

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



Agenda of: August 15, 2012
Item No.: 4.b.
Staff: Gordon Bell

SPECIAL USE PERMIT

FILE NUMBER: S12-0006/El Dorado Saloon Music Event

APPLICANT: Curtis Cole

REQUEST: Request to allow for live acoustic music on the outdoor patio on weekends at an existing restaurant/bar.

LOCATION: South side of Green Valley Road west of Francisco Drive, in the El Dorado Hills area, Supervisorial District 1. (Exhibit A)

APNs: 125-653-16 (Exhibit B-1)

ACREAGE: 2.51 acres

GENERAL PLAN: Commercial (C) (Exhibit C)

ZONING: Commercial Planned Development (C-PD) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Sections 15323 of the CEQA Guidelines.

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

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15323; and
2. Approve Special Use Permit S12-0006 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND: The El Dorado Saloon is an existing restaurant and bar located within The Village shopping center, which was originally approved under PD 93-06. The Village shopping center is comprised of two parcels, one of which has been further subdivided into commercial condominiums. The El Dorado Saloon is located on the northwest corner of parcel (125-653-16), which is the furthest building from adjacent residential uses to the east and to the west. Ongoing operations at the El Dorado Saloon include restaurant and bar services as well live music within the building. Outdoor seating is available for dining on the deck. Hours of operation are 11:30 a.m. to 2:00 a.m. Monday through Friday, and 9:00 a.m. to 2:00 a.m. Saturday and Sunday.

Pursuant to Section 17.32.020(e) of the zoning ordinance, permitted uses in the C zone district include: “Places of entertainment, appliance store and repair (new and used), antique store and furniture store, second-hand store, when they are fully enclosed in a building”. However, the proposed project would occur on the outdoor patio, and as such it requires a special use permit pursuant to Section 17.32.030 (d).

STAFF ANALYSIS

Project Description: Special Use Permit to allow for acoustic outdoor music events on the patio of the El Dorado Saloon between the hours of 12:00 p.m. to 7:00 p.m. on weekends. No new seating would be proposed. No new outdoor signage or advertising would be proposed as a result of the project. Speakers associated with music events would be positioned and oriented toward the Saloon. Drum music would be limited to electric drum kits. Music on the patio would not exceed average sound levels of 80 dBA as measured 25 feet in front of the speakers.

Site Description: The project is located within a commercial shopping center known as The Village. The Village maintains a variety of businesses including but not limited to restaurants, commercial retail, and office uses. The 2.51-acre parcel is entirely developed with these businesses, parking lot, and ornamental landscaping. The parcel to the east is also considered part of The Village and is developed with similar businesses and uses. The proposed project would occur on the deck of the El Dorado Saloon, which is a 6,080 square foot building located at the northwest corner of the parcel. Elevations on the parcel range from 635 to 674 feet above mean sea level. Access to the site is provided by one driveway on Green Valley Road, and two driveways on Embarcadero Drive.

Adjacent Land Uses:

| | Zoning | General Plan | Land Use/Improvements |
|-------|---------|--------------|--|
| Site | C-PD | C | Commercial/Shopping center |
| North | CP (DC) | AP | Commercial/Shopping center |
| South | R20K | HDR | High Density Residential/Single family homes |
| East | C | C | Commercial/Office buildings and restaurant |
| West | R1 | HDR | High Density Residential/Vacant |

Discussion: The closest residential dwelling is located approximately 420 south of the project site at an elevation of 672 feet. Residential development bounds The Village shopping center on the south and the east. Commercial development bounds the actual parcel on the east and the north/northwest. Significant noise sources include traffic on Green Valley Road and Francisco Drive.

Project Issues: Issues for discussion with this project include noise and land use compatibility.

Noise: General Plan **Policy 6.5.1.2** states that “where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 (see below) at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design. Policy 6.5.1.7 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.”

| TABLE 6-2 NOISE LEVEL PERFORMANCE PROTECTION STANDARDS FOR NOISE SENSITIVE LAND USES AFFECTED BY NON-TRANSPORTATION* SOURCES | | | | | | |
|---|-------------------------|-------|--------------------------|-------|------------------------|-------|
| Noise Level Descriptor | Daytime 7 a.m. - 7 p.m. | | Evening 7 p.m. - 10 p.m. | | Night 10 p.m. - 7 a.m. | |
| | Community | Rural | Community | Rural | Community | Rural |
| Hourly L_{eq} , dB | 55 | 50 | 50 | 45 | 45 | 40 |
| Maximum level, dB | 70 | 60 | 60 | 55 | 55 | 50 |

When complaints of noise such as loud outdoor music are received, the following County Code Section applies:

9.16.050 Loud and Raucous Noises—Prohibited: Except as otherwise provided in this chapter, it is unlawful for any person to willfully make, emit, or transmit or cause to be made, emitted, or transmitted any loud and raucous noise upon or from any public highway or public thoroughfare or from any aircraft of any kind whatsoever, or from any public or private property to such an extent that it unreasonably interferes with the peace and quiet of another's private property.

The applicant has submitted an Environmental Noise Assessment dated April 11, 2012 which found that “measured noise levels exceeded the County’s 50 dB L_{eq} standard with the speakers facing out from the Saloon at receiver Sites 1 (Colina de Oro restaurant – presently vacant) and Site 2 (closest residence), but satisfied the County’s standard at all locations with the speakers facing in.” The applicant has incorporated all recommended measures of the Noise Assessment which will ensure that County noise standards will not be exceeded at adjacent sensitive receptors. These measures include limiting the hours of outdoor performances to 12 p.m. to 7 p.m., orienting speakers towards the Saloon, periodically monitoring noise levels with a sound level meter, and limiting drum music to electric drum kits which will allow drums music to be directed through the speaker system.

