

## **FROM THE MINUTES OF SEPTEMBER 13, 2007**

### **11. APPEAL (Public Hearing)**

**Temporary Use Permit TUP07-0011:** Request submitted by STEPHAN C. VOLKER, representing Voices for Rural Living/Chrysan M. Dosh, appealing approval of a temporary use permit which would allow a temporary construction yard for the Shingle Springs Rancheria-U.S. Highway 50 Interchange construction and is limited to two portable offices and associated parking. The property, identified by Assessor's Parcel Number 319-220-18, is zoned Estate Residential Five-acre (RE-5), consists of 34.63 acres, and is located on the west side of Shingle Springs Drive, at the intersection of U.S. Highway 50 and Shingle Springs Drive in the **Shingle Springs area**, Supervisorial District IV.

This item was continued from the meeting of August 9, 2007.

Jonathan Fong recommended denial of the appeal and gave the Commissioners an amended set of conditions. Chair Knight asked that the appellant and individuals in the audience limit their comments to the new information.

Stephan Volker said they are concerned about a second casino on this site. He disagrees the project is categorically exempt. He does not agree this is a permitted use in the zone district. He also feels the site must be adjacent to the work site and that a special use permit is required. A special use permit is discretionary and must include a CEQA review.

Ron Briggs, Supervisors District IV, read the opening paragraph for a temporary use and other sections of the County ordinance. On the application the applicants stated the use would be for about 18 months. He believes this requires a special use permit if for nothing else that the use is going to continue for approximately 18 months. He asked that the Commission look long and hard at the facts and that a special use permit be required.

Art Marinaccio wanted to see the new information that the Commission asked for at the last meeting. He spoke about the requirement that this property must be brought into the Community Region. Mr. Marinaccio asked that the appeal be upheld and that an appropriate application be required for the use.

Chrysan Dosh would like to know why the materials are not being stored on the Rancheria property. The project site is in close proximity to two schools and a church. She feels the safety issues need to be addressed.

Thelma White, resident on Shingle Springs Drive, said the construction yard is a concern to the residents on Shingle Springs Drive. They do not believe this is a compatible use for this site based on the surrounding uses. She asked that the Commission grant the appeal.

Chair Knight said at the last hearing the Commission asked if there was any possibility of using the Rancheria site. Howard Zabel, CC Meyers, said they did go to the Rancheria and spent half a day looking for a possible site for the storage yard. There are no areas on the Rancheria that could be used for the yard.

Gary Janco, resident in Shingle Springs and in the construction business for 40 years and Vice President of CC Meyers, said this is the first time they have run across a situation like this for a road construction project. The superintendent is on the job site and will make sure everything is done properly. They have nothing to do with the casino. They are dealing with Caltrans. Regarding the possibility of a second casino, Mr. Zabel said they have nothing to do with that proposal. Chair Knight said he is aware they have nothing to do with the casino project. This is a hearing for a temporary use permit. Mr. Zabel said the site is directly adjacent to the limit of their project. There is no place that would be closer to their project. They did apply for the permit in May. Their completion date has not changed. They want to get their construction yard so they can start using it.

Mr. Briggs said this use exceeds the temporary use permit requirements. A special use permit is required.

Commissioner Mathews said we are dealing with a construction yard adjacent to the freeway. To him it is a bit of a stretch. He does not know where else you would put the materials. You have someone building something no one wants, and you have someone building something where they are under contract. If you were building a freeway for something the people wanted you would not have this conflict. He would not want a casino in his backyard. Commissioner Machado disagreed they are building something no one wants. There are just as many people that want the casino. He agrees this is a temporary use permit for an interchange. The construction in Placerville affects him daily but will be finished shortly as will this interchange. Schools put in temporary mobile homes on their sites all the time, and the County has nothing to say. CC Meyers is a very reputable business. This has nothing to do with the casino. The appellants have nothing to do with the casino. The interchange at Shingle Springs Drive is within the applicant's area of limit. The ordinance specifically allows the use.

After the motion and before voting, Commissioner Mathews stated we are only dealing with a temporary use permit and have been approved them in various locations that were much worse than this one.

