

DEVELOPMENT SERVICES DEPARTMENT

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TO: Board of Supervisors Agenda of: June 8, 2010

FROM: Jason R. Hade, AICP, Senior Planner

DATE: May 17, 2010

RE: **S07-0019-A/Olde Coloma Theatre Special Use Permit Application Appeal**

Request:

Hearing to consider a request submitted by Jerry Griffin, appealing the conditional approval of Special Use Permit application S07-0019 by the Planning Commission on April 22, 2010.

Recommended Action:

Planning Services recommends the Board of Supervisors take the following actions: (1) Certify that the project is Categorically Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines; and (2) Deny the appeal and uphold the approval of the Special Use Permit by the Planning Commission based on the Conditions of Approval and Findings from the meeting of April 22, 2010.

Background:

The Olde Coloma Theatre has been in existence since 1975 when a donated structure was relocated to the site. The theatre holds regular weekend performances (one show each Friday and Saturday evening) from May through December. The theatre also provides shows for school groups visiting Marshall Gold Discovery State Historic Park, although they are not affiliated in any way with the state park. These shows run from February through June, with the peak time being in April and May with up to five shows a day. The school performances began in 1988 according to the current operators of the theatre.

The theatre previously had an agreement with the former owners of the Vineyard House to use part of that property for parking. The new owners rescinded that agreement in early 2006, resulting in parking problems that have affected neighboring property owners and the state park. Grading was done on the site to address flooding problems during the winter storms of 2006 as well as to improve on-site parking. As no permit was secured prior to the grading and a code enforcement action was initiated on February 28, 2006 for grading without a permit. The investigation also resulted in questions regarding the legality of the theater activity.

A chronological permit processing timeline is attached as Attachment A.

10-0538.A.1

Specific reasons for appeal:

1. The appellant states that the project is not Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines.

Response: This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines which states that “the operation, repair, maintenance, permitting, leasing, licensing, or 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” are exempt from further environmental review. The Planning Commission certified that the project was Categorical Exempt from CEQA based on the project’s limited potential environmental impacts consistent with Section 15301 of the CEQA Guidelines discussed above.

2. The appellant states “revised site plan has eliminated any accessible routes of travel to the auditorium. Accessible parking space location does not comply with California code or ADA ANSI Standards. Site vehicular drive isles do not provide the minimum 12 feet width per Chapter 17.18.030B.3” (Condition of Approval No. 1)

Response: Prior to final building occupancy, the applicant would be required to demonstrate compliance with the applicable accessibility requirements of Title 24 of the California Code of Regulations. The drive isle exceeds 12 feet in width in most areas of the parking lot with the exception of a small area on the western side of the site which is 10 feet in width. An SUP is a discretionary application which permits the decision makers flexibility in determining compliance with the Zoning Ordinance. The applicant will be required to submit a detailed improvement plan demonstrating how all accessibility requirements are achieved. The improvement plan is subject to the review and approval of Building Services prior to final building occupancy.

3. The appellant states that the proposed off-site parking lot is not in compliance with the Zoning Ordinance and is in excess of 500 feet away from the project site. (Conditions of Approval Nos. 8 and 9).

Response: The off-site parking lot is in compliance with the applicable provisions of the Zoning Ordinance. As noted above, an SUP is a discretionary application which permits the decision makers flexibility in determining compliance with the Zoning Ordinance.

4. The appellant believes the conditions of approval do not adequately address ADA issues (Condition of Approval No. 14).

Response: Building Services enforces the California Code of Regulations, Title 24, Accessibility Requirements, not federal Americans with Disability Act (ADA) requirements. As noted above, prior to final building occupancy, the applicant would be required to demonstrate compliance with the applicable accessibility requirements of Title 24.

5. The appellant disagrees with the timing requirements for the installation of a fire hydrant (Condition of Approval No. 17).

Response: Fire hydrant installation timing within Condition 17 was reviewed and approved by the El Dorado County Fire Protection District.

Attachments:

Attachment APermit Processing Timeline

ATTACHMENT A

Permit Processing Timeline

February 28, 2006 – Code Enforcement action initiated.

August 24, 2006 – Applicant requested the Planning Commission make a determination that the Theatre is a legal non-conforming use.

March 8, 2007 - Planning Commission determined that the Theatre did not qualify as a legal non-conforming use and that a Special Use Permit (SUP) would be required to continue its operations

April 17, 2007 – Board of Supervisors denied the applicant’s appeal upholding the decision of the Planning Commission to require the submittal of an SUP application. The BOS also directed staff to waive the filing fee for the SUP.

June 4, 2007 – SUP application submitted and deemed complete for processing on June 22, 2007. A Technical Advisory Committee (TAC) meeting was held on July 30, 2007 and additional information was requested from the applicant. Several issues were also identified to be addressed by the applicant prior to staff report preparation. Development Services Director directed staff to prepare draft conditions of approval in consultation with California State Parks and the El Dorado County Fire Protection District and schedule meeting with applicant team to review draft conditions of approval.

August 24, 2009- Draft conditions of approval finalized after obtaining comments from affected agencies and Planning Services staff met with applicant team to discuss.

October 23, 2009 – Meeting requested with staff by new theatre representative to review staff report and recommended conditions of approval. New theatre representative disagreed with many conditions previously agreed upon by previous theatre representative at meeting of August 24, 2009.

November 12, 2009 - At the request of staff, the Planning Commission continued this item to the hearing of January 14, 2010 so that staff could prepare a revised staff report addressing unresolved parking issues and a more appropriate CEQA exemption (Section 15301) could be identified.

January 14, 2010 – Continued to the Planning Commission hearing of February 25, 2010 to resolve applicant concerns with the recommended conditions of approval.

February 25, 2010 – Continued to the Planning Commission hearing of March 11, 2010 to allow the applicant’s engineer additional time to survey property, prepare revised site plan, finalize off-site parking agreement, and resolve fire district issues.

March 11, 2010 – Continued to the Planning Commission hearing of April 22, 2010 to finalize conditions of approval and provide the Planning Commission additional requested information concerning site fencing, topography, elevations, and location of adjacent neighbor's home.

April 22, 2010 – SUP approved by Planning Commission.

May 5, 2010 – Appeal of S07-0019 approval filed.