

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: January 20, 2010
Item No.: 4.a.
Staff: Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S08-0030/Birt's American Bull Dogs

APPLICANTS: Charles and Arlene Birt

REQUEST: Special use permit to allow a non-commercial kennel to house a maximum of 20 dogs wherein the dogs are kept and maintained for the hobby of the household.

LOCATION: On the west side of Sand Ridge Road, approximately 1.9 miles south of the intersection with Bucks Bar Road in the Somerset area, Supervisorial District II. (Exhibit A)

APN: 046-041-81 (Exhibit B)

ACREAGE: 40 acres

GENERAL PLAN: Rural Residential (Exhibit C)

ZONING: Residential Agricultural-20 (RA-20) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303 of the CEQA Guidelines.

SUMMARY RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Find the project is Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures); and
2. Approve Special Use Permit S08-0030 based on the findings in Attachment 2 and subject to the conditions in Attachment 1.

BACKGROUND

The applicants currently have ten dogs on the subject parcel. They raise and train American Bulldogs for conformation showing at American Bulldog Association and National kennel Club shows. The operation has no employees and is intended solely as a hobby for its owners. Dogs are occasionally bred when they are of age and have attained champion status. The litters are pre-sold from a waiting list. Animal Services has requested the applicants obtain a kennel license which has necessitated the requirement for the special use permit. Under current County Code, a Special Use Permit is required for a kennel which is defined as the keeping of five or more dogs for commercial or personal purposes.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the special use permit request and issues for Zoning Administrator consideration are provided in the following sections.

Project Description: The applicants are requesting a special use permit pursuant to Section 17.30.040.E of the El Dorado County Code to allow a non-commercial kennel to house a maximum of 20 dogs wherein the dogs are kept and maintained for the hobby of the household. The dogs are owned for exhibition at licensed shows and occasionally bred and pre-sold from a waiting list. The kennel would consist of temporary structures within the garage and an outdoor area of the property. Each dog would be contained within a chain link kennel covered with a sunscreen and roof. Currently ten kennels exist at the site and the proposal would add ten more. No employees are proposed.

Site Description: The subject 40 acre parcel is at an average elevation of 2,000 feet above mean sea level. Improvements include a single family residence with an attached garage. Vegetation is dominated by oak woodland. The parcel is currently used as a working cattle ranch.

The project is located on the on the north side of Sand Ridge Road, approximately 1.9 miles south of the intersection with Bucks Bar Road. Access to the project site is provided by an unpaved gravel driveway which encroaches on to Sand Ridge Road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RA-20	RR	Residential, Agricultural/Single Family Residence
North	RA-20	RR	Residential, Agricultural/Single Family Residence
South	RE-5	LDR	Residential/Single Family Residence
East	RA-20	RR	Residential, Agricultural/Single Family Residence
West	RA-20	RR	Residential, Agricultural/Single Family Residence

Discussion: The subject parcel is 40 acres in size and is located in a rural area of the county. Exhibit H shows that the closest residence is approximately 760 feet from where the dogs would be housed.

General Plan:

The 2004 General Plan designates the subject site as Rural Residential. This land use designation establishes areas for residential and agricultural development. These lands would typically have limited infrastructure and public services and will remain for the most part in their natural state. The following policies apply to the subject project:

Policy 2.2.5.2: Applications for discretionary projects or permits, including special use permits, shall be reviewed to determine consistency with General Plan policies. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.

Kennels are permitted by special use permit in the RA-20 Zone District. The applicant proposes to operate a noncommercial kennel at the site as a home business, which would be incidental to the main use at the site. The dogs would be completely contained within a fenced yard and kennel on the 40 acre site. All waste generated by the dogs must be disposed of in a manner approved by the El Dorado County Environmental Health Department. It can be found through the discretionary special use permit process that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan. Staff finds that the project, as conditioned, will be compatible with the adjacent and surrounding properties, and conforms to the General Plan.

Policy 2.2.5.21: 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 development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.

The noncommercial kennel is to be developed in a rural residential-agricultural area. The 40 acre site is surrounded by sparse residential development. The kennels are to be located towards the middle of the 40 acre site, with the closest neighbor located approximately 760 feet from the kennel

use. It is believed that the proposed use would be compatible with the rural residential character of the neighborhood and would be compatible with the residential-agricultural zoning of the property.

Zoning:

The proposed non-commercial kennel use is permitted in the RA-20 Zone District, pursuant to Section 17.30.040.E of the El Dorado County Code, with the issuance of a special use permit. Therefore, for El Dorado County Animal Control to be able to consider the license, a special use permit would need to be approved by the Planning Commission. In order to approve the project, the approving authority must find that the project 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 comments received from public agencies staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood.

El Dorado County Animal Control Division and 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 6.25.010 of the El Dorado County Code defines a Noncommercial Kennel as any place where five or more domestic dogs of at least four months of age are kept or maintained for the hobby of the household. Because the dogs are owned for exhibition, the El Dorado County Animal Control Officer has determined that a Noncommercial Kennel permit is required. The applicant intends to raise and train American Bulldogs for conformation showing at American Bulldog Association and National kennel Club shows.

Section 6.25.010 of the El Dorado County Code states that noncommercial kennels shall be licensed by the Animal Control Officer. No person can own or operate a noncommercial kennel without first applying to and receiving from the Director of Animal Control a license. 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 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 special use permit is required for the commercial kennel to be allowed within the RA-20 Zone District.