**MOTION: COMMISSIONER MACHADO, SECONDED BY COMMISSIONER KNIGHT AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS MACHADO, MATHEWS, AND KNIGHT; ABSENT – COMMISSIONERS MAC CREADY AND TOLHURST, IT WAS MOVED TO DENY THE APPEAL OF TUP07-0011A AND UPHOLD THE APPROVAL OF TEMPORARY USE PERMIT TUP07-0011 BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS PROPOSED AND MODIFIED BY STAFF.**

**Findings** (For approval of TUP07-0011)

1. The Temporary Use Permit was submitted on May 22, 2007, by CC Myers Inc. Planning Services reviewed the application for consistency with the zoning regulations and determined that a temporary construction yards and offices are permitted uses with the Estate Residential Five-acre (RE-5) Zone District with the issuance of a Temporary Use Permit.
2. The Temporary Use Permit was reviewed and determined that in accordance with the CEQA Guidelines, the Project would be categorically exempt pursuant to Section 15300.1, which states that *Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities which may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.*

### **Conditions**

1. This Temporary Use Permit is based upon and limited to compliance with the project description and submitted Site Plans, dated May 23, 2007, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Temporary Use Permit TUP07-0011 consists of the use of Assessor's Parcel Number 319-220-18 as a temporary construction yard for the Shingle Springs Rancheria-Highway 50 Interchange construction. The use is permitted until the time of completion of the Shingle Springs Rancheria-Highway 50 Interchange, as determined by Caltrans. The temporary use at the site shall be limited to the uses identified on the site plan including the storage of construction materials such as steel beams, wood panels and petroleum products and associated parking. No explosives would be placed onsite. Project lighting would be limited to a maximum of four lights which would face north away from the residences to the south and east.

Hours of operation for the site shall be limited to 7:00 AM to 7:00 PM Monday through Friday and 8 AM to 5 PM on weekends and on federally recognized holidays in accordance with Policy 6.5.1.11 of the General Plan.

The use and maintenance of the property, ~~the size, shape, arrangement, and location of structures, parking areas, and the protection and preservation of resources~~ shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

### **Department of Transportation**

2. No fencing or any other fixed object shall be placed in the right of way.
3. The applicant shall obtain an encroachment permit from the Department of Transportation (DOT) for access to ~~Greenstone Road~~ Shingle Springs Drive and shall construct the encroachment to the requirements of the County of El Dorado Design and Improvements Standards Manual (DISM) Standard Plan 103C. The proposed encroachments are temporary, and the applicant shall subsequently submit a plan to DOT for review and approval for the ultimate encroachment(s) to serve this parcel.

### **Planning Services**

4. All temporary uses permitted under this Temporary Use Permit shall be removed within 10 days of the completion of the Shingle Springs Rancheria-Highway 50 Interchange as determined by Caltrans. Failure to remove the temporary uses by this deadline will result in forfeiture of the submitted \$1,000 bond and potential Code Enforcement action.
5. All storage yard lighting shall be designed so as to direct light downwards (top and side shielded). Lights shall be placed so that no glare or light spills over onto an adjoining property or established road right-of-way.
6. The storage yard fencing shall be constructed as shown on the site plan and properly maintained at all times.
7. The temporary use shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.

### **Environmental Management Department**

8. The project staging area location will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM<sub>10</sub>) in the form of dust

from vehicle traffic. Current county records indicate this property is not located within the Asbestos Review Area. But, District Rules 223 and 223.1, which address the regulations and mitigation measures for fugitive dust emissions shall be adhered to during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.1. In addition, a Fugitive Dust Plan (FDP) application with appropriate fees shall be submitted to and approved by the Air Management Quality District prior to start of project construction.

9. The applicant shall prepare and submit a hazardous materials business plan for review by Hazmat Division staff and pay applicable fees. A copy of the plan must be maintained onsite. All aspects of the plans emergency response procedures and training sections must be implemented. Secondary containment must be provided for fuel storage of 1320 gallons or more. The site will be subject to periodic inspections.

The action today can be appealed to the Board of Supervisors within ten working days.