

4/12/22, 9:13 AM

Edcgov.us Mail - 4-14-22 agenda item 4 Hearing to consider Summer Brook (Tentative Subdivision Map Revision TM-R21-0001)



PC 04-14-2022
#4

Planning Department <planning@edcgov.us>

2 PAGES

4-14-22 agenda item 4 Hearing to consider Summer Brook (Tentative Subdivision Map Revision TM-R21-0001)


1 message

James Williams <jww3100@yahoo.com>

Mon, Apr 11, 2022 at 8:01 PM

To: Planning Department <planning@edcgov.us>, Jon Vegna <jvegna@edcgov.us>, kpayne@edcgov.us, John Clerici <john.clerici@edcgov.us>, Andy Nevis <andy.nevis@edcgov.us>

Please see my attached public comments for item 4 Summer Brook TM request on agenda for the Planning Commission on April 14, 2022. Please include my comments in the public records and posted on legistar.

 **Summer Brook request pdf.pdf**
20K

Chairman Vegna and Honorable Commissioners,

After reviewing the legistar item 4: Hearing to consider Summer Brook (Tentative Subdivision Map Revision TM-R21-0001) and public comments received I'm confident you have more than enough to make an educated and enlightened vote on this matter but I wanted to provide a few comments to provide my insight and thoughts on the request before you.

I have gone back and listened to the hearing from 8-9-18 when this developer requested to phase the project. At that time I was the Planning Commissioner for District 4 and voted 'NO' on the request by the Developer to phase the project. My primary concerns being that the project was approved with a Mitigated Negative Declaration (MND) as apposed to a more comprehensive Environmental Impact Report (EIR) and to further erode the limited amount of mitigation being provided by allowing project improvement phasing, it could result in unmitigated significant impacts that were not considered in the MND. The MND declared in several areas that potentially significant impacts could occur if any assumptions made in the MND turned out to be inaccurate. With such a minimal environmental document; any deviations from the initial approval could easily result in significant and unavoidable negative impacts. My other primary concern for voting no on this item in 2018 was the concern that the developer was taking steps to renegotiate the conditions of approval regarding mitigation and in particular the mitigation to Green Valley Road. These conditions and requirements are the backbone of the MND. Without them the project has a hard time standing on its merits alone and legally without an up to date EIR could leave the county vulnerable. Unnecessarily.

Here we are four years later and the applicant is requesting to remove the Green Valley road improvements. For reasons stated above this is a fatal flaw and should not be approved unless the applicant is required to perform an up to date EIR on the project. It appears that the applicant has used the COVID-19 pandemics effects on travel patterns as an opportunity to collect data that can fit their narrative. Unfortunately, I understand all too well that DOT is obligated to analyze the data they are presented. However, this data is representative of a timeframe known with certainty to be abnormal. The requirements for data being provided must be elevated considering the circumstances in play here. I believe, that is where planning staff comes in and the Planning Commission. Please look at the entire picture with forward thinking in mind. Historically the data on Green Valley road clearly reflects that these improvements will be needed and you have a project that has been conditioned to install them as part of their own environmental analysis and project approval. You have no other way of funding these improvements currently. Do not remove an improvement you do not have funding for and leave the county vulnerable to litigation by removing the mitigation measures for the public from a project without an EIR.

I request that the Planning Commission DENY the request by the applicant.

Thank yo so much for your tireless service to El Dorado County. I know how hard you work on our behalf and I appreciate you all.

Thanks,
James Williams
Shingle Springs District 4 Resident
Cameron Park Business Owner

4/12/22, 9:14 AM

Edcgov.us Mail - Comment, April 14 Planning Commission Hearing



PC 04-14-2022
#4
Planning Department <planning@edcgov.us>
6 PAGES

Comment, April 14 Planning Commission Hearing

1 message

James Anderson <jjanderson@ucdavis.edu>
To: planning@edcgov.us

Tue, Apr 12, 2022 at 9:04 AM

El Dorado County Planning Commission Clerk:

Please find the attached letter concerning agenda item #4 for the Planning Commission hearing on April 14. Please include it in the meeting materials.

If there are any issues accessing the file please let me know.

Thank you,

James Anderson
J.D. 2017, UC Davis School of Law
(209) 640-4972
jjanderson@ucdavis.edu

 **April 14 EDC PC Letter.pdf**
149K

El Dorado County Planning Commission
2850 Fairlane Court
Placerville CA 95667

***Re: April 14, 2022 Hearing- Summer Brook Tentative Map and Planned Development,
Agenda Item Number 4***

Dear Chair Vegna and Honorable Commissioners:

I write as a resident of Green Springs Ranch with concerns regarding the Summer Brook Tentative Map and Planned Development, amended conditions of approval before the Commission on April 14 (“Project”).

