

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



Agenda of: March 28, 2013
Item No.: 11
Staff: Aaron Mount

REZONE/SPECIAL USE PERMIT

FILE NUMBER: Z12-0004/S11-0007/Rescue Community Center

APPLICANT: Rescue Community Center

AGENT: Tim Closner

REQUEST: The proposed project consists of the following requests:

1. Rezone from Estate Residential Five-Acre (RE-5) to Recreational Facilities (RF); and
2. Special Use Permit to allow the expansion of a non-conforming use to include a remote control scale car race track as part of an existing community center.

LOCATION: The project is located on the south side of Green Valley Road, approximately 300 yards west of the intersection with Deer Valley Road, in the Rescue area, Supervisorial District 4 (Exhibit A).

APN: 069-160-16 (Exhibit B)

ACREAGE: 4.012 acres

GENERAL PLAN: Medium Density Residential (MDR) (Exhibit C)

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

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

RECOMMENDATION: Staff recommends that the Planning Commission forward a recommendation to the Board of Supervisors to take the following actions:

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines, Section 15074(d), as incorporated in the Conditions of Approval and Mitigation Measures in Attachment 1;
3. Approve Rezone Z12-0004 based on the Findings in Attachment 2; and
4. Conditionally Approve Special Use Permit S11-0007 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

STAFF ANALYSIS

Project Description: The project is a request for a zone change from Estate Residential Five-Acre (RE-5) to Recreational Facilities (RF) and a special use permit for an expansion of a non-conforming use to include a remote control scale race car track as part of an existing community center. No new development outside of previously developed areas of the project parcel is being requested.

The rezone would change the parcel to a zone district that is more consistent with the existing and proposed uses at the site. The project parcel has been used as a community recreational facility since 1951 and no conversion to a residential use is anticipated as the structures were purposely built for the intended recreational uses.

The special use permit is required as the use of the remote control car race track is an expansion of uses beyond what has historically been allowed at the site. The RF zone district requires a special use permit for those uses that have the potential to create nuisance beyond the confines of the property and are designed for the use of more than fifty people at any one time. The special use permit request will memorialize those uses that have been determined to be legal non-conforming uses. This is reflected in the conditions of approval.

Site Description: The developed parcel is at an elevation of approximately 1,200 feet above sea level in the Rescue area. Improvements include a 2,590 square foot event building with a large attached covered patio and associated parking and landscaping and an existing equestrian arena that has been converted to a remote control scale car race track with viewing and drivers stands. Access to the site is directly from Green Valley Road which is a County maintained road.

Background: The project parcel has been used as a community social and recreational facility since 1951. Approximately 17 years ago the existing horse arena was converted to a track for remote control scale cars. Racing events took place many weekends during the racing season and the track was used for practice on weekdays for most of the year. The track started out with most people using electric remote control cars but at some point gas fueled cars became popular and the County started to receive noise complaints from the neighbor's related to the greater noise produced by gas powered remote control cars.

On May, 28, 2010 a Notice to Correct (Case 197329) for operating a radio controlled car track and camping associated with the remote control car races in the Estate Residential Five -Acre Zone District without required permits, in violation of the Zoning Ordinance, was issued by the Code Enforcement Unit in response to a complaint filed by a member of the public. The applicants were informed they were to cease illegal use of the property immediately and to obtain the required special use permit before continuing the use. The applicants have agreed to cease the uses and have not requested camping as a use as part of this permit.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	MDR	Residential/Community Center and RC Race Track
North	RE-10	MDR/C	Residential/Single Family Residential
South	RE-5	LDR	Residential/Single Family Residential
East	RE-5	MDR	Residential/Church
West	RE-5	MDR	Residential/Single Family Residential

Project Issues: Discussion items for this project include: Land use compatibility, noise, and zoning.

Land Use Compatibility: The Rescue Community Center has been an integral part of the Rescue community since 1951. It has hosted many important local events and is a gathering place for groups and clubs. The non-conforming use of the community center was verified by the Department of Planning in 1976 (Exhibit J). Many letters of support for the community center were submitted with the application and they show the support that the community has for uses that take place at the project site mainly within the community center building. The remote control race track was an expansion of the non-conforming use and requires a special use permit in order to become a legal use. After the special use permit was submitted in 2011 it was determined by Planning Staff that a more appropriate Zone for the proposed uses would be the Recreational Facilities Zone because the uses had expanded beyond the community center, had the potential to create nuisance beyond the confines of the property, are designed for the use of more than fifty people at any one time and were not consistent with the uses allowed by special use permit within the RE-5 zone district. While the project and surrounding parcels are within the Rescue Rural Center the area is largely rural in nature and contains almost no commercial uses.

