

Alto, LLC
805 University Avenue
Sacramento, California 95825

January 19, 2010

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, California 95667

Re: Board of Supervisors January 19, 2010 Agenda Item #20
La Canada Development Project
Rezone Z08-0001, Planned Development PD08-0003, Phased
Tentative Map TM08-1463

Honorable Board of Supervisors:

I am a principal of Alto LLC, a California limited liability company, which owns the property immediately adjacent to and east of the subject La Canada project. I have held an ownership interest in the Alto property since 1987 and have lived near the Alto property in El Dorado County for more than 33 years. On the other hand, the La Canada project is being proposed by Dan Parks who does not own the subject property, may never purchase or develop the property, and even if purchased, the property may be sold in the paper map stage or with only a phase or portions of the project actually developed.

As discussed more thoroughly below, we think that these circumstances are significant and important to your Board's deliberations. The Board should recognize at the outset that the proposal before you is a request, not an entitlement. **This is the time and place for the exercise of the Board's discretion in conditioning the project's approval and protecting the public's interests. However, the approvals sought here change from a request to an entitlement once the Board acts. The County will not likely have another opportunity to ensure the responsible development of this property.**

Alto does not object to the development of the property. But we think that there are important public interests at hand and we object to the project's approval under the proposed Conditions of Approval ("COA's"), primarily relating to when the Salmon Falls connector road will be constructed and other financial obligations are to be fulfilled by the applicant. If the proposed conditions are adopted as is, critical traffic circulation elements may never be obtained. As a result, the project approval will be premised upon an inadequate environmental assessment under the Mitigated Negative Declaration. We recommend certain amendments to the proposed La Canada COA's to reasonably balance protection of the public interests with the La Canada entitlements that will be obtained should your Board consider approving the project. These proposed amendments are set

Submitted by Sam Neasham
20
at Board Hearing of 1/19/10

forth on an attachment entitled “**Alto Proposed Amendments To La Canada Conditions of Approval**” for your ease of consideration. We urge your Board to adopt these measures.

1. Public Policy Issue Re Phasing

The La Canada development project is proposed to be a “phased” development with a first phase consisting of 24 lots [Lots 1-3 and 26-46] and the remaining phases and lots to be developed at some undetermined later time. Phase I is served by an internal cul-de-sac road 2906 feet in length with only a single access point to be developed with Phase I onto Salmon Falls road. Unlike other projects in this area (e.g., Alto and Diamante), La Canada was not required to provide and does not have as part of the project two (2) legal means of access to an existing public street. Arguably it could do so with a double access onto Salmon Falls road, but that proposal and analysis is not considered whatsoever in the staff report or mitigated negative declaration.

We are of the opinion that the failure to require and analyze the 2nd access issues is a significant deficiency in the reports before the Board of Supervisors as it is easily discernible that the La Canada project is bordered in large part on the west by New York Creek and associated wetlands, and that the particular strip of Salmon Falls road adjacent to La Canada is a potentially dangerous roadway. One Planning Commissioner compared it to a raceway “straight-away after the S turns” during the Commission hearing on this matter and expressed his serious concerns over how safe turn-ins to La Canada would be constructed.

As proposed by applicant, Phase II of the La Canada project is the center section of the La Canada property and contains a proposed east-west connector road between the Alto property boundary and Salmon Falls road. This road section is a critically important, necessary link under the County approved and implemented Malcolm Dixon Area Traffic Circulation Plan (“MDA Circulation Plan”). Notably, the La Canada Salmon Falls connector road does not connect to an existing public street and never will. It will connect to a private road on the Alto property and then to a second private road on the property south of Alto [formerly the Chartraw Grand Amis subdivision, but reportedly never processed or approved by the County, evidently due to a foreclosure on the property], and then through another third private property [the Diamante property], and then ultimately onto Malcolm Dixon road.

Despite these circumstances, the County staff has recommended a Condition of Approval that this connector road does not have to be completed until “...prior to the commencement of construction of Phase II.” [Attachment 1, COA #39, Secondary Access, page 11.] This terminology is obviously vague and objectionable.

Alto supported and made considerable effort in working with staff and other applicants to develop the Malcolm Dixon Area Circulation Plan (“MDA Circulation Plan”). It was

developed at the Planning Commission's direction to staff and other applicants in response to the lengthy public testimony before the Commission and the Board concerned over traffic impacts to Malcolm Dixon road. Virtually all public comment has supported the MDA Circulation Plan due to a list of specified improvements to be created under an Area of Benefit which results in a reduction of traffic upon Malcolm Dixon road below existing levels at the time of full regional buildout. The MDA Circulation Plan has been reviewed, accepted, approved unanimously by the Board of Supervisors and imposed upon two other projects in the region: Alto and Diamante.