Land Use Compatibility: The General Plan designates the parcel as C, Commercial. The purpose of this land use category is to provide a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County.

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.

Discussion: The proposed project is located within an existing commercial shopping center. Activities and ongoing operations include live music within the existing building consistent with the General Plan. The proposed project would be located on the far northwestern corner of the parcel away from residences, and activities would only occur during daytime hours (12 p.m. to 7 p.m.). With incorporation of measures included in the project description noise levels will not exceed County noise standards at nearby sensitive receptors. The project is not intended to attract new customers, but provide musical entertainment for outdoor patrons. No new seating is proposed as a result of the project and in fact seating will be removed in order to provide space for entertainers.

General Plan Consistency: The project has been reviewed in accordance with the General Plan policies, and the project would be consistent with the General Plan with the incorporation of the recommended conditions of approval. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: As shown in Exhibit D, the parcel identified by APN 125-653-16 is zoned C-PD, Commercial Planned Development. Commercially zoned parcels are allowed to have live music ("entertainment") as long as it is fully enclosed within the building. At the present time all live music events are contained within the building.

Special Use Permit:

Special Use Permit findings are required by Section 17.22.540 of the Zoning Ordinance. Based on consistency with the General Plan, compatibility with adjacent land uses, and less than significant environmental impacts achieved by the implementation of the measures included in the project description, staff finds that the necessary findings can be made to support the project request for the outdoor music events on parcel (125-653-16). The details of the Findings are contained in Attachment 2.

ENVIRONMENTAL REVIEW: Staff has also determined that the proposed project is exempt from environmental review pursuant to CEQA Guidelines Section 15323 of the CEQA Guidelines. A Class 23 exemption consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. In this instance, regular music events have

occurred at the El Dorado Saloon on a weekly basis. The facility is designed for such activities as a restaurant/bar. There will be no physical modifications to the existing facility other than a slight rearrangement of tables on the outdoor patio to accommodate entertainers. A \$50.00 processing 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 | Project Assessor's Parcel Map |
| Exhibit C | General Plan Land Use Map |
| Exhibit D | Zoning Designations |
| Exhibit E | Overall Site Plan |
| Exhibit F..... | Patio Layout |

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit S12-0006/El Dorado Saloon Music Event
Zoning Administrator/August 15, 2012

Planning Services

1. This Special Use Permit approval is based upon and limited to compliance with the approved project description, the following hearing exhibit:

Exhibit F.....Patio Layout Plan dated July 6, 2012,

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:

Approval of this Special Use Permit allows uses as follows:

Acoustic outdoor music events on the patio of the El Dorado Saloon between the hours of 12:00 p.m. to 7:00 p.m. on weekends. No new seating shall be allowed. No new outdoor signage or advertising shall be allowed as a result of the project. Speakers associated with music events shall be positioned and oriented toward the Saloon. Drum music shall be limited to electric drum kits. Music on the patio shall not exceed average sound levels of 80 dBA as measured 25 feet in front of the speakers.

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.

Planning Services

2. **Noise:** The applicant is responsible for monitoring all sound levels and enforcing time restrictions for all events occurring on the subject parcel for compliance with the El Dorado County General Plan noise standards. Outdoor music shall comply with all provisions of General Plan Policy 6.5.1.6. In order to ensure sound levels are not

exceeded, the applicant shall monitor noise levels during music events. Sound levels shall not exceed an average level of 80 dBA as measured 25 feet in front of the speakers.

3. **Fish and Game Fee:** A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee must be delivered to the El Dorado County Planning Services prior to the issuance of any development permit being issued on the project parcel.
4. **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, as provided in Section 66474.9(b) of the California Government Code.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing 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, which action is brought within the time period provided for in Section 66499.37 of the California Government Code.

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

ATTACHMENT 2

FINDINGS

Special Use Permit S12-0006/El Dorado Saloon Music Event Zoning Administrator/August 15, 2012

1.0 CEQA FINDINGS

- 1.1 This project is Categorically Exempt from the requirements of CEQA pursuant to Section 15323 of the CEQA Guidelines. A Class 23 exemption consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. Regular music events have occurred at the El Dorado Saloon on a weekly basis. The facility is designed for such activities as a restaurant/bar. There will be no physical modifications to the existing facility other than a slight rearrangement of tables on the outdoor patio to accommodate entertainers.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 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 Commercial (C) land use designation as defined within General Plan Policy 2.2.1.2 because the intent of the land use designation is to provide a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County. The proposed project will provide residents and visitors with entertainment services in the El Dorado Hills area.
- 2.2 The proposal is consistent with General Plan policies, 2.2.5.2 (General Plan consistency), 2.2.5.21 (land use compatibility), and General Plan Policy 6.5.1.2 (noise). The use is compatible with the surrounding commercial uses and the design of the project minimizes noise levels to at or below the noise standards of the General Plan.

3.0 ZONING FINDINGS

- 3.1 The proposed use is permitted by Special Use Permit in the Commercial (C) zone district, pursuant to Section 17.32.030(d) of the County Code provided that the administrative findings outlined below can be made by the Zoning Administrator.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Code..

4.0 SPECIAL USE PERMIT FINDINGS

- 4.1 **The issuance of the permit is consistent with the General Plan.** The applicant's proposal, as conditioned, is in compliance with the General Plan as set forth in Section 2.0 of these findings.
- 4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.** With incorporation of measures included in the project description the project will not have any impact on surrounding residential land uses because there would be no increase in use of the site and noise would not be generated in excess of the County's noise standards. The project is compatible with surrounding commercial land uses.
- 4.3 **The proposed use is permitted by special use permit pursuant to County Code Section 17.32.030(d) which allows for uses enumerated in Section 17.32.020(e) when they are not fully enclosed in a building.**