With inclusion of the noise mitigation discussed below staff believes that the zone change and special use permit are compatible with the rural residential uses adjacent to the project parcel and that the existing conflicts with the illegal uses will be minimized. 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 project is proposed.

Planning is recommending that the remote control race track use be allowed but with the exclusion of gas powered remote control cars to reduce or eliminate existing incompatibilities.

Noise: An acoustical study was requested by the County because the complaints associated with the use of the remote control car race track were noise related. The acoustical study (Exhibit L Attachment 4) concluded that unmitigated noise exposure from project remote control race car noise could exceed El Dorado County's daytime noise exposure limits for both gas and electric-powered cars. This would be inconsistent with Policy 6.5.1.7 which states that noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6.2 for noise-sensitive uses. The study recommended mitigation measures that are more fully discussed in the initial study and are included as conditions of approval. The mitigation measures included as conditions of approval include hours of operation for races from 9 am to 7 pm a, setup and operation of the proposed P/A system such that it does not result in exceedance of the County noise standards, and the exclusion of the use of gas powered remote control cars at the project site.

The acoustical study recommends that the applicant petition the County for a variance from the noise element standards to allow gas powered races at this location. There is no mechanism to apply for a variance from a general plan policy. A variance is used to provide partial relief from development standards within the zoning ordinance when reasonable use of the land is limited. The only way to change a general plan policy is to amend the policy text itself.

Potential noises associated with the existing legal non-conforming uses at the site were not analyzed.

Zoning: The zoning of the site would be changed to Recreational Facilities (RF) zone district which is more consistent with the existing and proposed uses at the site. The RF zone district provides for the orderly development and maintenance of lands and areas suitable and desirable for recreational pursuits and to protect them from the encroachment of unrelated uses having an adverse effect to this resource and is consistent with the Medium Density Residential land use designation based on Table 2-4 of the General Plan. The project parcel has been used as a community recreational facility since 1951 and no conversion to a residential use is anticipated as the structures were purposely built for the intended recreational uses. While this is private recreational facility it is open to the public and the remote control race track brings users from the greater Sacramento area. The zone change can be found to be a benefit to the Rescue community and the County.

The proposed rezone is consistent with General Plan Policy 2.2.5.3. The site is within the Rescue Rural Center where public infrastructure and services needed to serve the proposed development currently exists. The development would match the existing development pattern in the area. Development of the site would be subject to county construction and building standards and would impact existing resources on-site subject that would be mitigated less than significant.

The uses allowed by the RF zone district are broken down into three categories; by right, uses requiring a site plan approval, and uses requiring a special use permit. The uses by right and by site plan review are either uses existing at the site, consistent with the existing uses, or not

obtainable based on the size of the parcel (such as golf course). The requested special use permit will govern the uses allowed on the project parcel but if the uses discontinue and the special use permit is found to be null and void, the uses allowed by the requested zone change would not be substantially inconsistent with the non-conforming uses already at the site.

Agency Comments: The Rescue Fire protection District had minor comments that are reflected in the Conditions of Approval. The requirement for the kitchen range and hood system was an outstanding issue with the community center.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Exhibit L) to determine if the project has a significant effect on the environment. Potentially significant effects of the project on the environment have been mitigated by recommended conditions that avoid or lessen the impacts to a point of insignificance; therefore a Mitigated Negative Declaration has been prepared and a Notice of Determination (NOD) will be filed. A \$50.00 filing fee for the NOD is required and the NOD must be filed within five working days from the project approval.

The filing of the NOD begins the statute of limitations time period for when litigation may be filed against the County's action on the project. If the NOD is filed the statute of limitations ends 30 days from its filing. If no NOD is filed, it ends 180 days from the date of final action by the County.