Of significance, as reported by the La Canada project engineer, Mr. David Crosariol of CTA Consulting Engineers, there is little difference, if any, in the length (2900 l.f. versus 2492 l.f.), the estimated construction costs (\$2.07M versus \$2.10M), or the number of lots served by the two road segments (24 versus 24) as to the proposed Phase I roads and the alternative Salmon Falls connector road. Thus, the requested phasing is a decision purely of the private interests of the applicant and to condition the project otherwise to provide for the connector road link will not result in any substantial or different financial or economic burden to the applicant.

Thus, in your Board's final exercise of discretion for the La Canada project, the failure to adequately condition at this point the La Canada project to ensure the ultimate link to Salmon Falls road may well frustrate the MDA Circulation Plan upon which the La Canada Mitigated Negative Declaration is premised.

Alto does not object to the phasing of the La Canada project. Alto does object to a phasing plan which is capable of frustrating the County approved MDA Traffic Circulation Plan where the public interests are second to a private decision. Failure to properly condition the project to ensure the Salmon Falls connector road is built also makes the La Canada Mitigated Negative Declaration deficient. And as to a policy consideration, if La Canada enjoys the benefit of not having to develop its own 2 points of access to a public road and is allowed to build out under the proposed phasing development plan, then it should also carry the burden of timely completing or assuring the completion of the Salmon Falls east-west connector road. Otherwise, the other area projects and the public are held hostage and put at risk of litigation, either eminent domain or an action against a surety bond, to provide for the completion of the connector road or of the subdivision not being properly completed.

Point#1: Condition of Approval #30 should be amended to provide that the ABC Salmon Falls connector road and related lots and parcels are designated Phase I of the La Canada development or, alternatively, the connector road is required to be built prior to the filing of any Final Map for the property or any parcel or portion of the property.

2. Public Interest In Ensuring Underlying Legal Easement Rights of Access For the Connector Road

Unlike the other projects in the region which were required to prove recorded legal access prior to processing their development applications, La Canada was not required to do so. The recommended staff report, the COA's and Mitigated Negative Declaration completely and utterly fail to address or analyze any potential impacts of the project in the event the east-west connector road for the second point of access to Malcolm Dixon road is not constructed or to discuss circulation alternatives or requirements of the County's own design standard ordinances and manual requirements, nor do they otherwise establish sufficient development and mitigation conditions if such occurs.

Condition #39 addresses the question of secondary access and COA #40 which addresses legal access rights for the other regional projects states

“40. Reciprocal Access Agreement: The applicant shall provide a reciprocal access agreement, signed by the adjoining property owners, guaranteeing access for this site to use the proposed off-site roadways from this project to Malcolm Dixon Road, *prior to the filing of the map.* (Emphasis added.) This agreement shall also allow the adjoining landowners to use the onsite roads to access Salmon Falls Road.”

Alto objects to both of these conditions on the grounds that they are unacceptably ambiguous, non-specific and vague as to when and what map is referred to in the COA requirement. Obviously, a phasing plan inherently contemplates several different maps and under the recommended COA, this language may be interpreted to mean the filing of a Final Map for the final phase.

Point #2: Condition of Approval #39 should be amended as follows:

39. Secondary Access: The applicant shall provide at least two connections with an existing improved public street for the project *in accordance with the County Design & Improvements Standards Manual, Sections (3) (A) (2), (9) and (12).* The accesses shall adhere to the provisions described in Table 1. The second connection with an existing improved public street *shall* be provided by way of the Malcolm Dixon connector road in accordance with County approved design standards shown on the Malcolm Dixon Area Traffic Circulation Plan. The improvements shall be substantially completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of *any* Final Map *of the property or any phase or portion of the project.*

Condition of Approval #40 should be amended as follows:

“40. Reciprocal Access Agreement: The applicant shall provide a reciprocal access agreement, signed by the adjoining property owners, *together with recorded easements allowing the use of the MDA Circulation Plan connector*

road through La Canada for access to Salmon Falls Road, guaranteeing access for this site to use the proposed off-site roadways from this project to Malcolm Dixon Road, prior to the filing of any Final Map or map amendment for any phase, specifically including Phase I, or any portion of the property.”

3. Public Interests In Providing Additional Security to Fund Construction of The Connector Road

Point #3: Current economic circumstances, and likely the future as well, for land development are bleak to say the least. Given that existing law that map extensions may approach 10 years or more from the date of approval, it is entirely foreseeable and possible under the recommended phasing that the parcels, or even just some of the parcels created under Phase I may be developed and sold off, but the remainder of the properties and improvements under the requested development plan may never be built or completed. We therefore strongly urge your Board to require an additional security for the construction of the Salmon Falls east-west connector road by way of an additional Condition of Approval which provides substantially as follows:

“ . Additional Security for MDA Traffic Circulation Plan Improvements.

