



PC 8/23/18
#7
Charlene Tim <charlene.tim@edcgov.us>
6 pages

Saratoga Retail Project - DR-R18-0001: Comments and Request for Extension

Matt Emrick <matthew@mlelaw.com>
Reply-To: Matt Emrick <matthew@mlelaw.com>
To: "charlene.tim@edcgov.us" <charlene.tim@edcgov.us>

Sun, Aug 5, 2018 at 8:31 PM

August 5, 2018

Re: Saratoga Retail Project - DR-R18-0001

Dear El Dorado County Planning Commission:

Thank you for the opportunity to comment on the proposed Saratoga Retail Project - DR-R18-0001 ("Project"). As the Project Documents are fairly substantial, my comments should be considered initial comments. I will have more detailed comments for the County over the next couple of weeks.

In sum, the proposed Project is simply the wrong project in the wrong location. I think one would be hard pressed to find a worse location for a fast-food restaurant – e.g. on a non-conforming parcel, tucked away from convenient freeway access, near parks, schools and other sensitive receptors. Truly an attempt to fit a square peg into a round hole. Most surprising (perhaps "shocking") is the almost complete absence of any mitigation for this project despite what is termed a "Mitigated" negative declaration.

The Developer has attempted to claim significant changes to the project by eliminating one fast-food chain location, but that location (The Habit Burger) was never going to be the location having the greatest impacts – the location with the most significant impacts is Chick-fil-A, which is still planned for the site. While I am a huge fan of Chick-fil-A, I am absolutely opposed to it in this location for the reasons set forth in this correspondence.

1. Applicant misrepresented project and project impacts

The Developer-Applicant has pretty much ignored all of the neighborhood's comments. The Applicant has fundamentally done nothing to modify the project other than removing Habit Burger which as I said was not going to produce the majority of project impacts.

As the neighbors have commented previously, the Developer assured us that other than Walgreens, "The Shops" was going to be a local neighborhood center meant to attract in-town business. As a result, many of us chose not to seek additional mitigations or challenge the original "Shops" project in court. In other words, we gave up our rights to challenge the original project based on representations and promises by the Developer. The Developer is now attempting to pull a fast one over on the same people who trusted him and relied on his representations. This is not only fundamentally unfair, it is a breach of agreement in the form of promissory estoppel between the Developer and the public. In fact, it is my position that the Developer's original representations to the County and the local neighborhood to not to develop freeway-oriented businesses on the property is in fact a zoning-estoppel by the Developer. To find otherwise, makes the entire community involvement and comment process meaningless. The Developer must be held to honor his original representations to the County and to the neighborhood.

2. CEQA Baseline:

Because the project applicant seeks to fundamentally change the original approved project from a local neighborhood shops and eateries – to businesses intended to draw freeway traffic – the project must include the existing impacts of Walgreens traffic, noise, air, aesthetics, etc as new "impacts" of the proposed project itself. This is clearly not done with respect to traffic, noise, and air impacts.

3. Traffic:

There is NO mitigation of project traffic impacts - none at all. Let me rephrase that a bit - there is no "actual" or "real" mitigation for the significant traffic impacts resulting from this

proposed Project. There is no signal proposed at Arrowhead, no cross-walks for school kids and others, no extended left turn lane from EDH Blvd onto Saratoga, no extended shoulder area along the east-side of Saratoga (or along Arrowhead and Mammouth Way) to accommodate over-flow traffic, no mitigation of the blind spots at the intersection of Saratoga and Arrowhead. Nothing. It is as if the comments of the neighbors fell onto deaf ears with respect to the Developer and County staff. The number of projected new car trips onto Saratoga is significant and all of us who have lived in this area can easily see what the true impacts are going to be and have tried to convey those to the County and the Developer. In sum, it is going to be a mess.

