

3/18/2020

Edcgov.us Mail - RE: IDR Session Follow Up - CEDHSP Plan Proposal

PC 3.26.20



Item # 4
Julie Saylor <julie.saylor@edcgov.us>

8 pages

RE: IDR Session Follow Up - CEDHSP Plan Proposal

2 messages

Dean Getz <DGetz@axiomanalytix.com>

Wed, Mar 18, 2020 at 4:35 PM

To: Julie Saylor <julie.saylor@edcgov.us>

Cc: Tiffany Schmid <tiffany.schmid@edcgov.us>, Jeanette Salmon <jeanette.salmon@edcgov.us>, Robert Peters <robert.peters@edcgov.us>, Rommel Pabalinas <rommel.pabalinas@edcgov.us>, Debra Ercolini <debra.ercolini@edcgov.us>, Breann Moebius <breann.moebius@edcgov.us>

Dear Ms. Saylor et al.:

Please find the Serrano Owners Association's latest correspondence confirming that the HOA's lawyer(s) continue(s) to "investigate" whether (or not) the Central El Dorado Hills Specific plan's proposed changes to the El Dorado Hills Specific Plan actually violate the HOA's CC&Rs.

This correspondence to me (Attached) should be included in the public record as it could impact the County's decision with regard to the plan—as submitted.

I hope you and yours are staying safe!

All the best,

Dean Getz

Serrano Homeowner

Lot 106-H

From: Dean Getz

Sent: Thursday, March 5, 2020 2:51 PM

To: Julie Saylor <julie.saylor@edcgov.us>

Cc: Tiffany Schmid <tiffany.schmid@edcgov.us>; Jeanette Salmon <jeanette.salmon@edcgov.us>; Robert Peters <robert.peters@edcgov.us>; Rommel Pabalinas <rommel.pabalinas@edcgov.us>; Debra Ercolini <debra.ercolini@edcgov.us>; Breann Moebius <breann.moebius@edcgov.us>

Subject: RE: IDR Session Follow Up - CEDHSP Plan Proposal

Thanks for the confirmation, Ms. Saylor.

The attachment "4) D1-C & D Correspondence.pdf" is already been explicitly made part of this rather voluminous public record in this matter.

Thanks for confirming that the other attachment is now part of the planning record.

All the best,

Dean

From: Julie Saylor <julie.saylor@edcgov.us>

Sent: Thursday, March 5, 2020 2:33 PM

To: Dean Getz <DGetz@axiomanalytix.com>

Cc: Tiffany Schmid <tiffany.schmid@edcgov.us>; Jeanette Salmon <jeanette.salmon@edcgov.us>; Robert Peters <robert.peters@edcgov.us>; Rommel Pabalinas <rommel.pabalinas@edcgov.us>; Debra Ercolini <debra.ercolini@edcgov.us>; Breann Moebius <breann.moebius@edcgov.us>

Subject: Re: IDR Session Follow Up - CEDHSP Plan Proposal

Dean Getz,

<https://mail.google.com/mail/u/0?ik=da55f4e1b7&view=pt&search=all&permthid=thread-f%3A1660343959360347349%7Cmsg-f%3A16615468449209...> 1/7

19-1670 Public Comment
PC Rcvd 03-18-20

3/18/2020

Edcgov.us Mail - RE: IDR Session Follow Up - CEDHSP Plan Proposal

Your attachment titled "2020.01.24 Baydaline RE IDR Ridge.pdf" has been included with your public comment.

Your attachment titled "4) D1-C & D Correspondence.pdf" has NOT been included as the document provided via Google Drive is set to not-printable.

Your public comment sent on Mar 5, 2020 at 2:11 PM has been received for the Central El Dorado Hills Specific Plan project (General Plan Amendment A14-0003/Specific Plan SP12-0002/Rezone Z14-0005/Specific Plan Revision SP86-0002-R/Planned Development PD14-0004/Tentative Subdivision Map TM14-1516) that is agendized for the Planning Commission's March 26, 2020 Meeting. Thank you.

Julie Saylor

Clerk of the Planning Commission

County of El Dorado

Planning and Building Department

2850 Fairlane Court

Placerville, CA 95667

(530) 621-5351

julie.saylor@edcgov.us

On Thu, Mar 5, 2020 at 2:11 PM Dean Getz <DGetz@axiomanalytix.com> wrote:

Ms. Saylor,

Yes, please add to this email to the public comments—including the attachment from the HOA's lawyers to me.

Thanks in advance,

Dean

From: Julie Saylor <julie.saylor@edcgov.us>
Sent: Thursday, March 5, 2020 1:13 PM
To: Dean Getz <DGetz@axiomanalytix.com>
Subject: Fwd: IDR Session Follow Up - CEDHSP Plan Proposal

Dean Getz,

Did you intend for this email to become public comment for the upcoming Planning Commission meeting scheduled for March 26, 2020?