Prior to the filing of any Final Map or map amendment for any phase or portion of the property, the applicant shall prepare and submit to the Department of Transportation for its approval an Engineer’s Estimate for the full construction costs of the east-west connector road from Salmon Falls Road to the westerly boundary of the Alto property and improvements which lie outside the boundaries of Phase I. The Engineer’s Estimate shall be updated annually from the date of initial approval by the Department of Transportation.

Contemporaneously with the filing of a Final Map for Phase I, the applicant shall cause to be created a “due on sale” first-priority lien upon each parcel within Phase I designated for residential development in an amount equal to 1/24th of the applicable Engineer’s Estimate for the full costs of construction of the east-west connector road. If a large parcel map is filed for all of Phase I, the lien shall be in an amount equal to the number of residential lots within such parcel times an amount equal to 1/24th of the Engineer’s Estimate for the full costs of construction of the east-west connector road described above. Upon the sale of each such parcel, the funds shall be deposited into an interest bearing escrow account which may only be withdrawn with the approval of the County and in accordance with the below provisions.

In the event the applicant or successor-in-interest constructs the east-west connector road outside the boundaries of Phase I, upon approval of such road construction by the Department of Transportation, said funds may be released as reimbursement to the applicant or his successor-in-interest. In the event that a 3rd

party funds and constructs the construction of any portion or all of the east-west connector road, upon approval of such road construction by the Department of Transportation, said funds shall be released to the third party funding and constructing said road as reimbursement for the costs of construction prior to any funds being released to the applicant or his successor-in-interest.

This requirement for additional security and the applicant's compliance with such shall not be considered in any way or for any purpose to constitute the full compliance with any obligation of the applicant to construct improvements required under the Conditions of Approval. The additional security required under this provision shall be in addition to any obligations under the Conditions of Approval, or other bonding or sureties otherwise required by the County."

4. Public Interest As to the Formation of the Area of Benefit and Ensuring Funding for Area of Benefits Improvements

The proposed Conditions #34 and #35 do address the funding and participation of the La Canada project, but are uncertain and vague as to when the Engineer's Report is to be completed and the applicant would be financially obligated to pay the pro rata share of Area of Benefit improvements. We recommend that these provisions be clarified.

Point #4: Condition of Approval #34 should be amended as follows:

"34. Multi-Project Area of Benefit: The County *intends to* form and implement, at the applicant's expense, a public improvement financing district for funding or reimbursement of the costs of off-site public improvements to be constructed as identified in the Exhibit L entitled Malcolm Dixon Area Traffic Circulation Plan. *If and when requested by the County, the applicant shall prepare, and/or assist and cooperate in the preparation as may be appropriate, and thereafter* submit for County's approval and adoption a proposed Area of Benefit and supporting Engineer's Estimate and Report for the purpose of financing and reimbursement of required off-site land acquisition, widening and (re-) construction of public improvements as may be appropriate. The proposed Area of Benefit shall include but not be limited to parcels APN: 110-020-12, 126-100-18, 19, 23, & 24. *The County has determined that this project is within the proposed public financing district Area of Benefit, and that the project will derive benefit from the public improvements to be constructed as part of the Malcolm Dixon Area Traffic Circulation Plan. Prior to the approval or filing of any Final Map of the property or any portion or phase of the project, the County shall require consent by the land owner to the public financing district and participation in the funding or reimbursement and/or construction of the off-site public improvements for Malcolm Dixon Area Traffic Circulation Plan on a pro rata share of residential lots or equivalent share basis as a condition of approval. The Area of Benefit Engineer's Report shall be prepared and submitted to the County for approval*

and the proposed public financing district formed prior to the filing of a Final Map of the property or any phase or portion of the project.”

Condition of Approval #35 should be amended as follows

35. Area of Benefits Improvements: “The following Area of Benefit Improvements are required of all projects party to the Area of Benefit. This project’s proportional share and financial responsibility for these improvements shall be determined by the Engineer’s Report. *The Engineer’s Report for the Area of Benefit shall be prepared and the financial responsibility shall be paid by the applicant prior to the filing of any Final Map of the property or any phase or portion of the project.* These improvements shall be completed prior to issuance of a permit for any lot in Phase II (i.e., the construction and buildout of Phase I does not trigger the need for completion of the improvements in Table 2. However, all items in Table 2 must be completed prior to the issuance of a building permit on any lot in any other Phase).

