

1/3/2020

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PC 1-9-20
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Planning Department <planning@edcgov.us>

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Horizon Cell Tower Project

1 message

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Fri, Jan 3, 2020 at 11:32 AM

Please post ASAP. I thank you very much.

Dyana Anderly, MA, AICP



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To the El Dorado County Planning Commission

Regarding: Environmental Review of the Horizon Cell Tower Proposal

In accordance with the California Environmental Quality Act (CEQA), Section 150.72 the County staff posted the proposed Mitigated Negative Declaration for public review, and member(s) of the public commented on this document. You are now required to act upon this document in accordance with the following CEQA Guidelines:

1. BEFORE you make a decision and act upon the project, you must “consider the proposed mitigated negative declaration.”
2. BEFORE you approve a project, the Planning Commission must not only consider the proposed mitigated negative declaration, it must also consider any comments received during the public review process.
3. The Planning Commission shall approve the proposed mitigated negative declaration “only if it finds on the basis of the whole record before it (including the initial study and any comments received *emphasis added*) that there is no substantial evidence that the project will have a significant effect on the environment and that the ... mitigated negative declaration reflects the lead agency’s [*in this case the County staff*] independent judgment and analysis.”

Per CEQA section 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT (b) (1) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on **scientific and factual data.**

The proposed mitigated negative declaration lacks sufficient evidence to be able to approve it from my viewpoint given the following:

- a. One of the issues raised by members of the public was the concern about abandoned gold mines that are known to exist within the area of the project. The proposed mitigated negative declaration failed to take into account these comments from members of the public and it neglected to address this issue in the mitigated negative declaration. No factual or scientific information was provided other than an “assumption” by a biologist about ground water. No factual or scientific data was presented on the actual proposed depth of the underground apparatus associated with the project and its relationship to underground water or other geologic obstacles.
- b. No factual or scientific data was presented that would adequately reflect the visual/aesthetic impact of the project on the scenic Apple Hill area. Members of the public expressed concern about visual impacts during a public hearing and in the review period of the mitigated declaration, yet their concerns were not adequately addressed. While there have been photographs shown of what the applicant claimed is a similar tree, these photos were taken from such a distance as to be unable to discern its actual appearance. Other digital illustrations included in the mitigated negative declaration also do not reflect what one might expect visually. There should be pictures of EXACTLY what the faux-tree cell tower would look like in order to make an intelligent decision about how it would fit into the Apple Hill environment. Additionally, the document FAILS to recognize the Fire Department’s policy of substantial clearance around the project that could further add to its visual intrusion into its scenic Apple Hill setting, not to mention further loss of trees. No alternative was presented to avoid utilitarian appearing fencing nor what the proposed equipment boxes would look like. The other major and factual omission is how much taller the proposed faux tree (cell tower) over the existing surrounding trees. Staff’s indication of “albeit somewhat tower” is totally inadequate, lacking factual information.
- c. The mitigated negative declaration contains conflicting information. On the one hand, it depicts which few trees might be removed, and on the other hand it neglects to acknowledge or take into consideration Fire

Department's standards in this high -fire-danger area which would likely require the removal of even more trees. To add to this issue, the distance between the project location and an adjacent property line may render this standard unworkable. These are significant omissions given climate change, its location in a high-fire danger, its position in a scenic area and in the vicinity of another's property.

The drastic omissions and conflicting information revealed in the proposed mitigated negative declaration, in my opinion, are sufficient cause for a revision of and recirculation of the document. Under CEQA section 15073.5 the mitigated negative declaration is required to be recirculated when it must be substantially revised after public notice of its availability but prior to its adoption. A "substantial revision" includes "a new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

It appears that proposed mitigated negative declaration lacks adequate mitigation measures to reduce potential significant impacts. How can adequate mitigation measures be introduced when the potential impacts themselves are not adequately identified?!

Another possibility is the preparation of an environmental impact report. if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, Friends of B Street v. City of Hayward).

The Planning Commission should not be placed in the position of acting on an inadequate environmental document, especially upon this sensitive project. I am of the opinion that the document should be either disapproved or returned for amendments that would supply you with factual information upon which to base your approval or disapproval action. However, there are specific timelines within which you must make a decision on a mitigated negative declaration, which is six

months from the time the project application was deemed complete. Unfortunately, the application was deemed complete on July 18, 2019, and staff is bringing this application to you at the very last minute (unexplainable). Therefore, your options are to either (1) disapprove the mitigated negative declaration, indicating that it lacks sufficient factual data by which to make a decision, or (2) approve the mitigated negative declaration if you find it adequate as presented to you with minor amendments), or (3) seek a time extension to revise the document, addressing issues raised. This last option must be agreed to by the applicant.

You are responsible for taking an action that is to the benefit of the community. If you disapprove the mitigated declaration, the project dies. The applicant could appeal your decision, or he could re-apply at a later date or he could apply for a different location that suits his needs.

Respectfully submitted,

/s/ Dyana Anderly

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