In accordance with California Fish and Game Code Section 711.4, the project is subject to a fee of \$2,156.25 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus the \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,156.25 is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

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 Map
Exhibit D	Zone District Map
Exhibit E	Site Plan
Exhibit F.....	Site Airphoto
Exhibit G.....	Photo of Community Center
Exhibit H.....	Street View of Community Center
Exhibit I	Applicant-submitted Project Description
Exhibit J	El Dorado County Department of Planning Letter; 09-02-76
Exhibit K.....	Chapter 17.48- <i>Recreational Facilities (RF) Zone</i> from the El Dorado County Zoning Ordinance
Exhibit L	Public Comment Letters
Exhibit M	Proposed Mitigated Negative Declaration and Initial Study

ATTACHMENT 1

CONDITIONS OF APPROVAL

Z12-0004/S11-0007/Rescue Community Center Planning Commission/March 28, 2013

1. This Rezone and 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 IApplicant Submitted Project Description

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:

Rezone of parcel APN 069-160-16 from Estate Residential Five –Acre (RE-5) to Recreational Facilities (RF).

Special Use Permit to allow the continued use and expansion of the Rescue Community Center. The approval shall allow the following uses:

- A. The use of the existing non-conforming community center building as a social and recreation facility.
- B. Use of the project parcel outside of the community center building for the following existing non-conforming uses: use of the horse arena for horse shows, horse shoe pits, farmers market, community garden, flea market, community events, training for the fire department, dog shows, agricultural educational events (4H), Girl Scout and Boy Scout events, swap meets, and general outdoor recreational uses.
- C. Use of the existing horse arena as a remote control scale car race track as follows;
 1. Maximum of 50 users at any given time, except during racing events.
 2. Racing season is from March 1st through October 31st.
 3. Race times to begin at 9 am and shall end by 7 pm. Setup will begin 8 am and all patrons shall leave the site by 10 pm.
 4. Racing events will be on Friday, Saturday, and Sunday only during racing season. There will be two Friday events and two three-day events. There may be up to 50 racing events per season.
 5. The maximum attendance by racers and spectators shall be 100 persons at any one time.

6. Snacks may be sold on race days to benefit the Rescue Community Center.

This approval shall include the following, located as shown on Exhibit E:

- a. One 2,509 square foot community center building (#1 on site plan);
- b. An out building as an accessory to the community center (#2 on the site plan);
- c. A horse arena use as a remote control car race track;
- d. A 216 square foot scoring building (#8 on the site plan).
- e. A drivers stand for the off-road track(#9 on the site plan)
- f. A 160 square foot container for storage of race track items (#12 on the site plan)
- g. A drivers stand for the oval track (#14 on the site plan)
- h. A grandstand for viewing (#15 on the site plan)

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

Conditions from the Mitigated Negative Declaration

The following Mitigation Measures are required as a means to reduce potential significant environmental effects to a level of insignificance:

2. **Noise-1:** In order to bring potential noise impacts to a less than significant level the following provisions shall be implemented by the property owner:
 - a. All race events and race track related uses shall be conducted within the proposed hours of 9 am to 7 pm.
 - b. The applicant shall setup and operate the proposed P/A system such that it does not result in exceedance of the County noise standards at nearby sensitive areas. Noise level readings should be taken during initial P/A system setup and operation to allow adjustments to speaker locations and amplifier settings as appropriate to satisfy those standards.
 - c. Gas powered remote control scale cars shall not be allowed to be used on the project parcel.

Monitoring Responsibility: Planning Services and Building Services

Monitoring Requirement: Planning Services and Building Services Code Enforcement shall notify the property owner if complaints are received from adjacent property owners.

If complaints are shown to be about uses consistent with the mitigation measure an additional acoustical analysis may be required to show conformance with General Plan Policies. If uses are taking place beyond what is allowed by the special use permit, revocation of the special use permit may be required to be scheduled for hearing.

