

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

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TO: Board of Supervisors

FROM: Jason R. Hade, AICP, Senior Planner

DATE: May 13, 2009

RE: **Special Use Permit Application S07-0020 / Pacific House Auto Repair Appeal Analysis**

Recommendation

Planning Services recommends the Board of Supervisors take the following actions:

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15301(d) of the CEQA Guidelines;
2. Deny the appeal and uphold the conditional approval of the Special Use permit application by the Planning Commission on April 23, 2009 subject to the conditions of approval in Attachment 1, based on the findings in Attachment 2 of the staff report; and
3. Deny the requested appeal fee waiver submitted by the applicant at time of appeal filing.

Project History

- **February 21, 2006** - Code enforcement case (#171902) opened.
- **May 31, 2006** - Legal non-conforming use determination request (SPR06-0133) submitted by applicant.
- **December 14, 2006** - Planning Commission found automotive facility to be a legal non-conforming use.
- **December 29, 2006** - Planning Commission decision appealed to Board of Supervisors by applicant.
- **February 27, 2007** - Board of Supervisors adopted revised findings denying the appeal, overturning the Planning Commission's determination that the use is a legal non-conforming use, waived fees, and directed and appellant to file an SUP application.
- **June 13, 2007** - SUP application filed.
- **January 8, 2009** - Continued to Planning Commission hearing of March 12, 2009 pursuant to applicant request.

- **March 12, 2009** - Continued to Planning Commission hearing of April 23, 2009 pursuant to applicant request.
- **April 23, 2009** – SUP approved by Planning Commission.
- **May 6, 2009** – Appeal of Planning Commission decision filed by applicant.

Analysis

Based on the submitted appeal information, staff has identified the following reasons for the filing of the appeal accompanied by staff’s analysis:

1. “Minor corrections need to be made to the project description and site description to assure full flexible usage of the buildings and site features, which are not associated with the auto repair/part sales, are accurate and allow their continued commercial zoning usage, including any other possible legal non-conforming areas; and continued usage of the four portable storage structures i.e. cargo containers.”

Discussion: No changes to the project description are necessary as it accurately reflects the Planning Commission’s decision on April 23. Further, changes were previously requested by the applicant at the hearings of January 8, March 12, and April 23 and considered by the Planning Commission. The Board of Supervisors previously determined that the uses at the site did not qualify as legal non-conforming uses and that an SUP would be required. Upon approval, the SUP becomes the operating authority for the subject site. As such, the SUP must authorize all uses at the site including those that are permitted by right under the Commercial zone district. Within the commercial zone district, storage is a use that is incidental and accessory to permitted commercial uses on-site. Storage as a primary use is not permitted except a mini-storage facility which may be authorized by special use permit. Typically, cargo containers have been permitted within General Commercial and Industrial zones which require building permits for placement. These are temporary in nature and generally would conflict with architectural considerations where the –Design Control zoning overlay has been applied when considering community character or, as in this case, a designated scenic highway. Although the site is located within a State Scenic Highway Corridor and the applicant has six storage buildings already at the site, the Planning Commission authorized the retention of two cargo containers.

2. “Any still unresolved Code Enforcement conditional issues should be limited to those that apply to the Auto facility usage.”

Discussion: Any other zoning and building code violations must also be addressed as part of the SUP process prior to occupancy as an automotive service and repair facility. All applications are subject to County Code Section 17.22.120.A.3. which states, “No violation of this Title, any other provisions of the El Dorado County Code, the Subdivision Map Act, or any condition of approval of an applicable land use entitlement exists on the subject site, unless the purpose of the application is to bring the violation into compliance with this Title.”

3. “The Fire Safe Plan should not be required as it was not [identified] in the August 1, 2007 Fire Marshall letter nor discussed in the TAC.”

Discussion: Staff spoke with Gary Baldock, Captain/Prevention Specialist, El Dorado County Fire Protection District, on April 22 who confirmed that a fire plan was required as a standard condition of approval as it is with nearly all discretionary applications. Further, the subject site

is located within a very high fire hazard area and requires a fire safe plan to demonstrate consistency with General Plan Policy 6.2.2.2 concerning limitations to development in areas of high and very high wildland fire hazard.

4. “The parking requirements should be limited to the auto repair and the current as is parking should be allowed to continue; and the Landscape Plan should not be required as agreed to in the original application packet.”

Discussion: Parking calculations were limited to the residential and automotive services pursuant to the applicant’s request at previous Planning Commission hearings. Parking requirements for the existing vacant café/bar will be determined upon submittal of an SUP revision application prior to occupancy as commercial use. Compliance with parking lot landscaping and buffering standards (Section 17.18.090, El Dorado County Zoning Ordinance) is required of all commercial projects with off-street parking areas. Waiving of the above landscape requirements was not agreed to by staff or the Planning Commission, as reflected in their decision of April 23.

5. “Only the front lift pad is visible and should be allowed to as is with cosmetic improvements to improve the appearance, since it is of minor visibility and is deliberately not enclosed for fire department welding issues.”

Discussion: Because of the site’s location within a State Scenic Highway Corridor and the Sierra Design review district, the Planning Commission determined that the two lift pads shown on the site plan were to be fully enclosed within a building. No Fire District objections were raised concerning this issue.

6. *Applicant objects to 120 day requirement for the implementation of several conditions of approval.*

Discussion: The Planning Commission modified the timing of condition implementation from 60 to 120 days in order to provide the applicant greater flexibility in achieving compliance. Staff believes 120 days is sufficient time to comply with the conditions of approval.

7. *The applicant is requesting a waiver of the appeal fees concurrently with the filing of the appeal.*

Discussion: Pursuant to the planning application fee schedule, an appeal of a Planning Commission decision by the applicant requires the submittal of a \$100 deposit as well as a signed “Agreement for Payment of Processing Fees” form. As mentioned above, the Board of Supervisors waived the SUP processing fees on February 27, 2007. As of May 7, 2009, 108.4 staff hours had been expended completing the processing of the SUP application at \$100/hour for a total cost to the County of \$10,840. As such, Planning Services recommends the Board of Supervisors deny the requested fee waiver as the applicant has already obtained an approved SUP at no application processing cost.