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Fwd: Wilson Estates - Board of Supervisors meeting June 11, 2013 - Request for Development agreement

2 messages

The BOSFOUR <bosfour@edcgov.us>
To: EDC COB <edc.cob@edcgov.us>

Fri, Jun 7, 2013 at 2:47 PM

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

From: **John & Kelley** <bugginu@sbcglobal.net>
Date: Fri, Jun 7, 2013 at 1:11 PM
Subject: Wilson Estates - Board of Supervisors meeting June 11, 2013 - Request for Development agreement
To: The BOSONE <bosone@edcgov.us>, bostwo@edcgov.us, bosthree@edcgov.us, The BOSFOUR <bosfour@edcgov.us>, bosfive@edcgov.us
Cc: Ellen Van Dyke <gvralliance@gmail.com>

Board of Supervisors and Assistants,

Please submit the attached power point presentation into the public record. John and I are hopeful that you can review the information prior to the June 11, 2013 decision. Should you have any issues with formatting or printing please let me know immediately as this is a short timeline.

John and I will be home all weekend should you have any questions.

Thank you for your service.

Kelley & John Garcia

916-941-0418

www.GreenValleyAlliance.org

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Thank you.

Wilson Estates June 2013 BOS Meeting - Final.ppt
44K

EDC COB <edc.cob@edcgov.us>
Draft To: bugginu@sbcglobal.net

Mon, Jun 10, 2013 at 9:06 AM
13-0024 3B1 of 12

6/10/13

Edcgov.us Mail - Fwd: Wilson Estates - Board of Supervisors meeting June 11, 2013 - Request for Development agreement

Cc: 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>

Kelley & John,

Thank you for sending in your comments relating to agenda item #26 for 6/11/13. We will attach your email and a copy of the materials you provided to the item. Be advised that as described on the agenda,

[Quoted text hidden]

—

Clerk of the Board

El Dorado County

330 Fair Lane, Placerville, CA 95667



Wilson Estates Request for Development agreement June 11, 2013

Contract Zoning or Community Benefit

Public comment from:
John and Kelley Garcia



Wilson Estates - Review

KEY Points

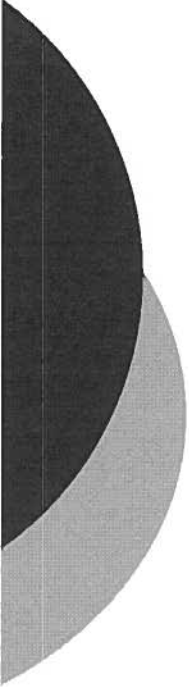
No zoning change. Keep the Zoning at R1A per the general plan.

At R1A/HDR they can build 28 homes

At R1A/HDR with a density bonus they can build 42 homes.

Their current map is asking for 49 homes

- **We support** the general plan as it was adopted. R1A/HDR
- **We support** the general plan which allows for a maximum density of 42 homes which is only 7 less than what the applicant is asking for.
- **We Support** the LUPUU process which list the current zoning at R1A and the proposed zoning is R1A.
- **We don't support** the expenditure of staff time & county dollars on a development agreement when the same goals can be achieved without one. A maximum of 42 homes would allow the county and the developer to meet in the middle and eliminate the need and cost of county dollars and county staff time for a development agreement.
- **We don't support** this attempt to circumvent the process to get R1/HDR approved. This is "Contract Zoning". They have not mitigated or properly identified impacts for higher densities.
- **We don't support** duplication of legal documents. We already have a legal document capping the density of this development at 42. *Its called the General Plan.*
- **We don't support** committing the County to a definite course of action aimed at assuring approval of the project that hasn't even been seen or presented to the BOS.
- A maximum of 42 homes as dictated by the General Plan that was adopted by the voters would minimize infrastructure impacts (Traffic, Schools, water). Given our current situation and traffic and safety issues **28 homes** would be better.



Wilson Estates

Why the BOS is at a disadvantage

- The BOS has not received a comprehensive presentation about the project.
- The BOS has not approved the project.
- January 2013 the project was before the board and applicant asked to be continued to March 2013.
- March 2013 applicant took the project off calendar to explore a development agreement.
- The traffic demand model has not been released yet. This projects traffic study was seriously flawed leaving out the most offensive road segments in the county (Sophia@ Green Valley and Mormon Island @ Green Valley) There was little to no mitigation proposed for the service Level F intersections that they did identify.
- The LUPUU process is not yet complete to know exactly where the county stands in relation to housing to jobs ratio, and traffic.