Under the revised COA’s and additional security submitted above, the applicant will enjoy the benefits of the proposed phasing, and the acquisition of right of way will be timely assured as well as the set aside of funds sufficient to construct the critically important east-west connector road for the County approved MDA Traffic Circulation Plan. Without the proposed revisions, the MDA implementation is significantly at risk and the environmental analysis is deficient by not considering the whole project, including impacts from other traffic circulation alternatives accessing onto Salmon Falls Road, at the earliest feasible time.

5. Non-compliance With SRA and County Dead-End Roads Regulations Upon Rezone.

The phasing plan is contrary to those standards and requirements set forth in the County of El Dorado Design & Improvement Standards Manual, Section 3, Streets, subsections (2) and (12) and El Dorado County SRA Fire Safe Regulations, section 1273.09 Dead End Roads. The La Canada project requires a rezone from RE-5 to RE-5-PD. The application of the rezone with a PD Overlay results in 24 parcels in Phase I which include lots which are generally less than 2 acres in size served by an interior dead end road 2906 feet in length.

The County of El Dorado Design & Improvements Standards Manual, Section 3, Streets, A, Street Layouts, subsection 9 states

“9) At least two connectors with an existing, improved public street, or with a future street extension approved by the Planning Commission or the Board, shall be provided, except that when a proposed subdivision only contains one cul-de-sac street that is less than 500 feet in length in which case the one connection is

sufficient. *When the secondary access is to be provided, with a future street extension, then a temporary exit road or acceptable alternative may be required, and approved by the Planning Director, with a favorable recommendation from the responsible fire agencies.*” (Emphasis added.)

We are unaware of any temporary exit road or acceptable alternative discussed, analyzed, waived or approved in any of the staff report, COA’s or Mitigated Negative Declaration before your Board.

Subsection 12 further provides

“12) A dead-end street connecting to a County or State maintained street may exceed 500 feet in length, but not more than 2640 feet, and only when geographic features restrict a street extension and the street will not serve more than twenty (24) existing or portion parcels...”

SRA regulations, Section 1273.09 Dead End Roads, also provides in pertinent part as follows:

“...(a) The maximum length of a dead-end road, including all dead end roads accessed from the dead end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

Parcels zoned for less than one acre	800 feet
Parcels zoned for 1 acre to 4.99 acres	1320 feet
Parcels zoned for 5 acres to 19.99 acres	2640 feet
Parcels zoned for 20 acres or larger	5280 feet...”

For ease of reference, we have attached a Circulation Exhibit prepared by CTA, the applicant’s engineer, showing the connector road segment in issue from Salmon Falls to Alto (ABC segment). Ms. Sciorelli has indicated in an email memorandum dated January 6, 2010 that CTA’s calculations of length for the proposed internal La Canada Phase I road are “The length from Salmon Falls to the end of the Cul-de-sac is 2338 l.f. The length from the intersection of A and C Drive to the end of Phase I improvements (around lot 3) is 568 l.f.” Given that the rezone to RA 5 PD results in all 24 of the proposed Phase I parcels are less than 4.99 acres (not 5 acres to 19.99 acres), the applicable “Dead End Roads” analysis would result in allowed a cul-de-sac of only 1320 l.f. of dead-end road, a far cry from the +/- 2900 linear feet to be approved by the staff’s recommendation.

As noted above, we urge the Board to modify Condition #39 to require compliance with the County and State SRA regulations.

6. LAFCO Approval of Annexation Into El Dorado Irrigation District and El Dorado Hills Fire Department

Conditions #74 and #75 pertain to the annexation of the La Canada project into El Dorado Irrigation District and El Dorado Hills Fire Department; however, they only require that the applicant “process an application...” This is deficient in that an approved annexation by the Local Agency Formation Commission and service by the two districts is not required as a condition of approval.

Point #6: The conditions of approval should be amended as follows:

Condition of Approval #74 should be amended as follows:

“74. The applicant shall process a request for annexation into the El Dorado Irrigation District for public water, *obtain LAFCO approval of such annexation and thereafter annex into the El Dorado Irrigation District prior to the filing of any Final Map of the property or portion or phase of the property.*”

Condition of Approval #75 as follows:

“75. The applicant shall process a request for annexation into the El Dorado Hills Fire District for fire protection services, *obtain LAFCO approval of such annexation, thereafter annex and obtain a commitment for fire protection services from El Dorado Hills Fire Protection District prior to filing of any Final Map of the property or any portion or phase of the property.*”

The foregoing amendments and revisions will further ensure that the La Canada Salmon Falls connector road project and the Malcolm Dixon Area Traffic Circulation Plan will be developed and implemented in the timely, feasible, and equitable manner of cost sharing as envisioned by the Plan. They will also ensure that the public interests are protected and will result in responsible development. We urge your Board to adopt them as submitted here.

Thank you for your attention to these matters.

Sincerely,



Gary Sparks