There is now a "5-way intersection" proposed at Saratoga and Arrowhead if this project is approved. Presently, there is effectively a 4-way intersection at Saratoga and Arrowhead because the Ambulatory Surgery Center parking lot exit is almost exactly at the intersection of Arrowhead and Saratoga. There is only one stop-sign for traffic entering onto Saratoga from Arrowhead. The project will add an exit from the Chick-Fil-A parking lot onto Saratoga directly across from this intersection making a 5-way intersection. This intersection as demonstrated conclusively during last year's Project approval process is impacted by blind curves making entering Saratoga an already a dangerous proposition. The existence of a new exit onto Saratoga without any mitigation such as a traffic signal is frankly just reckless and shows a blatant disregard for public safety by the County, the Developer and Chick-fil-A (which could easily pay for a stop signal at this location.) Keep in mind that there are three school bus stops along Saratoga in the location of the Project (Country Day, Rolling Hills Middle School and Oak Ridge High School [half a block up at Arrowhead and Kings Canyon])

The Traffic Study shows that level of service at the intersection of Saratoga and El Dorado Hills Blvd. will be level F. Yet no specific mitigation is proposed such as lengthening the turn lane. This intersection is already adversely impacted in evening traffic from around 4

pm to 6 pm – it is going to be a nightmare with a Chick-Fil-A drive thru attracting additional freeway traffic.

More significantly, where does the Developer and the County think traffic is going to go? Wait in the fast lane of El Dorado Blvd. until there is enough room to enter the left turn lane? NO. Traffic will go where it goes now when this intersection is busy – and that is to the stop light at Lassen/Serrano Parkway and EDH Blvd. in order to either make a u-turn or else to circle back from Lassen to Arrowhead, Yosemite, Shasta Circle, Brooks Elementary School and Bertelsen Park. With more traffic at the Saratoga-EDH Blvd intersection, more and more traffic will find its way onto Lassen and through that neighborhood in order to avoid the likely 3 to 4 traffic signal changes at Saratoga and EDH Blvd. This existing impact, to be made much worse by the project, is not even analyzed in the Negative Declaration and is certainly not mitigated. This impact is also likely to result in more traffic turning into the Raley's Shopping Center before the Saratoga Intersection in an effort to circumvent the left turn lane and use the direct path onto Saratoga by way of the stoplight near Wells Fargo.

Finally, what will be the impact of access to MDSTAT from such an enormous surge in traffic? MDSTAT is one of the primary medical providers of emergency and walk-in services in El Dorado Hills. And yet potential impacts to access are not analyzed anywhere.

4. Lighting and Signs

The Negative Declaration merely directs that the Developer “comply” with local regulations for lighting and signs. By deferring to existing local regulations, the homes directly across from the project cannot determine whether the impacts of lighting and signs will be significant, and the County cannot determine if mitigation is needed.

5. Air Quality

The Neg Dec ignores sensitive receptors – in fact finding that none exist. The Negative Declaration provides:

Sensitive Receptors: The CEQA Guidelines identify sensitive receptors as facilities that house or attract children, the elderly, people with illnesses, or others that are especially sensitive to the effects of air pollutants. Hospitals, schools, and convalescent hospitals are examples of sensitive receptors. Near the project, there are no nearby sensitive receptors. No sources of substantial pollutant concentrations will be emitted by the commercial development, during construction or following construction. There would be no impact.

However, the project is directly across the street from three school bus stops. The Project is across the street from a surgery center and two emergency medical centers (MDSTAT and Sutter Health). The project is less than a quarter mile from Bertelsen Park. The traffic impacts of the project extend to all of Arrowhead and thus Brooks Elementary School as well as EDH Blvd and thus the Senior Center. Has anyone from the Developer or the County examined traffic or air quality impacts to the Senior Center? It does not appear that this has been done.

In addition, the original study from Wallace Kuhl recommended an asbestos dust mitigation plan. Such a plan has never been adopted or proposed or circulated for comment. Instead, this “Plan” – and whether to even prepare one – is deferred to a time **AFTER** **project approval** upon application for a grading permit, which is a ministerial act under CEQA, meaning no public review or comment. In other words, one of the potentially most critical impacts of the project may never be required to be analyzed or mitigated - and never subject to review by the neighbors.

6. Conclusion

The Project should not be approved or recommended for approval.

At the very minimum, the following should occur:

- Extend the comment period to **Sept. 14, 2018** to allow project opponents time to properly review the CEQA documents and reports and to consult with their traffic, air quality and noise experts.
- Direct that a full Environmental Impact Report be prepared to properly analyze traffic, noise, air quality and other impacts and to properly consider and propose “actual” mitigation measures. The standard to require the preparation of an EIR is the existence of substantial evidence supporting a fair argument that a significant environmental impact may occur as the result of the Project. This standard is more than met by the projected traffic, noise, and air quality impacts discussed in the Negative Declaration.

I will have further comments prior to the County’s consideration of the Project. Thank you for your consideration

-MATTHEW EMRICK

3881 Scenic Court, El Dorado Hills CA 95762; (916) 337-0361