clearance around the residential structure and “kitty condos” shall be completed pursuant to Public Resource Code Section 4291 to the satisfaction of CAL FIRE.
12. Horizontal vegetation clearances along the driveway shall be a minimum of 10 feet on each side of the driveway and vertical vegetation clearance shall be a minimum of 15 feet, as determined by CAL FIRE and the Rescue Fire Protection District prior to final building occupancy.

El Dorado County Environmental Management Department

13. All solid waste, including animal waste, must be stored in trash containers with tight fitting lids and hauled from the site at least once every seven days for proper disposal.

Rescue Fire Protection District

14. Prior to final building occupancy, the fire safe plan approved under parcel map application P06-0028 shall be implemented to the satisfaction of CAL FIRE and the Rescue Fire Protection District.
15. A disaster evacuation plan for the facility shall be submitted to the Rescue Fire Protection District for review and approval prior to final building occupancy.

ATTACHMENT 2

FINDINGS

Special Use Permit S09-0006/Fat Kitty City Planning Commission/September 9, 2010

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 15301 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 Rural Residential (RR) land use designation of the subject site as defined within General Plan Policy 2.2.1.2 because the RR land use designation establishes areas for residential and agriculture development. Typical uses include single-family residences, agricultural support structures, a full range of agricultural production uses, recreation, and mineral development activities. The proposed cattery use is considered a compatible use as noted above and would be consistent with Policy 2.2.1.2.
- 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 and 6.5.1.7, noise thresholds. Because of the project's compatibility with surrounding land uses, provision of sufficient water, emergency access and limited noise generating potential, 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 Estate Residential Ten-Acre (RE-10) zone district pursuant to Section 17.70.100.I which permits kennels by SUP. A cattery is similar in use to a kennel for the keeping of five or more of dogs.
- 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, adequate setbacks are proposed, 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 and 6.5.1.7, noise thresholds.

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 rural residential and public land uses adjacent to the subject site. Potential land compatibility issues such as access, lighting, parking, and solid waste removal 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.*

Although not specifically listed as a use permit by a SUP in the RE-10 zone district, Section 17.70.100.I permits kennels by SUP. A cattery is considered to be similar in use to a kennel for the keeping of five or more dogs. Therefore, the required findings for approval detailed above may be made by the Planning Commission.