

#24

19-1714



EDC COB <edc.cob@edcgov.us>

**Fwd: 02/11/20 agenda Item #24, Legistar #19-1714**

3 messages

Larry Weitzman <larryb58tc@gmail.com>  
To: edc.cob@edcgov.us

Mon, Feb 10, 2020 at 3:07 PM

----- Forwarded message -----

From: **Larry Weitzman** <larryb58tc@gmail.com>  
Date: Mon, Feb 10, 2020 at 3:02 PM  
Subject: 02/11/20 agenda Item #24, Legistar #19-1714  
To: <bosfour@edcgov.us>, <bosfive@edcgov.us>, <bosone@edcgov.us>, <bosthree@edcgov.us>, <bostwo@edcgov.us>, Donald Ashton <don.ashton@edcgov.us>, <cob@edcgov.us>

Please include the following in the record and in consideration of the above captioned matter.

Letter to BOS item #24, Legistar # 19-1714, 02-11-20

February 10, 2020

Dear BOS One, BOS Two, BOS Three, BOS Four and BOS Five.

This letter concerns BOS calendar item #24, Legistar # 19-1714 which is an appeal submitted by County Auditor Joe Harn appealing the Planning Commission's October 24, 2019 approval of Planned Development PD18-0005/Tentative Subdivision Map TM18-1536/Serrano Village J7 which would allow a Development Plan for the Proposed subdivision.

It appears from the agenda item that you are going to deny this appeal because it is Statutorily Exempt pursuant to CEQA section 15182 so another EIR is unnecessary. That is wrong. It is not exempt as Section 15182 says in order for this project to be exempt it must comply with Section 15162.

Section 15162 says that if substantial changes occur it requires revisions to the current EIR.

Substantial changes have occurred in that the population of the area according to U.S. census reports has grown by a factor of 6.5 (from about 6,400 in 1990 to over 42,500 residents currently. Secondly, in 2016, the DOT recommended the elimination of the widening of Bass Lake Road from two lanes to four lanes. This widening was eliminated by the BOS in December of 2016. Those are substantial changes. That is irrefutable.

Since they are substantial changes, Section 15162 of CEQA prevents the use of approving this project through the use of CEQA section 15182 (c) (2) statutory exemption privileges as those substantial changes above prevent approving this project under that exemption because of the limitations specifically imposed by section 15162 and referred to by Section 15182.

I have pasted below the pertinent CEQA sections. I suggest you read them, first 15182 paragraph (c) (2) which relates to Residential Projects Implementing Specific Plans and its limitations which refer to 15162 and then Section 15162 from the beginning paragraph and the next two paragraphs.

Sincerely,

Larry Weitzman

Placerville, Ca

CEQA Section 15182

## § 15182. Projects Pursuant to a Specific Plan.

(a) General. Certain residential, commercial and mixed-use projects that are consistent with a specific plan adopted pursuant to Title 7, Division 1, Chapter 3, Article 8 of the Government Code are exempt from CEQA, as described in subdivisions (b) and (c) of this section.

(b) Projects Proximate to Transit.

(1) Eligibility. A residential or mixed-use project, or a project with a floor area ratio of at least 0.75 on commercially-zoned property, including any required subdivision or zoning approvals, is exempt if the project satisfies the following criteria:

(A) It is located within a transit priority area as defined in Public Resources Code section 21099(a)(7);

(B) It is consistent with a specific plan for which an environmental impact report was certified; and

(C) It is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board has accepted the determination that the sustainable communities strategy or the alternative planning strategy would achieve the applicable greenhouse gas emissions reduction targets.

(2) Limitation. Additional environmental review shall not be required for a project described in this subdivision unless one of the events in section 15162 occurs with respect to that project.

(3) Statute of Limitations. A challenge to a project described in this subdivision is subject to the statute of limitations periods described in section 15112.

(c) Residential Projects Implementing Specific Plans.

(1) Eligibility. Where a public agency has prepared an EIR on a specific plan after January 1, 1980, a residential project undertaken pursuant to and in conformity to that specific plan is exempt from CEQA if the project meets the requirements of this section.

Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments.

(2) Limitation. If after the adoption of the specific plan, an event described in Section 15162 occurs, the exemption in this subdivision shall not apply until the city or county which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the lead agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR.

(3) Statute of Limitations. A court action challenging the approval of a project under this subdivision for failure to prepare a supplemental EIR shall be commenced within 30 days after the lead agency's decision to carry out or approve the project in accordance with the specific plan.

(d) Fees. The lead agency has authority to charge fees to applicants for projects which benefit from this section. The fees shall be calculated in the aggregate to defray but not to exceed the cost of developing and adopting the specific plan including the cost of preparing the EIR.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21155.4, Public Resources Code; Sections 65456 and 65457, Government Code; and *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal. App. 4th 1301.

### CEQA Section 15162

15162. Subsequent EIRs and Negative Declarations (a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following: (

A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. (b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

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 **Letter to BOS CEQA 021020.docx**  
18K

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**EDC COB** <edc.cob@edcgov.us>

Mon, Feb 10, 2020 at 3:48 PM

To: The BOSONE <bosone@edcgov.us>, The BOSTWO <bostwo@edcgov.us>, The BOSTHREE <bosthree@edcgov.us>, The BOSFOUR <bosfour@edcgov.us>, The BOSFIVE <bosfive@edcgov.us>

FYI.

Office of the Clerk of the Board  
El Dorado County  
330 Fair Lane, Placerville, CA 95667  
530-621-5390

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 **Letter to BOS CEQA 021020.docx**  
18K

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**EDC COB** <edc.cob@edcgov.us>

Mon, Feb 10, 2020 at 3:48 PM

To: Larry Weitzman <larryb58tc@gmail.com>

Thank you. Appropriate public comment provided for upcoming agenda items will be added to the corresponding file.

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El Dorado County  
330 Fair Lane, Placerville, CA 95667  
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2/10/2020

Edcgov.us Mail - Fwd: 02/11/20 agenda Item #24, Legistar #19-1714

[Quoted text hidden]

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