

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



Agenda of: September 13, 2012
Item No.: 8.b
Staff: Tom Dougherty

SPECIAL USE PERMIT REVISION

FILE NUMBER: S89-0071-R/Borello Commercial Kitchen

APPLICANT: Antoinette Borello

REQUEST: Special Use Permit revision to allow the installation of a commercial kitchen for the purpose of preparing food to be sold/catered off-site.

LOCATION: South side of State Route 193 approximately one mile east of State Route 49 in the Cool area, Supervisorial District 4. (Exhibit A)

APN: 071-032-43 (Exhibit B)

ACREAGE: 70 acres

GENERAL PLAN: Low Density Residential (LDR) (Exhibit C-1)

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

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

RECOMMENDATION: Staff recommends 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 Revision S89-0071-R subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

PROJECT INFORMATION:

Project Description: Request to revise Special Use Permit S89-0071-R to allow the installation of a commercial kitchen for the purpose of preparing food to be sold/catered off-site at fairs, farmer’s markets, businesses, and individuals, with no on-site sales.

Site Description: The site is within a 70-acre parcel located at approximately the 1,800-foot elevation above sea level.

Background: S89-0071 was approved by the Zoning Administrator on July 27, 1990 to allow the custom cutting and processing of beef, deer, pork, lamb, and other game within the same existing building as the subject revision request. This revision expands that use and would permit both operations to use the same facility.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	LDR	Residential/Single-family residences.
North	RE-5	MDR	Residential/Single-family residences (across State Route 193).
South	RE-5	LDR	Residential/Single-family residences.
East	RE-5	LDR	Residential/Single-family residences.
West	RE-5	LDR	Residential/Single-family residence.

STAFF ANALYSIS: The property is zoned Estate Residential Five-Acre (RE-5), which permits single-family dwellings, accessory structures, and certain home occupations.

The proposed use is not specifically listed as a home occupation permitted by right under Section 17.28.190.C. The project is proposed to occur outside the residence within an accessory building and therefore requires a Special Use Permit pursuant to Section 17.28.200.G. This section requires that home occupations not listed in subsection C of Section 17.28.190 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.

The applicants propose to utilize a commercial kitchen within an existing on-site, permitted, accessory structure. Use of the accessory structure for cooking and food preparation would not require any physical site improvements or construction other than the installation of sinks, shelving, desk, freezer, refrigerator, and an electric range with a hood. Water and septic facilities are available on-site. There would be no on-site sales and no employees.

The preparation and cooking would involve the operation of mechanical equipment within the accessory structure. Equipment would operate for short periods of time. The equipment that

would be used by the applicant would not be anticipated to generate excessive noise. All information received by staff indicates that there would be no conflict with Section 17.28.200.G.

Policy 2.2.5.21 directs that development projects 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 does not propose activities that would occur outside the detached accessory building. Staff has found that the project therefore would not impose an incompatible use within a residential area and would not generate traffic beyond what is typical within a residential area.

Promotion of Home Based Occupations: Objective 10.1.7 seeks to promote the establishment and expansion of small businesses and work place alternatives including home occupations. Policy 10.1.7.2 directs that the County assist small business in the County, and 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 approval of the project, as conditioned, can be found to support these policies, as it would promote a home-based business and would be compatible with surrounding RE-5 zoned properties.

Project Issues:

Environmental Management Department Concerns: The Environmental Health Division reviewed the project request and determined that once the special use permit has been approved, the facility will need to submit a Service Request form with plans and equipment specifications for any new equipment and apply for a health permit. Additionally, the Solid Waste and Hazardous Materials Division would require trash enclosures sized to contain a trash receptacle and a recycling receptacle, and all solid waste would be required to be stored in trash containers with tight fitting lids and hauled from the site at least once every seven days for proper disposal. The project includes recommended conditions for these requirements.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines which exempts the minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. A \$50.00 administration 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 Number Map
Exhibit C	General Plan Land Use Designations Map
Exhibit D	Zoning Designations Map
Exhibit E	Site Plan
Exhibit F	Floor Plan
Exhibit G	Elevation
Exhibit H	Applicant submitted Project Description
Exhibit I	Aerial Photo

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Revision S89-0071-R/Borello Commercial Kitchen Planning Commission/September 13, 2012

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Exhibit ESite Plan
Exhibit F.....Floor Plan
Exhibit G.....Elevation

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:

Approval of Special Use Permit S89-0071 by the Zoning Administrator on July 27, 1990 allowed the use of the 25-foot by 30-foot accessory building shown in Exhibit C of the S89-0071 Staff Report, for storage and custom cutting of livestock and game animals, with no employees, as a home occupation.

Approval of Special Use Permit Revision S89-0071-R allows the use of a 10-foot by 30-foot portion of that same building for the installation and use of a commercial kitchen for the purpose of preparing food to be sold/catered off-site at fairs, farmer's markets, businesses, and individuals, with no on-site sales, as a home occupation.