I am also an attorney that specializes in environmental and land use law, with several years of experience in in planning and CEQA matters. I write this correspondence in a personal capacity, and by doing so I echo several of my neighbors’ comments regarding traffic issues at the intersection of Green Valley Road and Deer Valley Road (“Intersection”). The Intersection is frequently congested, and turning at the Intersection in either direction is treacherous and often takes minutes to accomplish. While my neighbors have aptly summarized traffic issues in their comments, I want to focus on legal issues relating to the Project.

Put shortly, this Project substantially changes the underlying approvals in such a way as to require further environmental review. The Project does not comply with the requirements of the County Cod, and, if approved, would be inconsistent with the County’s General Plan. The Staff Report and associated materials fail to describe why the previous environmental review and the findings that the underlying housing development would no longer cause traffic impacts. The Staff Report completely fails to distinguish how, in 2007, when the County approved the underlying development, a traffic memorandum determined there would be potential traffic impacts, but now, over a decade later and with all of the new developments in the area, a new traffic study determines the exact opposite.

Below this correspondence first outlines the relevant factual background, focusing specifically on the applicable Mitigated Negative Declaration (“MND”), and then outlines the above points in more detail.

Relevant Factual Background and Project MND

In 2007, the County Board of Supervisors approved the tentative map which allowed for 29 residential lots (“Development”). Significant here, the Board of Supervisors adopted the MND for the Development which found certain potentially significant impacts, specifically traffic impacts.

As is required under CEQA, the MND analyzed the Development’s potential traffic impacts. The MND found that the Development would have significant impacts on traffic, but mitigated them by requiring the installation of a traffic signal at the Intersection. Specifically, the MND states:

Traffic Increases. **The traffic study prepared for the project estimated that the project would result in 258 total daily trips including 25 peak AM trips and 27 peak PM trips (Kimley-Horn and Associates, April 2007). The study concluded that the existing levels of service of the access roads would not be capable of accommodating the additional trips.** The traffic study recommended that the intersection of Green Valley Road and Deer Valley Road be signalized and appropriate turn pockets and intersection improvements be constructed. The intersection improvements would be consistent with the approved Capital Improvement Project for the intersection... **Construction of the recommended improvements would reduce impacts to less than significant.** The project has been conditioned to require the required road improvements

(Summerbrook MND at p. 31 (emphasis added).)

Relevant here, as emphasized above, the Development as planned would potentially have significant traffic impacts. This included impacts that would lead to inadequate levels of service (“LOS”) on access roads. In order to mitigate these impacts, the Development included a traffic signal at the Intersection.

Now, at issue in this correspondence, the County is amending the conditions of approval for the Development to remove the requirement for the traffic signal. The basis for this conclusion is based on the Traffic Memorandum prepared by Kimley Horne last summer. (“Traffic Memorandum”). The Traffic Memorandum studied traffic levels at the Intersection, and concluded that the traffic levels did not warrant the installation of a traffic signal.

With this background in mind, this correspondence turns to the inadequacies of the Staff Report and Traffic Memorandum.

The Staff Report and Traffic Memorandum are Unclear

The Staff Report contains no meaningful description of the legal basis for this recommended change to the Developments conditions of approval. The Staff Report simply states that given the Traffic Memorandum’s conclusions, the installation of a traffic signal at the Intersection is not warranted. (See Staff Report at p. 2.) Moreover, the Staff Report, without any explanation, concludes that this Project does not contain “substantial evidence” warranting further environmental review under CEQA (discussed in more detail below) (*Ibid.*) The Staff Report does not provide any explanation as to this conclusion.

The Staff Report also does not discuss impacts to LOS as the MND does. Moreover, the Staff Report does not discuss why the MND’s conclusions, namely that the Development would significantly impact traffic in the area, are no longer correct or relevant. Put simply, this sparse Staff Report does not provide interested and affected parties adequate information to make meaningful decisions on this application.

The Traffic Memorandum, on the other hand, concludes that given the existing traffic patterns at the Intersection, the traffic signal is not warranted. (Traffic Memorandum at p. 1.) The Traffic Memorandum goes a step further than the Staff Report and cites to the *California Manual on Uniform Traffic Control Devices* (“Traffic Manual”) as a basis to not require the installation of the traffic signal. However, the Traffic Memorandum fails to discuss the legal basis for its conclusions, why the conclusions pursuant to the Traffic Manual warrant removing the traffic signal, how the prior environmental analysis is no longer relevant, and how the new conclusions would affect the Intersection’s LOS. In short, the Traffic Memorandum makes certain conclusions, but does not describe why these conclusion warrant the present action given the prior review.

CEQA Issues

As stated above, the Staff Report simply concludes that the Project does not have “substantial changes” warranting further review under CEQA. This is simply not the case.

