

9/26/2019

Edcgov.us Mail - Comments Re: Agenda Item 9-26-19, Item #3 File #19-1425

PC 9/26/19

(Distributed at hearing) #3

Charlene Tim <charlene.tim@edcgov.us>

8 pages



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## Comments Re: Agenda Item 9-26-19, Item #3 File #19-1425

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Sue Taylor <sue-taylor@comcast.net>

Thu, Sep 26, 2019 at 5:41 AM

Reply-To: Sue Taylor <sue-taylor@comcast.net>

To: charlene.tim@edcgov.us, jvegna@edcgov.us, gary.miller@edcgov.us, jeff.hansen@edcgov.us, james.williams@edcgov.us, brian.shinault@edcgov.us

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 9-26-19 comments to planning.pdf  
758K

9-26-19

Dear Planning Commission,

Re: Agenda Item 9-26-19, Item #3 File #19-1425, Hearing to consider the Diamond Village Apartments project (Planned Development PD19-0003) to allow the construction and operation of ten multi-unit residential buildings and one community building totaling 80 multi-family residential units and one on-site manager unit in accordance with Senate Bill 35.

Currently this project is under litigation due to unmitigated impacts not addressed by the County. This is merely an attempt for the developer of this project to sidestep the process in which those impacts would be mitigated.

Unfortunately the impact to this project is due to the County's disregard to adequately account for the traffic impact of multiple prior projects allowed within the Missouri Flat Corridor without mitigation. Therefore, currently there are sections of infrastructure in the area that have been allowed to go to LOS F. This was brought up when the Sheriff's Safety Facility was approved, but mitigation of traffic impacts in the area, and the Missouri Flat Interchange, was ignored by the County.

The staff report states that the "planned development request is consistent with Measure E, specifically General Plan Policies TC-Xa, ..." yet gives no basis for that conclusion. In fact the Applicant's traffic study shows, given the data that even with mitigation Racquet Way and Pleasant Valley will still remain at level of Service F. The study also shows other sections at LOS F and also that the Missouri Flat Interchange with the existing and project conditions does not have the stacking room for the pending traffic. The solution is signals at 3 intersections which are not being required for mitigation to this project. Instead the study bases that hypothetical solutions will cause impacts to be less than significant.

The staff report briefly discusses concerns about consistency with Measure E, and dismisses the concern by simply concluding that "the project is required to mitigate the impacts to the worsened intersections as seen in the Conditions of Approval", but there is nothing in the Conditions of Approval that mitigates Measure E. Mitigation 1 proposed in the Traffic Study for the intersection of Pleasant Valley Road/Racquet Way indicates that the LOS would be B with the installation of a signal, and then proposes the alternative of providing a public road connection to Diamond Road, by way of Black Rice Road (which is a *private* road) would reduce impacts. It does not say to what LOS. Then the graph shows that this intersection will remain at LOS F even with mitigation. The same is true for Mitigation 2 for the intersection of Missouri Flat Road/China Garden Road. This analysis is inadequate. (Traffic Study, p. 40=41.)

The alternative also relies on the Connector which is a future unknown as to when the County will ever have the funds to complete that project.

The Project is also inconsistent with TC-Xd in that there is no demonstration that there is adequate emergency access, and additionally there are not sufficient setbacks as required for fire safety. This issue is ignored.

Intersection	Mitigation	Control	Existing				Existing Plus Project				Existing Plus Project with Mitigations			
			AM		PM		AM		PM		AM		PM	
			Delay <sup>1</sup>	LOS	Delay <sup>1</sup>	LOS	Delay <sup>1</sup>	LOS	Delay <sup>1</sup>	LOS	Delay <sup>1</sup>	LOS	Delay <sup>1</sup>	LOS
1. Pleasant Valley Road/Racquet Way	Traffic Signal Control	SSSC	39	E	<b>191</b>	F	41	E	<u>≥300</u>	E	14	B	16	B
1. Pleasant Valley Road/Racquet Way	Black Rice Connections	SSSC	39	E	<b>191</b>	F	41	E	<u>≥300</u>	E	38	E	117	F
6. Missouri Flat Road/China Garden Road	Restricted Access	SSSC	49	E	<b>108</b>	F	49	E	<b>111</b>	E	23	C	21	C

Notes: SSSC = side street stop control, AWSC = all way stop control, N/A = Not Applicable (future intersection)

<sup>1</sup> For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection. For unsignalized (side street stop controlled) intersections, average intersection delay is reported in seconds per vehicle for the overall intersection (worst movement). All results are rounded to the nearest second.

**Bold** text indicates LOS worse than established threshold. italic and underlined text identifies a potential impact.

Source: Fehr & Peers, 2015

SB35 does not contain policy that it does not have to comply to voter approve ballot initiatives or laws that require protection to the public’s health and safety to assure that safe and adequate roads and highways are in place as such development occurs.

Policy TC-Xa states:

“Except as otherwise provided, the following TC-Xa policies shall remain in effect indefinitely, unless amended by voters:

**1. Traffic from residential development projects of five or more units or parcels of land shall not result in, or worsen, Level of Service F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.**

**2. The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County’s list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at Level of Service F without first getting the voters’ approval.**

3. Developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads and their intersections during weekday, peak hour periods in unincorporated areas of the county.

**7. Before giving approval of any kind to a residential development project of five or more units or parcels of land, the County shall make a finding that the project**

complies with the policies above. **If this finding cannot be made, then the County shall not approve the project** in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs."

