

December 9, 2009

Chairman and Members
El Dorado County Planning Commission
Building C Hearing Room
2850 Fairlane Court
Placerville, California 95670

Re: Item # 12: El Dorado County Planning Commission
December 10, 2009 Agenda
La Canada Subdivision
Rezone Z08-0001/ Planned Development PD08-0003/
Tentative Subdivision Map TM08-1463

Honorable Commission:

This office represents Alto LLC which owns the property immediately east to the proposed La Canada subdivision. The Alto property also has an approved rezone, planned development permit and approved tentative subdivision map which are integrally related to the La Canada subdivision PD and tentative subdivision map.

Alto supports the approval of the La Canada project, but has concerns over the phasing proposal that has been recommended for approval by the County staff. Simply stated, Mr. Parks' request and the staff recommendation is that a Phase I be permitted which would have a single access to a publicly maintained road (Salmon Falls) and contemplates that the other phases are permitted for construction at some later date. The proposed second point of access is by way of the Alto subdivision and the Diamante and Chartraw properties to Malcolm Dixon road, however, not subject to construction until the later phases. While phasing of a subdivision is certainly not unusual, it should be recognized that the proposed Phase I is a choice Mr. Parks is pursuing as part of his marketing plan, and should not be approved if it results in detriment to any of the other properties participating in the County approved regional traffic circulation plan. Accordingly, we are of the opinion that the regional area traffic circulation and circumstances attendant in this project are unique and require a different approach.

Our concerns are that under a phasing plan, the La Canada Phase I may be developed to a Final Map for that phase only. As a legal and particularly a practical matter, especially in this recent economic reality of unfulfilled tentative subdivision maps, if the project is phased as proposed, the remainder of the proposed subdivision and the interior connector road may never be built from Salmon Falls to Alto to Malcolm Dixon road. There has been little discussion regarding whether this could occur or the

consequences if this should occur, or as to the circumstance where the County or adjoining developments may be required to engage in delay and costly (and in our opinion-completely unnecessary) surety bond litigation or eminent domain litigation to ultimately achieve the connector road right-of-way acquisition and construction. We are also concerned the staff report does not fully discuss or examine the details for the Phase I interior road design compliance so that the Commission may make its fully informed recommendation.

As your Commission is more than aware from the many hours of testimony on potential traffic impacts to Malcolm Dixon road, the timely construction of this section of roadway is integral and of critical significance to the overall traffic circulation for the region. Other projects, including La Canada, will participate in the Area of Benefit for improvements to Malcolm Dixon road and the reduced traffic impacts and improved traffic safety on Malcolm Dixon from the approved regional traffic circulation plan. While other projects will as well, the La Canada project benefits from the improved and desired circulation plan. Now is the time for ensuring that the connector link will be obtained or otherwise risk the loss of improved regional traffic circulation plan for all.

There are at least two easy and reasonable remedies to the foregoing problem. The La Canada subdivision can be done in phases, but that the Conditions of Approval should provide that prior to the Final Map approval by the County for any phase of the La Canada subdivision, the interior connector road between Salmon Falls road and the Alto subdivision be completed and approved by the County. This additional conditioning would assure that the mitigating roadway connector link will be timely implemented and allow the remainder of the La Canada subdivision to be developed.

Alternatively, if phasing is allowed, the County should designate the central area (proposed Phase II) which incorporates the circulation link from Salmon Falls road to the Alto property boundary to be the Phase I of the La Canada project. This would ensure that the circulation link is developed and the County approved regional circulation plan will be achieved as a priority.

Thank you for your attention to these comments and concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "W Neasham", followed by a long horizontal line extending to the right.

William C. Neasham

Comments from Paul Sayegh
December 10, 2009 Planning Commission
Z08-0001/PD08-0003/TM08-1463/La Canada Subdivision

Dear Planning Commission, I encourage you to deny the La Canada Development until CEQA requirements are met. I offer the following CEQA violations and comments:

Cumulative impacts of numerous area projects have not been evaluated properly.

Please note that Section XVII of the Environmental Document for Mandatory Findings of Significance (b) asks: Does the project have impacts that are individually limited but cumulatively considerable? Noting that Cumulatively Considerable means that the incremental effects of projects are considerable when viewed in connection with effects of past projects, the effect of other current projects, and the effects of probable future projects? Despite the fact that numerous projects bordering this project have been heard and approved by this Commission within weeks of this project, no mention of current projects are mentioned in the discussion. Boxes "B" and "C" have NO IMPACT checked and then it's discussed like there is possible impacts. This needs to be clarified and re-circulated to the public.

The Density Bonus is inappropriate since the added density impacts were not studied in the General Plan!

In fact the CEQA document for the General plan states in **Section 4, 4.2 Land Use and Estimates** that policies are not included in the estimate and all charts in the General Plan EIR are based without using policies such as the density bonus. **Simply look at the densities listed in the general Plan for LDR and add up the number of homes projected in the area and you will see the area was not evaluated for the density proposed in this area and therefore can not be tiered off the General Plan CEQA document since it is no longer accurate as long as the density bonus is utilized in bordering properties. A separate EIR is justified.**

As required by CEQA, cumulative effects of all these projects in the area need to be evaluated and the Discussion of Impacts does not discuss the specifics of impacts and the document relies on "fees" as a measure of mitigation. A "fee" is not a mitigation measure. The Mitigated Negative Declaration proposed relies on the General Plan for cumulative effects impacts but the General Plan relies on broad assumptions for the area at the time of it's writing with no area specific data as required by CEQA. This project does not calculate, recognize or even mention bordering projects and totally fails to answer the Mandatory Findings of Significance. The general area exceeds densities of the General Plan but without analysis. The County can not simply ignore cumulative impacts.

