

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



Agenda of: September 12, 2013
Item No.: 8.a
Staff: Tom Dougherty

SPECIAL USE PERMIT

FILE NUMBER: S13-0006/Diamond Springs Flea Market
APPLICANT: John and Maria Taylor
REQUEST: Special Use Permit request to allow ongoing flea market events within an existing retail center.
LOCATION: South side of Pleasant Valley Road, approximately 0.5 mile east of the intersection with Missouri Flat Road, in the Diamond Springs area, Supervisorial District 3. (Exhibit A)
APN: 054-402-40
ACREAGE: 2.34 acres
GENERAL PLAN: Commercial (C) (Exhibit C)
ZONING: Commercial-Design Community (C-DC) (Exhibit D)
ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to CEQA Guidelines Section 15301

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

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15301; and
2. Conditionally approve Special Use Permit S13-0006 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Project Description: A Special Use Permit request to hold Flea Market events at an existing retail center with the following provisions:

1. Flea market every Sunday;
2. Future farmer’s markets to be held every Saturday;
3. Flea market and/or farmer’s market on Memorial Day, Independence Day, Labor Day and Columbus Day;
4. Food Venders;
5. Hours of operation 7 am to 1:00 pm. Vendors are allowed to begin setting up at 5:00 am and clean-up begins at 1:00 pm;

The applicants have stated they intend to obtain Certified Farmer’s Market status through the El Dorado County Agriculture Department in the future and their intent is to hold them on Saturdays. Currently the flea market is held on Sundays and they do not intend for that to change. There have not been regular amplified music and auction events in the past. They are requesting to hold auctions of goods with amplified microphone, and to have live music from 10:00 am to 1:00 pm on Memorial Day, Independence Day, Labor Day and Columbus Day. They propose to seek individual temporary use permits for each of those events in the future because they are not proposing that they be regular events. There is a County-approved, handicap-accessible bathroom available for attendees located between units 18 and 20, behind the old two-story house, with a separate entrance to the parking lot to the east which they propose to continue to utilize.

Site Description: This commercial site is covered predominately with paving and buildings. There are 22 potential individual commercial units within four buildings. Some businesses utilize more than one unit. There is one common free-standing sign located at the northeastern entrance. There is one residential duplex located in southeast corner of the parcel.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	C-DC	C	Retail, medical, and office businesses and related buildings and parking, residential duplex.
North	CP	C	SR 49/Pleasant Valley Road
South	C-DC	C	Vacant
East	R1/CP	MFR/C	Commercial businesses, residences.
West	C	C	Faith Lane, restaurant business, vacant parcel.

Project Issues: The primary issue with this project is site compatibility. Food service is also discussed.

Site Compatibility: The project parcel has been utilized as a flea market since 2000. Parking is provided onsite and within the parking lots of surrounding businesses. A permanent public restroom exists on the site.

General Plan Policy 2.2.5.21 requires that a project be analyzed for compatibility with the surrounding area. Planning has confirmed that no complaints about the event have been received by the Sheriff's Office or the California Highway Patrol. Letters in support of the project have been received from the owner's of the parcels utilized for parking are included as Exhibit G. There are 225 total parking spaces potentially available for the event as shown on the parking plan (Exhibit F) and described in the applicant's project description (Exhibit H). The location at the corner of Pleasant Valley Road and Faith Lane is within the core commercial downtown area of Diamond Springs. The location of the buildings along the eastern and southern portions of the parcel buffer the noise effects on the residents to the east/southeast. The access for the residents living on Silver Drive to their homes to the west would not be impeded.

Because of the project's provisions of adequate access and site design, it is also consistent with Policy 6.2.3.2 (adequate access) because the project would utilize existing driveways previously inspected by the Diamond Springs-El Dorado Fire Protection District staff for access and interior circulation. The Fire District allows parking for the event on their parcel across the street. They did not respond with any recommended conditions of approval for the project.

Food Service: The Environmental Health Division reviewed the project and responded that all food service at the Diamond Springs Flea Market must comply with the California Retail Food Code (CRFC) and the California Business and Professions Code (CBPC). The Diamond Springs Flea Market falls under the CBPC's definition of a "swap meet", which includes flea markets, open air markets, and swap meets. Section 114335 of the CRFC limits temporary food facilities that operate at swap meets to only prepackaged, nonpotentially hazardous food and whole uncut produce, with a permit approved by the Environmental Health Division. The CRFC allows for a wider range of foodservice for temporary food facilities if the Diamond Springs Flea Market obtains a permit designating it as a Certified Farmer's Market.

Mobile food facilities such as food trucks and hot dog carts are permitted to operate at the Diamond Springs Flea Market as long as they have restrooms available within 200 feet of their operating location.

Community Comments

Diamond Springs-El Dorado Community Advisory Committee: The DSEDCAC reviewed the project at their May 16, 2013 meeting and recommended approval of the project. Their response letter is included as Exhibit I.

Diamond Springs Flea Market Attendees: The applicants created a form letter addressed to the Board of Supervisors that requests the permit for the Market be approved to continue year round and made it available for attendees to sign. There were 175 copies of that form submitted with the application request, each individually signed and all in support of the project to continue. These have been retained in the project file.

ENVIRONMENTAL REVIEW: This project is Categorically Exempt from CEQA pursuant to Section 15301 which allows an exemption for projects involving “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” The flea and farmer’s market has been an ongoing transitional/seasonal-type use at the site since 2000 and no negative feedback has been received from any agency with any concerns about the use of the site as such.