I've also included Table TC-2 for easy reference:

TABLE TC-2 EL DORADO COUNTY ROADS ALLOWED TO OPERATE AT LEVEL OF SERVICE F <sup>1</sup>		
Road Segment(s)		Max. V/C <sup>2</sup>
Cambridge Road	Country Club Drive to Oxford Road	1.07
Cameron Park Drive	Robin Lane to Coach Lane	1.11
Missouri Flat Road	U.S. Highway 50 to Mother Lode Drive	1.12
	Mother Lode Drive to China Garden Road	1.20
Pleasant Valley Road	El Dorado Road to State Route 49	1.28
U.S. Highway 50	Canal Street to junction of State Route 49 (Spring Street)	1.25
	Junction of State Route 49 (Spring Street) to Coloma Street	1.59
	Coloma Street to Bedford Avenue	1.61
	Bedford Avenue to beginning of freeway	1.73
	Beginning of freeway to Washington overhead	1.16
	Ice House Road to Echo Lake	1.16
State Route 49	Pacific/Sacramento Street to new four-lane section	1.31
	U.S. Highway 50 to State Route 193	1.32
	State Route 193 to county line	1.51
Notes:		
<sup>1</sup> Roads improved to their maximum width given right-of-way and physical limitations.		
<sup>2</sup> Volume to Capacity ratio.		

Also the findings and conditions of approval are conflicting in regards to fire safety requirements.

**IN THE FINDINGS:**

**2.12 The project is consistent with General Plan Policy 6.2.2.2.**

Policy 6.2.2.2, Wildland Fire Hazards, requires that the County preclude development in high and very high wildland fire hazard areas unless such development can be adequately protected from wildland fire hazards, as demonstrated in a Fire Safe Plan and approved by the local Fire Protection District and/or CALFIRE.

Rationale: The property is located in a Moderate Fire Hazard Zone, therefore a fire safe plan is not required and the project is in compliance with this

policy. Additionally, the project has been reviewed by the Diamond Springs El Dorado Fire Protection District.

IN THE CONDITIONS OF APPROVAL:

**Diamond Springs El Dorado Fire Department:**

19. Setbacks: Any parcels greater than one acre shall conform to State Fire Safe Regulations (Title 14 SRA Fire Safe Regulations.) requirements for setbacks (minimum 30' setback for buildings and accessory buildings from all property lines).

a. 1276.01 Setback for Structure Defensible Space:

All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road.

b. For parcels less than 1 acre, the local jurisdiction shall provide for the same practical effect. (Section 4290, Public Resources Code. Reference: Sections 4290 and 4291. Public Resources Code.)

c. Setback variances will be considered based upon actual distance from property lines, fire rated construction, size, type and percentage of openings in rated walls, and will be based upon the 2016 Title 24 California Building Code, Part 2 Vol 1, for R-2 construction as well as same practical effect consideration and an approved wildland urban interface plan.

As far as using SB35 for this project, there are at least 2 policies that conflict with automatic approval:

Wetlands and Farmlands.

**WETLANDS:**

Per SB35: 65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(2) The development is located on a site that satisfies all of the following:

(6) The development is not located on a site that is any of the following:

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

The Biological report identifies three wetlands on the project site. That is all the law requires, is that wetlands are defined, not that they are identified as non-jurisdictional under Federal law.

SUMMARY OF FINDINGS		
Hydrophytic vegetation present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Hydric soil present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Wetland hydrology present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

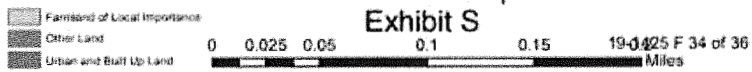
FARMLAND:

6) The development is not located on a site that is any of the following:

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of the jurisdiction.



PD19-0003/Diamond Village Apartments  
 Farmland Map  
 Exhibit S



In 2004 the voters of El Dorado County voted to approve the El Dorado County General Plan. Within the General Plan they added an Agricultural and Forestry Element. The above diagram above shows the project area is within Farmland of Local importance. Therefore the applicant cannot use SB35 to streamline this project.



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## EL DORADO COUNTY GENERAL PLAN AGRICULTURE AND FORESTRY ELEMENT

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### **PRINCIPLE**

*The Plan must provide for the conservation and protection of El Dorado County's important natural resources, and recognize that the presence of these resources pose a constraint to development.*

### **INTRODUCTION**

The Agriculture and Forestry Element addresses the conservation, management, and utilization of the County's agricultural and forest lands. In El Dorado County, these lands are regarded by residents as fundamental components of the County's rural character and way of life. In recent years, large influxes of new residents have resulted in increased development and thus a changed landscape. While this growth has benefited the County in many ways, the low-density residential growth has threatened important agricultural and forest lands. Prudent management of the County's agriculture and forestry resources is needed to provide future generations with opportunities to experience both the economic benefits and rural lifestyle residents now enjoy. This prudent management strategy involves maintenance of large parcel sizes and the minimization of incompatible land use encroachment into these resource rich lands.

The Agriculture and Forestry Element is consistent with the requirements set forth in California Government Code Section 65302 and other applicable sections. The conservation and management of agricultural and forest lands is identified by the residents of El Dorado County as an important issue to be addressed by the General Plan. This element encompasses portions of the mandatory Land Use, and Conservation and Open Space Elements set forth by the California Government Code. Provisions within each of these elements apply to agricultural and forest lands. Specifically, State law requires that the general plan shall include:

"A land use element which designates the proposed general distribution and general location and extent of the use of land for . . . agriculture. . . ." (Government Code Section 65302(a)).

"A conservation element for the conservation, development, and utilization of natural resources including . . . soils. . . ." (Government Code Section 65302(d)).

I would ask that the request to use SB35 for this project be rejected and the project be rejected until a properly written environmental impact document and can be composed that will comply with CEQA, the El Dorado County General Plan and Measure E.

Respectfully,

s/Sue Taylor  
For Save Our County