Thank you,

Julie Saylor

Clerk of the Planning Commission

County of El Dorado

Planning and Building Department

<https://mail.google.com/mail/u/0?ik=da55f4e1b7&view=pt&search=all&permthid=thread-f%3A1660343959360347349%7Cmsg-f%3A16615468449209...> 2/7

19-1670 Public Comment
PC Rcvd 03-18-20

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Edcgov.us Mail - RE: IDR Session Follow Up - CEDHSP Plan Proposal

2850 Fairlane Court
Placerville, CA 95667
(530) 621-5351
julie.saylor@edcgov.us

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

From: **Kim Dawson** <kim.dawson@edcgov.us>
Date: Thu, Mar 5, 2020 at 8:56 AM
Subject: Fwd: IDR Session Follow Up - CEDHSP Plan Proposal
To: Tiffany Schmid <tiffany.schmid@edcgov.us>, Jeanette Salmon <jeanette.salmon@edcgov.us>, Robert Peters <robert.peters@edcgov.us>, Julie Saylor <julie.saylor@edcgov.us>

Good Morning - Please see below and the attached. Kim

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

From: **Lori Parlin** <lori.parlin@edcgov.us>
Date: Thu, Mar 5, 2020 at 8:28 AM
Subject: Fwd: IDR Session Follow Up - CEDHSP Plan Proposal
To: Kim Dawson <kim.dawson@edcgov.us>

Good morning, Kim.


Should this information go to the Planning Department and Planning Commissioners? My understanding is this project is still being heard by the Planning Commission (I thought it got continued), but maybe I'm wrong about that?


Thank you,

Lori Parlin

El Dorado County District IV Supervisor

Phone: (530) 621-6513

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

From: **Dean Getz** <DGetz@axiomanalytix.com>
Date: Wed, Mar 4, 2020 at 10:40 AM
Subject: RE: IDR Session Follow Up - CEDHSP Plan Proposal
To: dbevan@bayjaclaw.com <dbevan@bayjaclaw.com>, Kathryn Henricksen <Kathryn.Henricksen@fsresidential.com>, DSacco.Board <Dsacco.Board@serranohoa.org>, George Triano <GTriano.Board@serranohoa.org>, Dick Callahan - HOA Board <Dcallahan.Board@serranohoa.org>, bsgood.board@serranohoa.org <bsgood.board@serranohoa.org>, kcurtis.board@serranohoa.org <kcurtis.board@serranohoa.org>
Cc: The BOSONE <bosone@edcgov.us>, BOS Two <bostwo@edcgov.us>, bosthree@edcgov.us <bosthree@edcgov.us>, bosfour@edcgov.us <bosfour@edcgov.us>, bosfive@edcgov.us <bosfive@edcgov.us>

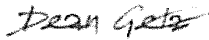
Dear Mr. Bevan, Ms. Hendricken, and Serrano Directors (with copy to EDC Supervisors):

I am following up on our January 9, 2020 informal dispute resolution (IDR) conference regarding the results of the HOA's "investigation" as communicated to me and those I represent on January 24, 2020 of the "allegation that the Central El Dorado Hills Specific plan violates the Association's governing documents". (Attached as, "2020.01.24 Baydaline RE IDR Ridge")

Nearly two (2) months have passed since we met, January 9, 2020. Now, if the Association concludes that this proposal violates the Association's governing documents—county officials will like need to know without any further delay.

Please provide an update regarding Association's expected completion date for this investigation or, if completed, formally communicate the Association's official findings in this matter.

Thanks in advance,



Serrano Homeowner

Lot 106-H

From: Dean Getz

Sent: Tuesday, January 14, 2020 2:35 PM

To: 'dbevan@bayjaclaw.com' <dbevan@bayjaclaw.com>; 'Kathryn Henricksen' <Kathryn.Henricksen@fsresidential.com>; 'DSacco.Board' <Dsacco.Board@serranohoa.org>; 'George Triano' <GTriano.Board@serranohoa.org>; 'Dick Callahan - HOA Board' <Dcallahan.Board@serranohoa.org>; 'bsgood.board@serranohoa.org' <bsgood.board@serranohoa.org>; 'kcurtis.board@serranohoa.org' <kcurtis.board@serranohoa.org>

Subject: RE: IDR Session Follow Up - CEDHSP Plan Proposal


Importance: High

Dear Mr. Bevan, Ms. Hendricken, and Serrano Directors:

Pursuant to Civil Code §5200—in connection with our IDR—please provide any/all records (e.g. open session agenda, drafts and minutes) along with any “enhanced records” (e.g. land use committee communication/s) related to the Association’s letter to El Dorado County regarding the Central El Dorado Hills Specific Plan dated January 10, 2020.