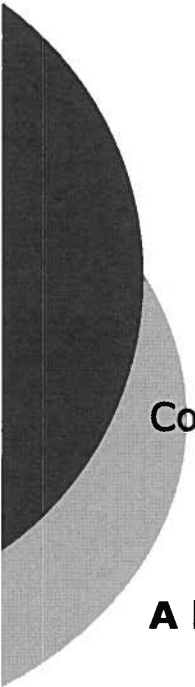
Wilson Estates

Development agreement by definition

- A development agreement is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval - the development will not be subject to subsequent changes in regulations.

http://www.bc.edu/dam/files/schools/law/lawreviews/journals/bcealr/28_4/12_TXT.htm

- By definition, if approved, the development agreement should only proceed with the current land use and zoning which is R1A/HDR



Wilson Estates – Contract Zoning

- **III. Development Agreement Legislation as Valid Contract Zoning**

Contract zoning refers to an ad hoc agreement between a municipality and a developer regarding rezoning. In the traditional view, contract zoning is per se invalid, but courts are increasingly rejecting this approach and upholding certain forms of contract zoning. Specifically, courts distinguish between bilateral and unilateral contracts.

A bilateral contract in which a *municipality* promises to rezone property is illegal because the municipality bypasses the notice and hearing phases of the legislative process, thereby depriving interested parties of due process.

Development agreements take the form of bilateral contracts as the municipality and the developer exchange promises. As such, absent legislative authority, development agreements constitute illegal contract zoning.

http://www.bc.edu/dam/files/schools/law/lawreviews/journals/bcealr/28_4/12_TXT.htm

******In short if El Dorado County agrees to pursue a development agreement with the current proposed plan/zoning change to R1, the BOS is agreeing or implying to rezone the property by contract. This is illegal!**



If staff is directed to proceed with negotiations for the Development Agreement

Why would Wilson want to do a development agreement for what appears to be a small straight forward development?
Development agreement for 7 homes?

What is in it for the county?

- Is it mutually beneficial?
- Is this a good idea?
- Is the county interested?

What are the key elements that the county wants to see?

What are the key elements that residents want to see?

What are the big picture benefits/losses for the county and the Green Valley Corridor?

How is a development agreement going to mitigate for traffic?

How is a development agreement going to insure compliance with measure Y ?



Wilson Estates – What is the applicant is not telling us....

Applicant has not been successful in getting the property/project approved through conventional process.

The project has significant flaws and will have a significant impact on the area.

If they get the property rezoned by a development agreement, they may be buying time so that they can “board shop”. A development agreement can be dissolved, amended, or cancelled if mutually agreed upon by applicant and BOS.

If they get a development agreement put in place it could absolve them of community region adjustments, and LUPUU changes if they were to occur.

- Once the higher densities zoning is approved it can leap frog to Omni Financial, La Canada, Alto, Diamante who’s tentative maps are expiring.
- Does this have to do with the sale of the property, water and sewer, traffic, board shopping? What is the bigger issue?



Wilson Estates

What the BOS can do

We ask that the Board of Supervisors not pursue a development agreement and deny this project based on:

- Inconsistent land usage designation with adjoining neighborhoods.
- Lack of available infrastructure: water, sewer, schools, roadways.
- Known traffic and safety concerns along Green Valley Road with no Capitol Improvement funds available to improve Green Valley Road until 2021.
- We ask for a general plan amendment to correct the land use designation to MDR to be consistent with adjoining neighborhoods and to eliminate the island of high density.

- Support the general plan as written.
- Deny any attempts to rezone or increase density of the project.



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Fwd: Wilson Estates - Board of Supervisors meeting June 11, 2013 - Request for Development agreement

The BOSFOUR <bosfour@edcgov.us>

Mon, Jun 10, 2013 at 11:08 AM

To: Jim Mitrisin <jim.mitrisin@edcgov.us>, EDC COB <edc.cob@edcgov.us>

——— Forwarded message ———

From: John & Kelley <bugginu@sbcglobal.net>

Date: Mon, Jun 10, 2013 at 10:32 AM

Subject: RE: Wilson Estates - Board of Supervisors meeting June 11, 2013 - Request for Development agreement

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

Cc: Ellen Van Dyke <gvralliance@gmail.com>

Hello Board of Supervisors,

Just wanted to circle back and make sure that you received our presentation. Realizing that there is a lot of data we are available for questions. Please do not hesitate to call.

In summary:

- Typically a development agreement comes after a project has been approved. Wilson Estates has not been presented or approved by the board.
- Since no project has been approved, there is no point in entering a development agreement at this juncture.
- Our view is that Wilson Estates as proposed cannot be approved because the project violates the voter-enacted Measure Y traffic policies which prohibit approval of a major single-family housing subdivision if traffic from the project and other previously approved projects will cumulatively exceed Level F Service gridlock traffic levels.

Please submit this email into public record.

Thank you for your service.

13-0024 3B11 of 12

Kelley & John Garcia

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