

FROM THE PLANNING COMMISSION MINUTES OF FEBRUARY 9, 2012

Prior to the beginning of the Public Hearing portion of the meeting, Chair Pratt announced that they did not have a full Commission today, although they did have a quorum to make decisions. He stated that Commissioner Rain had significant health issues in his family and would not be present for today's hearing or the next hearing. Historically, the Commission, as a courtesy, has allowed applicants before the Commission to request their item be continued to be heard by a full Commission. That request must be made before the item is started. Once the hearing is started, the applicant may not request a continuance on the grounds of not having a full Commission. At this time, the earliest that there may be a full Commission would be at the March 8, 2012, hearing.

10. SPECIAL USE PERMIT

Prior to hearing the Special Use Permit items, Chair Pratt announced that the Commission would be hearing each item individually and requested the public focus their comments on the specific item being heard.

[Clerk's Note: S11-0004, S11-0005, and S11-0006 were heard at the same hearing and applicant concurred with a request to incorporate comments made on the previous applications when the Commission considered action on each individual application.]

b. Appeals submitted by DYANA ANDERLY and GARY & KILEEN WARDLAW of the claim made by the applicant that the permit was "deemed approved" on December 30, 2011 due to the alleged failure of the County to meet statutory time limits pursuant to the California Permit Streamlining Act (Government Code Section 65920 et. seq.) of **Special Use Permit S11-0005/Mother Lode Drive Off-Premise Advertising Sign AND** to consider said Special Use Permit submitted by JOHN DAVID PEREIRA to construct a lighted 14 ft. by 48 ft. (672 sq. ft.) off-premises advertising sign on property identified by Assessor's Parcel Number 090-430-15, consisting of 0.46 acre, and is located on the north side of Mother Lode Drive, approximately 1,000 feet east of the intersection with South Shingle Road along the south side of U.S. Highway 50, in the Shingle Springs area, Supervisorial District 4. *[Project Planner: Aaron Mount]* (Negative Declaration prepared)*

Chair Pratt re-iterated a previous announcement that the public should focus their comments on the specific item being heard.

County Counsel Paula Frantz clarified for the record that John Pereira has the same jurisdictional issue with this hearing as the previous one and the County has stated that by the applicant not bringing it up again is in no way deemed a waiver of that claim.

Aaron Mount presented the item to the Commission and stated that staff was recommending the size of the sign be limited to 480 square feet (as shown in Condition #1) and that the permit be valid for 7 years (as shown in Condition #2).

John Pereira/applicant deemed the comments he made on his previous application (S11-0004) were applicable to this permit. He stated the only additional comment he wanted to address was

the environmental issue because he believed it needed to be restated. He provided an example of a recent Special Use Permit in the residential area of Cameron Park and that it was Categorically Exempt. He went through the timelines of his project and stated he proceeded for 11 months under representation from the Lead Agency that a particular environmental determination had been made on authority that the Lead Agency could make that determination. Mr. Pereira explained that all of the CEQA time limits had been passed and his project was continually delayed to the point of being offensive to the First Amendment.

Dyana Anderly/appellant stated that the project was not Categorically Exempt, there was significant visual impact, and that the project was not compatible with the surroundings.

Robert Wheatly, representing appellants Gary and Kileen Wardlaw, voiced concern on the proposed size and height of the sign and how it related to the existing smaller signs that currently advertise local businesses. He felt that the Commission needed to look at the cumulative impacts of all the signs and requested that the application be denied and the appeal upheld.

Bo Palley commented that the Wardlaws have the largest and tallest sign in the County and it would still be bigger than the applicant's proposed sign.

Art Marinaccio requested that the same courtesy given to the applicant be provided to the public which is to have their testimony be officially part of the record for all three applications (S11-0004, S11-0005, and S11-0006). Mr. Pereira concurred with the request to incorporate comments made on the previous application when the Commission is considering each individual application. County Counsel Frantz informed the audience that since their previously spoken generalized comments would be considered part of the record for each application, any additional public comment should be specific to the application before the Commission.

Mr. Marinaccio made the following comments:

- In response to the applicant's comment in the morning that the support letters were not available, he assured the applicant that he was able to obtain copies in the morning of all the comments submitted, both in support and opposition;
- Very specific rules were put in place in the 1970s regarding the scenic corridor but before that there was an Ordinance that required design review for aesthetics on all parcels adjacent to State Highways; and
- An aesthetics analysis has not been done for this project.

Kirk Smith requested that the Commission create a policy to protect the special characteristics of El Dorado County and to not allow billboards unless there was a compelling reason to do so. He also stated that although there may be a large existing sign, that does not make it right to approve more. Mr. Smith said that the term "undeveloped property" was inaccurate because it was developed by nature, which is part of California's beauty. He opposed the project.

Brad Pearson described the site in question and commented on the 6 inch setbacks. He also stated that the size and height of the sign would not only obstruct the Crystal Range view, but also other views, too.

Kathleen Newell/resident opposed the project.

Mr. Pereira made the following rebuttal comments:

- Described the Shingle Springs overpass area to rebut the comment that his project would block views;
- Area is in an urban corridor; and
- Comments on not allowing his sign supports his claim regarding his First Amendment rights.

Commissioner Mathews considered this application having the most nuisance, distraction and blight to the area. He appreciated the income potential and the need for signs and preferred to mitigate issues in lieu of voting against a project. However, the number one business for El Dorado County is tourism and he is not in support of having a sign in one of the best viewsheds of the County.

Commissioner Tolhurst stated he had the same comments as stated in the previous application (S11-0004) regarding aesthetics environmental impacts. He disagreed that the site was in an urban area and felt it was not compatible with the area after hearing public testimony.

Commissioner Heflin stated that the aesthetics was an issue.

Chair Pratt had similar comments from the previous application (i.e., no before/after photos, “rolling blockage”). He also voiced concern on the interface with the neighbors and the minimal setbacks.

No further discussion was presented.

Motion: Commissioner Mathews moved, seconded by Commissioner Heflin, and carried (4-0), to conceptually uphold the appeal and deny S11-0005 and the Negative Declaration.

AYES: Tolhurst, Heflin, Mathews, Pratt

NOES: None

ABSENT: Rain

Commissioner Mathews informed staff that the Findings for approval could not be made as the aesthetics environmental impact was more significant than what was stated in the environmental document. Chair Pratt announced that the item would be brought back on February 23, 2012 with the Findings for Denial.