Development Services Department (Planning)

3. The use of the arena for horse events or an remote control race track shall be seven days a week from 9 am to 7 pm.
4. **Permit Implementation:** Pursuant to County Code Section 17.22.250, implementation of the project must occur within twenty-four (24) months of approval of this Special Use 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.
5. **Condition Compliance:** Prior to issuance of certificate of occupancy 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.
6. **Building Permit:** An application for an “as built” building permit shall be submitted for the existing unpermitted structures associated with the race track within 30 days of approval of this special use permit. The applicant shall take the necessary steps to final the permit within 90 days of issuance. This deadline may be extended upon written request by the applicant to Planning Services if the ability to final the permit is delayed due to time necessary to obtain permits from other agencies. The applicants shall demonstrate that they are diligently pursuing said permits prior to granting of any extension.
7. **Lighting:** All outdoor lighting shall conform to Section 17.14.170 of the Zoning Ordinance, and be fully shielded pursuant to the Illumination Engineering Society of North America’s (IESNA) full cut-off designation. In addition, the following apply:
 - a. External lights used to illuminate a sign or side of a building or wall shall be shielded in order to prevent light from shining off the surface to be illuminated.
 - b. Any lighting for outdoor display areas shall be turned off within 30 minutes after the closing of the business. No more than 50 percent of the parking lot lighting may remain on during hours of non-operation. Any security lighting on the buildings shall be designed with motion-sensor activation.

Should final, installed lighting 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.

8. **Free-standing Sign:** No other signs other than the existing freestanding sign at the entrance to the community center, as shown on Exhibit H, shall be installed. The sign shall be located where it will not conflict with the required site distance onto Green Valley Road.
9. **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.

10. **Fish and Game Fee:** The applicant shall submit to Planning Services a \$50.00 recording fee and a \$2,156.25 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued until said fees are paid.
11. **Archeological Resources:** The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a "unique archeological resource", contingency funding and a time allotment sufficient to allow recovering an archeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archeological mitigation takes place.

If the find is determined to be a "unique archeological resource", the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a "nonunique archeological resource".

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

12. **Human Remains:** The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit

Rescue Fire Protection District

13. The applicant shall maintain vegetation clearances of 30 feet set back from all buildings and the speedway on all sides around the project to meet Fire Safe standards.
14. The Rescue Community Centers kitchen range and hood system shall be inspected by a Licensed C-16 Fire Protection Contractor. The kitchens range and hood system shall meet the requirements of the California Fire Code Section 904.11.
15. Minimum of one portable fire extinguisher complying with Section 906 of the CFC shall be installed and maintained at the speedway.

ATTACHMENT 2

FINDINGS

Z12-0004/S11-0007/Rescue Community Center Planning Commission/March 28, 2013

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 pursuant to Section 66472.1 of the California Government Code:

1.0 CEQA FINDINGS

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 Through feasible conditions and mitigation placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with the corresponding permit monitoring requirement, is hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.
- 1.4 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 The project is consistent with the Medium Density Residential (MDR) land use designation of the subject site as defined by General Plan Policy 2.2.1.2. The project consists of a zone change to RF, which is consistent with General Plan Table 2.4, and an existing community center and a remote control car race track, which is consistent with the allowed uses for the RF Zone District with an approved Special Use.
- 2.2 As conditioned, mitigated and with adherence to County Code, the project is consistent with all applicable Policies of the General Plan, including:

- 2.2.1 2.2.5.3 (rezone criteria) because the project was analyzed for water and wastewater capacity, critical flora and fauna areas, wetland impacts, transportation, existing land use pattern and historical and archeological resources;
- 2.2.2 2.2.5.21 (compatibility with surroundings) because the project has been a community center since 1951 and is an asset to the community and the County and because noise issues related to the remote control car race track have been mitigated;
- 2.2.3 6.5.1.7 (noise from non-transportation source), because the project has been mitigated to reduce potential noises from the remote control race car track;

3.0 ZONING FINDINGS

The existing and proposed community and recreational facility and anticipated uses are consistent with the Recreational Facilities zone district under Section 17.48.060 and applicable standards in Title 17. Conditions of approval and mitigation measures are imposed to ensure implementation of the project occurs in an orderly and safe manner, consistent with all applicable development standards of Title 17 and General Plan policies. The zone change can be found to be a benefit to the Rescue community and the County.

4.0 ADMINISTRATIVE FINDINGS FOR A SPECIAL USE PERMIT

- 4.1 The issuance of the permit is consistent with the General Plan as set forth in Section 2.2.
- 4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood because as conditioned and mitigated, the potential noise from the race track will be reduced to a less than significant level and will provide a project compliant with applicable County Codes, as well as those of the Rescue Fire Department.
- 4.3 The proposed use is specifically permitted by Special Use Permit pursuant to Zoning Ordinance 17.48.060.D, subject to the approval of the rezone to Recreational Facilities.