A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional, however, not filing the Notice extends the statute of limitations for legal challenges to the project from 30 days to 180 days.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor’s Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Designations
Exhibit E	Site Plan
Exhibit F	Parking Plan
Exhibit G	Parking Plan Support Letters (four pages)
Exhibit H	Applicant-submitted Project Description (two pages)
Exhibit I	Diamond Springs-El Dorado Community Advisory Committee Project Review Response; May 16, 2013
Exhibits J-1, J-2	Site Visit Photos
Exhibits K-1, K-2	Aerial Maps

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S13-0006/Diamond Springs Flea Market
Planning Commission/September 12, 2013**

Planning Services Division

1. **Project Description:** This Special Use Permit is based upon and limited to compliance with the project description, the Conditions of Approval set forth below, and the following hearing exhibits:

Exhibit ESite Plan
Exhibit F.....Parking Plan

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.

Approval of this Special Use Permit allows the Diamond Springs Flea Market to be held on the parcel currently identified by Assessor's Parcel Number 054-402-40 as follows:

- a. Future farmer's markets to be held every Saturday;
- b. Flea markets to be held every Sunday;
- c. Flea markets and/or farmer's markets on Memorial Day, Independence Day, Labor Day and Columbus Day;
- d. Food Venders permitted through the El Dorado Environmental Health Division; and
- e. Hours of operation 7 am to 1:00 pm. Vendors are allowed to begin setting up at 5:00 am and clean-up begins at 1:00 pm.

The 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 attached hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Development Services Division (Planning)

2. **Parking:** Parking shall conform to the approved Parking Plan (Exhibit F), and include standard spaces and accessible spaces constructed in accordance with Title 24 of the

current Building Code. There shall be no parking permitted on the sides of Pleasant Valley Road/SR 49.

- Noise:** All amplified music events from 10:00 am to 1:00 pm on Memorial Day, Independence Day, Labor Day and Columbus Day, as well as the auction of goods with an amplified microphone shall occur only by an approved Temporary Use Permit for each event. The applicant is responsible for monitoring all sound levels and enforcing time restrictions for all events occurring on the parcel for compliance with the El Dorado County General Plan noise standards. Noise levels shall not exceed those prescribed in Table 6-2 of the El Dorado County General Plan as outlined below:

	Daytime (7am-7pm)	Evening (7pm-10pm)
Hourly dB	50	45
Max. dB	65	55

- Notice of Exemption Fee:** A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. The check shall be made out to El Dorado County and delivered to Planning Services for processing. The filing of the Notice of Exemption is optional, however, not filing the Notice extends the statute of limitations for legal challenges to the project from 30 days to 180 days.
- 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 applicant 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 by El Dorado County. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

- The applicants shall comply with all state and local requirements of the El Dorado County Department of Agriculture Weights and Measures requirements for a Certified Farmer's Market prior to initiation of that use being allowed.

Environmental Health Division

- All food service at the Diamond Springs Flea Market must comply with the California Retail Food Code (CRFC) and obtain permits with the Environmental Health Division prior to any sales at the event.

ATTACHMENT 2

FINDINGS

Special Use Permit S13-0006/Diamond Springs Flea Market Planning Commission/September 12, 2013

1.0 CEQA FINDINGS

- 1.1 The continued use of the project site for a public market is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines which allows an exemption for projects involving “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” The flea market has been an ongoing transitional/seasonal-type use at the site since 2000 and no negative feedback has been received from any agency with any concerns about the use of the site as such.
- 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-Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

- 2.1 As proposed, the project is consistent with the Commercial (C) land use designations as defined within General Plan Policy 2.2.1.2 because the land use designation permits commercial and retail services to support the area residents.
- 2.2 As conditioned, and with adherence to County Code, the project is consistent with all applicable Policies of the General Plan, including:
 - 2.2.1 2.2.5.21 (compatibility with surroundings) because as conditioned it would be compatible with surrounding uses and have minimal impacts on existing utilities and emergency response access and times. There are adequate services to facilitate the site, such as water, power, and restroom facilities. The project provides new and used sales services for the community. Adequate site design has been provided, and attention to design features of the layout of the vendor sales areas ensures that the project fits within the context of the surrounding uses; and
 - 2.2.2 6.2.3.2 (adequate access) because the project will utilize existing driveways previously inspected by the Diamond Springs-El Dorado Fire Protection District staff for access and interior circulation.

3.0 ZONING FINDINGS

- 3.1 The use is permitted by Special Use Permit in the Commercial zone district, pursuant to Section 17.32.030 (D) for uses not fully enclosed in a building, 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. The project has been proposed with sufficient access, and parking.

4.0 ADMINISTRATIVE FINDINGS FOR A SPECIAL USE PERMIT

4.1 The issuance of the permit is consistent with the General Plan;

As stated in more detail above in the General Plan section, the proposed project has been analyzed for consistency with the General Plan Policies listed above, and is consistent with these policies.

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

The proposed project will comply with the Development Standards of the Commercial Zone District. The proposed Special Use Permit for the facilities complies 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, nor injurious to the neighborhood, because the project has been designed to provide for safe access, circulation, and parking.

4.3 The proposed use is specifically permitted by Special Use Permit pursuant to this Title.

The proposed use is permitted in the C Zone District pursuant to Section 17.32.030 (D) of the Zoning Ordinance.