Thanks in advance,

Sincerely,



Serrano Homeowner

Lot 106-H

From: Dean Getz

Sent: Sunday, January 12, 2020 9:17 AM

To: 'dbevan@bayjaclaw.com' <dbevan@bayjaclaw.com>; 'Kathryn Henricksen' <Kathryn.Henricksen@fsresidential.com>; 'DSacco.Board' <Dsacco.Board@serranohoa.org>; 'George Triano' <GTriano.Board@serranohoa.org>; 'Dick Callahan - HOA Board' <Dcallahan.Board@serranohoa.org>; 'bsgood.board@serranohoa.org' <bsgood.board@serranohoa.org>; 'kcurtis.board@serranohoa.org' <kcurtis.board@serranohoa.org>

Subject: IDR Session Follow Up - CEDHSP Plan Proposal

Importance: High

Dear Mr. Bevan, Ms. Hendricken, and Serrano Directors:

As a follow up to our IDR last week—I’ve plainly identified that a member (including the Declarant) may not (typically) unilaterally change their annexed *member* property in any fashion without HOA approval. Yet, that’s what Serrano Associates, LLC is currently seeking to accomplish through El Dorado County planning with regard to the balance of El Dorado Hills Specific Plan (EDHSP) Parcel 5 and all of Parcel 6. By invoking the HOA’s IDR procedure, I am unambiguously identifying to those in control of the HOA that member Serrano Associates, LLC specifically seeks:

- (1) An amendment to the EDHSP to transfer approximately 142 acres (currently within Serrano Village D-1, Lots C and D and a portion of open space by Village D2) affecting portions of Assessor’s Parcel Numbers 121-040-20, 121-040-29, 121-040-31, and 121-120-24 from the EDHSP area to the CEDHSP area; and

Source: <https://edhapac.org/documents/central-el-dorado-hills-specific-plan/>

As a follow up to our IDR—I am identifying a few CC&R passages as follows in writing.

CC&R §1.04

The HOA's CC&R § 1.04 entitled "*Future Changes*" plainly states:

*"Nothing contained herein shall obligate Declarant to refrain from the further subdivision or resubdivision of the Initial Property and Declarant shall be free to so further subdivide or resubdivide. Nothing contained herein shall obligate Declarant to refrain from the further subdivision resubdivision **or reversion to acreage** of portions of the Overall Property **not theretofore annexed** and Declarant shall be free to so further subdivide or resubdivide **or revert.**"*

Said differently, member Serrano Associates' unilateral rights are unquestionably limited—once annexed. Now, it's no secret that Village D1 lots C and D have been annexed and tentatively mapped over two decades (i.e. since inception) as confirmed by Serrano Associates here:

<https://drive.google.com/file/d/1z6dMO7UaAyHhJ8XcmR2ajsBPVcx096YI/view>

It's also no secret that these Parcels (i.e. Parcel 5 and 6) contain 135, voting member (lots) that those on control — to date, have annually issued director election ballots. So, it shouldn't come as any sort of surprise to anyone that Serrano Associates, LLC is **not** afforded, under explicit language found in the CC&Rs, any sort of unilateral right to absolve themselves of these 135 HOA member lots through a simple zoning change by El Dorado County.

CC&R §14.06

In fact, CC&R § 14.06, explicitly only affords the Declarant the amendment, removal and/or recession rights with regard to annexed large "Lots" also referred to as "Parcels" in the County specific plans and CC&Rs when:

*"(i) no Lot in that Phase has been conveyed to an Owner **and** (ii) **assessments have not commenced for any Lot in the annexed property.**"*

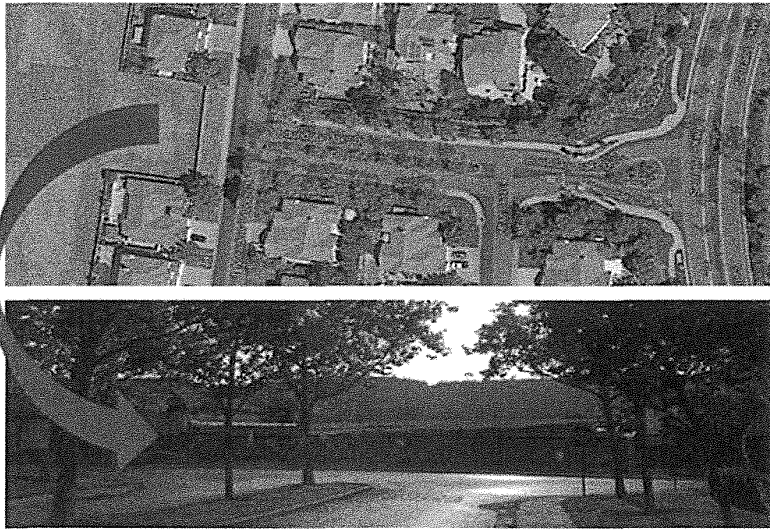
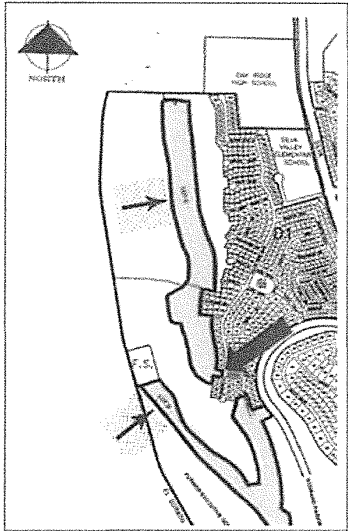
Now, there can be no doubt about assessments having commenced decades ago on both of these Parcels. In fact, hundreds of homes have been being assessed on the partially completed, Parcel 5 for decades now.