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

- ~~1.2.~~ A complete architect or engineer prepared set of plans shall be submitted to the El Dorado County Building Division for a building permit application.

- ~~2.3.~~ The project is subject to approval and periodic inspections by the State Department of Food and Agriculture if required.

- ~~3. The applicant shall obtain an encroachment permit from Caltrans.~~
4. The project is subject to all lawful requirements of the ~~Northside~~ El Dorado County Fire Protection District.
- ~~5. The use shall commence and be diligently pursued within one year from the approval of this special use permit or the permit shall be deemed null and void.~~
- ~~6. The project is subject to all requirements of the County Department of Environmental Management.~~
- ~~7.5.~~ No outside employees shall be hired for this home occupation.
- ~~8.6.~~ If the business becomes a nuisance or in any way becomes detrimental to the public health, safety and welfare of the neighborhood, this use permit shall be considered for revocation by the Zoning Administrator.
- ~~9.7.~~ No retail or wholesale sale of meat products shall be permitted.
- ~~10. This permit shall be issued to this applicant only and shall not run with the land.~~
8. **Expiration:** 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.
9. **Project Conformance:** Project improvements shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein and shall substantially comply with Exhibits E, F, and G. Minor variations are allowed, however, any major changes in any element of the approved project shall require review and approval by the Development Services Director. Should the Director find that additional lease area, height or antennas or other changes to the approved project may create a significant visual impact, the Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit. This review shall always occur prior to any approved project modifications.
10. **Changes or Expansions of the Approved Project:** Expansions to the approved project shall be subject to review and approval by the Development Services Director. Should the Director find that additional lease area, height or antennas may create a significant visual impact, the Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.
11. **Lighting:** All exterior lights shall comply with County Code Section 17.14.170, and be

fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. Should final, installed light be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Planning Services.

12. **Conditions Compliance:** Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
13. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
14. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services after the end of the ten working day appeal period of a final project decision.
15. **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 Division

16. Once the special use permit has been approved, the applicant shall submit a Service Request form with plans and equipment specifications for any new equipment and apply for a health permit. The health permit shall be issued by the Environmental Management Department prior to operation of the kitchen.

Environmental Management- Solid Waste and Hazardous Materials Division

17. Trash enclosures shall be provided and sized to contain a trash receptacle and a recycling receptacle. Sizing requirements can be requested through Sierra Disposal and Recycling Services. All solid 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.

El Dorado County Fire Protection District

18. A Type 1 hood and kitchen fire suppression system shall be installed over the oven/range.

19. The plans for the hood and suppression system shall be submitted to the El Dorado County Fire Protection District for review and approval prior to issuance of a building permit.

20. The kitchen fire suppression system shall be connected to the building's fire alarm system, if applicable.

21. An acceptance test conducted by the fire department shall be conducted prior to business operation.

22. A Class "K" fire extinguisher shall be provided within 30 feet of cooking appliances.

23. Service of Fire Extinguishing System shall be conducted by a licensed service provider every 6 months.

ATTACHMENT 2

FINDINGS

Special Use Permit Revision S89-0071-R/Borello Commercial 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 El Dorado County has determined that the project is exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines which exempts the minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
- 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 The project is consistent with the land use designation of LDR because as a home occupation it is allowed with an approved Special Use Permit.
- 2.2 The project is consistent with the following General Plan policies:

As conditioned, the proposal is consistent with the intent of 2.2.5.2 (review for General Plan consistency), 2.2.5.21 (compatibility with surroundings), 10.1.7, 10.1.7.2, and 10.1.7.4 (promotion of home-based occupations), because the project would have minimal impacts on visual resources, existing utilities, and on the existing surrounding residences. There are adequate services to facilitate the site, such as water, power and solid waste. The project would not create excessive noise nor affect biological resources because it is proposed within an existing accessory building with no changes to the exterior structure. The project provides an opportunity for home-based employment.

3.0 ZONING FINDINGS

- 3.1 The project is zoned Estate Residential Five-Acre which allows home occupations not listed in subsection C of Section 17.28.190, which require special considerations with an approved Special Use Permit and pursuant to Section 17.28.200.G.
- 3.2 As proposed and conditioned, the project meets all applicable development standards

contained within the El Dorado County Zoning Ordinance because the project would be located entirely within an existing, approved structure.

4.0 SPECIAL FINDINGS

4.1 **The issuance of the permit is consistent with the General Plan.** The proposed use is consistent with the policies in the El Dorado County General Plan, as discussed in the General Plan section 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 use will not conflict with the adjacent uses as it will occur entirely within an existing building. The project will result in insignificant environmental, visual, noise, and traffic impacts to surrounding residents. The proposed use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the Staff Report.

4.3 **The proposed use is specifically permitted by Special Use Permit.**

Section 17.28.200.G permits by Special Use Permit home occupations within an accessory building.