



## Legislation Text

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**File #:** 12-0079, **Version:** 1

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Hearing to consider a request submitted by William L. and Arleta R. Casalegno appealing the approval of Special Use Permit S11-0008/China Hill Road Industrial Building by the Planning Commission on December 8, 2011 on property identified by APN 092-060-70, consisting of 2 acres, in the El Dorado Community Region area; and Planning Services recommending the Board take the following actions:

- 1) Find that the project is Categorical Exempt pursuant to CEQA Guidelines Section 15303(c); and
- 2) Deny the appeal, thereby upholding the approval of Special Use Permit S11-0008 by the Planning Commission on December 8, 2011 based on the Findings and subject to the Conditions of Approval listed in Attachment 1. (Supervisory District 3) (Est. Time: 30 Min.)

Background: This is a request submitted by WILLIAM L. and ARLETA R. CASALEGNO appealing the approval of Special Use Permit S11-0008/China Hill Road Industrial Building by the Planning Commission on December 8, 2011 on property identified by Assessors Parcel Number 092-060-70, consisting of 2 acres, located on the northwest side of China Hill Road, approximately one-third mile west of the intersection with State Highway 49, in the El Dorado Community Region, Supervisory District 3. [Project Planner: Aaron Mount] (Categorical Exemption pursuant to Section 15303(c) of the CEQA Guidelines)

This application was considered by the Planning Commission on December 8, 2011 and was approved by a vote of 4-0 [Tolhurst absent]. The minutes from this meeting are attached.

Staff Analysis Summary: Special Use Permit S11-0008 is a request to memorialize the continued operation of a legal nonconforming industrial facility located on a residentially zoned parcel. The project is located on the northwest side of China Hill Road, approximately 1/3 mile west of the intersection with State Highway 49, in the El Dorado-Diamond Springs Community Region, Supervisory District 3.

As discussed in the Staff Report, the project parcel contains an existing legal nonconforming 16,257 industrial structure that was built in the 1960s and was initially used as a machine shop. Prior to March 27, 1987 the project parcel, along with an adjacent parcel, were zoned industrial. The parent parcel, a total of 7.8 acres in size, had a General Plan land use designation and zoning of Industrial since the 1969 General Plan and following the adoption of the El Dorado/Diamond Springs Area Plan on December 4, 1979. On March 27, 1987 the land was subject to a General Plan Amendment and Rezoning (A86-19/Z86-41), which changed the property's General Plan land use designation to Medium Density Residential and zoning to Single-Family Two-Acre Residential. Subsequent to this action, the building had been used for a sign company that included uses such as printing, machine shop, cabinet shop, and other light industrial manufacturing.

The appellant has two reasons for their appeal.

1. It does not address appropriate limits on the level of industrial activity for this site in MDR zoning.

On December 8th we spoke to the planning commission and said that the level of activity of 2 shifts, 57 employees, and UPS trucks coming in and out of there all the time (cf. exhibits F1-F5 of the planning commission staff report) was not appropriate for our community. As passed, memorializing the continued operation of the industrial facility limits activity to the current facilities but would allow similar industrial activity of 2 or more shifts and 60 or more employees.

Response: Planning staff evaluates the carrying capacity of a project site based on limitations such as parcel size, building square footage, and parking spaces. The existing legal nonconforming use at the project site was evaluated and approved at the time building permits were submitted for the initial structure and subsequent expansion. Planning staff does not evaluate commercial sites based on fluctuations of the business' production or employment levels that occupy the structure. The Special Use Permit request is to memorialize an existing legal nonconforming use that has seen ups and downs in the business cycle but appears to not have exceeded the capacity of the facility, parking, and parcel size. As reflected in the hearing minutes, changes were made to the Conditions of Approval requiring a revision to the Special Use Permit be approved by the Planning Commission before any expansion of the existing uses can take place.

2. "For the past 5 to 10 years there has been limited activity at the facility. The grandfathering of rights to continue commercial and industrial use is dependent upon compliance with Section 12.20.110 and Section 17.22.260 both stating that if use has ceased for a period of one year then the use is effectively terminated (page 4 of the staff report). We request that documentation be submitted to show that commercial/industrial use was continuous and that the request to memorialize is indeed valid. It is possible that there was a lapse for more than one year toward the end of the Video Marquee business or when subsequent businesses were sought to operate in the facility."

Response: County records show that Video Marquee Inc. has an active business license associated with the project parcel.

Contact: Roger Trout (5369)/Pierre Rivas (5841)

Follow-up to COB: Send Dept copies of action letter and Minute Order.