All noncommercial kennels shall be subject to the following regulations:

- A. *All dogs kept on the property shall be confined in a manner approved by the animal control officer.*
- B. *Proof of rabies vaccination shall be available for inspection for all dogs over the age of four months.*
- C. *At no time will there be kept more than five (5) dogs over the age of six (6) months, except where the applicant has obtained a special use permit for such purpose.*

- D. The number of puppies sold per year shall not exceed three (3) litters, and the numbers sold shall be reported to the animal control officer upon renewal of the permit.*
- E. Facilities shall be maintained in a clean and sanitary manner and all droppings removed daily.*
- F. All dogs shall be kept in an enclosed and approved structure between the hours of nine p.m. and six-thirty a.m.*
- G. No commercial boarding or grooming shall be allowed under this license.*
- H. At no time shall signs be posted on the property for the sale of dogs.*
- I. The area where the dogs are kept shall be subject to inspection by the animal control officer at any reasonable hour of the day.*
- J. All facilities shall include:*
 - 1. An adequate exercise yard;*
 - 2. Runs and suitable fencing approved by the health official or animal control officer;*
 - 3. Wastewater disposal shall be provided in a manner approved by the health official.*
- K. License shall not be transferable. Breeds shall be limited to breeds specified in the license.*
- L. License tags may be obtained upon request for identification purposes from the division of animal control at no charge.*

The El Dorado County Animal Services Division has reviewed the application and conducted a site visit on February 3, 2009. During the site inspection, eleven (11) full grown dogs were observed. They determined the construction of the kennel is adequate for the intended use. The El Dorado County Animal Control Division has no objections with the completion and approval of this project as a noncommercial animal establishment.

Public Comments:

One anonymous phone call was received by Planning Services about the project. The caller stated that the applicant's dogs routinely escaped the subject parcel and have harassed nearby livestock. Animal Services was contacted and after review of their records it was determined that no complaints were on file for the subject parcel or the adjacent area.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines consisting of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Pursuant to Resolution No. 240-93, a \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments:

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 Map
Exhibit E	Site Plan
Exhibit F	Airphoto with proximity to adjacent uses

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit
S08-0030/Birt's American Bulldogs
Zoning Administrator/January 20, 2010

El Dorado County Planning Services

1. This Special Use Permit approval is based upon and limited to compliance with the approved project description 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.

Special Use Permit S08-0030 shall allow the following:

A non-commercial kennel to house a maximum of twenty dogs wherein the dogs are kept and maintained for the hobby of the household. The operation has no employees. A maximum of three litters a year may be sold from a waiting list. The kennel will consist of temporary structures within the garage and outdoors. Each dog would be contained within a chain link kennel covered with a sunscreen and roof.

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.

2. All site improvements shall conform to the site plan attached as Exhibit E.
3. Boarding of dogs not owned by the owner of the establishment shall be prohibited.
4. A noncommercial kennel license shall be obtained from Animal Services within 90 days of approval of this special use permit.
5. All Development Services fees for processing this application shall be paid in full prior to initiation of the use.

6. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the applicant and landowner agrees 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 and land owner shall defend, indemnify, and hold harmless County of El Dorado and its agents, officers, and employees from any claim, action, or proceeding against County of El Dorado or its agents, officers, or employees to attack, set aside, void, or annul an approval of County of El Dorado concerning a Special Use Permit.

The County shall notify the applicant/owner of any claim, action, or proceeding and County will cooperate fully in the defense.

El Dorado County Environmental Management Department-Hazardous Materials Division

7. All solid waste, including dog feces, must be properly managed and removed from the premises for proper disposal at least once every seven days.
8. An animal waste management plan shall be prepared for the review and approval of Environmental Management Department prior to initiation of the use.

ATTACHMENT 2 FINDINGS

Special Use Permit
S08-0030/Birt's American Bulldogs
Zoning Administrator/January 20, 2010

1.0 CEQA FINDINGS

- 1.1 The proposed revision would be Categorically Exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines which exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure from further environmental review.
- 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.

2.0 SPECIAL USE PERMIT FINDINGS

2.1 **The issuance of the permit is consistent with the General Plan;**

The General Plan designates the subject site as Rural Residential. This land use designation establishes areas for residential and agricultural development. These lands will typically have limited infrastructure and public services and will remain for the most part in their natural state. The following policy applies to the subject project:

Policy 2.2.5.2: Applications for discretionary projects or permits, including special use permits, shall be reviewed to determine consistency with General Plan policies. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.

It can be found through the discretionary special use permit process that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan. Staff finds that the project, as conditioned, conforms to the General Plan.

Policy 2.2.5.21: 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 development project is proposed. Development projects that are potentially

incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.

The noncommercial kennel is to be developed in a rural residential-agricultural area. The 40 acre site is surrounded by sparse residential development. The kennels are to be located towards the middle of the 40 acre site, with the closest neighbor located approximately 760 feet from the kennel use.

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

The proposed use shall comply with the regulations specified by the El Dorado County Animal Control Division. The facility shall be maintained in a clean and sanitary manner and all droppings would be removed daily. Proof of rabies vaccination shall be available for inspection for all dogs over the age of four months upon request.

2.3 The proposed use is specifically permitted by special use permit pursuant to this Title.

The proposed noncommercial kennel use is permitted in the RA-20 Zone District, pursuant to Section 17.30.040.E of the El Dorado County Code, with the issuance of a special use permit. The noncommercial kennel use shall be incidental to the main residential use. The owners of the property shall care for the dogs. The owner plans to exercise the dogs daily to keep the dogs active and help reduce the potential for barking. If barking were to occur, impacts would be minimal.