The Initial Study does not comply with CEQA the General Plan provision 2.2.5.3 as it states

1. Section 2.2.5.3 of the General Plan requires numerous criteria in rezoning. This project fails to evaluate or even discuss if #3 availability of public waste water systems was feasible, #8 septic or leach field capability or #16 the proximity to a perennial water source...in this case New York Creek that has recently been recognized by the County as perennial. In addition the fact that the Housing element of the General Plan states on page 4-59 that the suitability of the lower West Slope to accept septic tank effluent varies widely. Many areas have a geology that includes shear zones, serpentine, melange and other rock and soil types that may not be suitable for acceptance of septic tank effluent. In many cases, connection to an existing wastewater management system (i.e., EID's system) is the only way a parcel on the lower West Slope can develop. Connecting to EID's system may not always be financially practicable, though, and could ultimately result in the extension of service to rural areas that the County has not identified as future growth areas on the General Plan Land Use Map.

(pasted from General Plan)

A perc test does not satisfy this evaluation requirement and only demonstrates if the water absorbs in the ground, not where that water goes. The CEQA Initial Study states the project contains "Auburn very rocky silt loam" It would be safe to assume that grey water will easily migrate to New York Creek, a perennial stream. No evaluation was done for impacts to New York Creek or **possible feasibility** of EID hookup required under 2.2.5.3. Regardless, no evaluation was done and the Initial Study defers the septic issue all together in part VIII discussion(a) by stating that the County Environmental Management Dept will assure compliance and therefore there are no significant impacts. Stating someone else will assure compliance instead of evaluating impacts does not comply with CEQA. In addition it is a CEQA violation to provide mitigation AFTER approval and not provide analysis **prior** to approval. The analysis and impacts can not be deferred and must be evaluated as part of the Initial Study. The purpose of a CEQA document is to evaluate impacts **PRIOR** to a project approval and not after.

There are other issues to be considered regarding septic....New state law AB885 requires septic tank evaluations and pumping. In a letter dated February 3, 2009 the El Dorado Board of Supervisors wrote a letter to the State Water Resources Board, signed by Chairman Ron Briggs arguing against AB885 and stating the frequent soil permeation in El Dorado County. (Copy given for public record) The very soil that allows septic grey water to travel long distances on hills similar to this project that could impact New York Creek. The County argues this point but ignored that same fact in evaluating this project and others causing a **CEQA violation**. The County letter argued that they had insufficient funds to implement the program. This project and other bordering projects will increase financial impacts to the County but there is no mention of that impact. In addition, the Supervisors asked in the same letter page 6 if a feasibility study had been done to insure wastewater treatment plants had capacity for the increased sewage pumpage of the septic tanks. If the County is worried about this why has it not been evaluated on this and other projects since it will increase loads on the local sewer plants? Do we or do we not have the required capacity to handle the upcoming solids pumpage of this and other projects? A **CEQA violation would occur without an analysis**. And finally on page 7 of the Supervisors letter the County states the new law would double the area a parcel would

need for a septic system. No mention of any of this and it's possible impacts in the environmental document. AB885 will have impacts on this specific project and much more when looking at the cumulative impacts of all the local projects but this was not evaluated. A full EIR is justified. The County is now ignoring the very same issues mentioned by their letter while attempting to approve this project and other bordering projects.

In addition the property directly South of this project is designated HDR and will certainly require EID sewer hookups. However, despite the closeness to HDR, and General Plan requirements of 2.2.5.3 no sewer hookup feasibility evaluations were done or even mentioned. As an example, the Chartraw home directly next to this development has a County permit for a septic system with a design flow of 1250 gals day. If the 100 potential homes in the area (not including Granny Flats) on the properties with current applications submitted have similar systems it could potentially have a cumulative effect of 45 million gallons per year of grey water migrating down the hillside. Again that's not including Granny flats, urban runoff and irrigation runoff. Where is the study of impacts to New York Creek ? There is none. An EIR is required. The General Plan specifically states in the Housing Element that the west slope may not be conducive to septic systems but was not studied here at all. In fact the Initial study defers analysis all together. CEQA requires specific data to comply not general overviews. Approving this project with the proposed Mitigated Negative Declaration and without specific detail is a CEQA violation.

A full EIR is in order here. The soils report states that there is no evidence that the project will recharge groundwater. Perc tests are slow and there will be a tendency for grey water to leach to New York Creek. New York Creek was determined on the Ferren project to be a perennial creek. This was determined AFTER the General Plan EIR. New York Creek flows to a State Waterway and no study or even an evaluation has been done to determine the impacts of septics, residential runoffs, fertilizers, asbestos found on site and how they impact New York Creek. Since the perennial classification has been changed it can no longer be tiered off the General Plan Document and must be evaluated separately per CEQA rules. A full EIR is justified.

The development along Malcolm Dixon Rd comprises about 400 acres and there is a significant deer population. There has not been consideration of how deer can move through 400 acres of new development and move between new and old developments. An analysis is warranted.

In closing, the Development as proposed does not comply with the General Plan and would seriously violate CEQA laws. The continuing piece meal of the area without environmental analysis is disturbing and a violation of the law. The Initial Study for the project does not include a summary of (or specific citation to) the previous Tiered General Plan EIR sections relied upon. Thus, the study violates CEQA's requirement

that the public be afforded the opportunity to determine whether the data relied upon is in fact supportive of the conclusions in the Mitigated Negative Declaration.

I ask this commission to deny the request to accept the Mitigated Negative Declaration and deny the project as proposed until a properly written environmental document that complies with CEQA and the General Plan is submitted.

Paul Sayegh