Accordingly, Serrano Associates simply doesn't have the unilateral right to revert to acreage these parcels as proposed—pursuant to this explicit CC&R limitation, period.

DE-ANNEXATION

As Serrano Associates' Kirk Bone described this aspect of their proposal as, ***"...ensuring that (lots C and D) would be a permanent open space and giving up the development rights for that purpose"*** they're really proposing a simple "reversion to acreage". Ostensibly this could be accomplished with the approval of two-thirds of the non-Declarant membership pursuant to CC&R § 14.12. However, those in control of the HOA would likely need to consider a permanent solution for what equates to the Declarant's temporary barriers where this Parcel remains unfinished (shown below)— as well as explicitly consider, **"the deannexed portion's Assessment obligations to the Master Association"**.

Access to Village D1's "Ridge" (Lot C) (BALANCE of EDHSP PARCEL 5)



IDR RESOLUTION

In short, member Serrano Associates, LLC simply does not have the unilateral right (pursuant to the CC&Rs) and El Dorado County does not have the power (per recorded limitations running with the land) to contemplate the proposed changes to these EDHSP parcels without obtaining the appropriate HOA approval. As such, I am respectfully identifying these limitations to the HOA **today** expecting it to appropriately communicate the limitations to the member and the County. Moreover, the HOA should consider this proper notice of its obligation to enforce the CC&Rs in the event of any actual violation in connection with what's currently being "proposed".

I look forward to your timely formal response to my concerns pursuant to the HOA's IDR procedure.

Sincerely,

Serrano Homeowner

—
Kim Dawson
Clerk of the Board of Supervisors
County of El Dorado
330 Fair Lane, Building A
Placerville, CA 95667
(530) 621-5393
kim.dawson@edcgov.us

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 2020.03.10 Baydaline Letter.pdf
58K

Julie Saylor <julie.saylor@edcgov.us>

Wed, Mar 18, 2020 at 4:38 PM

Draft To: Dean Getz <DGetz@axiomanalytix.com>

Cc: Tiffany Schmid <tiffany.schmid@edcgov.us>, Jeanette Salmon <jeanette.salmon@edcgov.us>, Robert Peters <robert.peters@edcgov.us>, Rommel Pabalinas <rommel.pabalinas@edcgov.us>, Debra Ercolini <debra.ercolini@edcgov.us>, Breann Moebius <breann.moebius@edcgov.us>

Julie Saylor

Clerk of the Planning Commission

County of El Dorado

Planning and Building Department

2850 Fairlane Court

Placerville, CA 95667

(530) 621-5351

julie.saylor@edcgov.us

[Quoted text hidden]



895 UNIVERSITY AVENUE • SACRAMENTO, CA 95825
TEL 916.669.3500 • FAX 916.669.3501

DARREN M. BEVAN
dbevan@bayjaclaw.com

March 10, 2020

Mr. Dean Getz
4560 Gresham Drive
El Dorado Hills, CA 95762

Re:*Response to Email dated March 4, 2020*
Serrano El Dorado Owners' Association

Dear Mr. Getz:

As you know, this firm represents the Serrano El Dorado Owners' Association (the "Association"). This correspondence follows your email of March 4, 2020, see enclosed, which follows the internal dispute resolution meeting, you requested, regarding the proposed Central El Dorado Hills Specific Plan that is being considered by El Dorado County.

The Association has not completed its investigation of your allegations. Following completion of the Association's investigation and the Board's review and consideration of this matter, a response will be provided with regard to your allegation that the proposed Central El Dorado Hills Specific Plan violates the Association's governing documents.

Very truly yours,

BAYDALINE & JACOBSEN LLP

Darren M. Bevan

Enclosure

cc: Serrano El Dorado Owners' Association

{2211.01/00549891.1}