The County Code requires a hearing before the Planning Commission for changes to projects that are significant. The relevant County Code section states in its entirety:

Modifications of the conditions of approval provided for in this Chapter, including alteration of the project design, expansion, reduction, or phasing of the development, or further disturbance of the site, may be allowed as follows

...

(C) Revisions to a permit or authorization **which result in an expansion or substantial alteration of the project**, or which may affect a condition of approval, mitigation measure, or finding that was specifically addressed by the review authority, may only be approved by said authority following a public hearing

(El Dorado County Code 130.54.070(C))

The relevant CEQA Guidelines section cited in the Staff Report states in its entirety:

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**

While the language is not exactly the same, it seems inconsistent that the County on one hand requires a public hearing because the Project changes are “significant”

but does not require additional environmental review because the changes are not “substantial.”

(14 CCR § 15162 (“CEQA Guidelines”)(a)(1-2) (emphasis added).)

As emphasized above in the County Code and the CEQA Guidelines, substantial changes to an approved project require certain actions.

Taking these two sections into consideration, on one hand the County is holding a public hearing on the Project because there are “substantial alterations” to the Project, but on the other hand claiming no further environmental review is required pursuant to CEQA because there are no “substantial changes.” While the wording is slightly different, it appears that the County is adhering to the County Code, but contradicting the requirements CEQA.

The changes to the Project are “substantial.” These changes directly modify underlying conditions of approval and mitigations to potentially significant impacts. Given these points, it is clear that the Project, at a minimum, must prepare additional environmental review in order to amend its conditions of approval to remove the traffic signal at the Intersection.

County Code and General Plan Consistency

The Project also is inconsistent with the County Code and the County General Plan. The County Code requires approved Projects are consistent with the County General Plan. (County Code § 130.10.020(B).)

Here, the Project as proposed is inconsistent with the County’s General Plan in several significant ways. For ease of review, a handful of the relevant General Plan policies are cited below, with comments immediately following.

- Policy TC-Xd: Level of Service (LOS) for County-maintained roads and state highways within the unincorporated areas of the county shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions ... Level of Service will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual.

It is unclear how the Project complies with Policy TC-Xd. First, the Traffic Memorandum does not describe the LOS at all, and why the new results differ from those analyzed in the Development’s NMD. Secondly and further, the LOS is not calculated at all using the Highway Capacity Manual as required by this policy.

- Policy TC-Xe: For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project: A. A 2 percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily, or B. The addition

of 100 or more daily trips, or C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Again, as described above, it is impossible to determine if the Project complies with Policy TC-Xe because there is no LOS analysis. In order to determine whether the Project would “worsen” traffic, subsequent traffic analysis would need to be conducted.

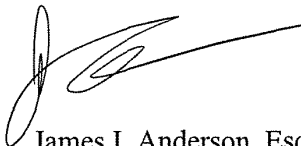
- Policy TC-Xf: At the time of approval of a tentative map for a single family residential subdivision of five or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain Level of Service standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County’s 10-year CIP.

Again, as described above, the Traffic Memorandum does not explain how the LOS for Green Valley Road will not be impacted. The Development’s MND described impacts from the Development, and mitigated those impacts. Now, the Project seeks to reverse those mitigations without providing adequate analysis as required under the General Plan.

Conclusion

As summarized above, the Project has several inconsistencies with the County General Plan and violations of State law. As such, the Project should not be approved until further environmental review is conducted to determine consistency with the County’s General Plan. Accordingly, I respectfully request that the Planning Commission deny this Project until such a time that further environmental review is conducted.

Sincerely,



James I. Anderson, Esq.

4/12/22, 3:54 PM

Edcgov.us Mail - Summer Brook Project TM-R21-0001



PC 04-14-2022
#4

Planning Department <planning@edcgov.us>

Summer Brook Project TM-R21-0001

1 message

Ali Bailey <a.a.bailey@me.com>

Tue, Apr 12, 2022 at 3:00 PM

To: planning@edcgov.us

Cc: jvegna@edcgov.us, kpayne@edcgov.us, john.clerici@edcgov.us, andy.nevis@edcgov.us, bosone@edcgov.us

Hello,

We are writing regarding the Summer Brook Project (Project TM-R21-0001) that is item #4 on the agenda for the Planning Commission's April 14, 2022 meeting

We are requesting that you deny the project's request to remove the conditions for approval requiring the installation of a traffic signal at the intersection of Green Valley Road and Deer Valley Road.

A traffic signal is desperately need at this intersection. This project was approved in 2008, over 14 years ago. The traffic on Green Valley has only increased in those 14 years. In that time, numerous development projects have been approved. We cannot continue to keep letting the development projects off the hook for these requirements.

We live in the Green Springs Ranch neighborhood and nearly every single time we turn left (west bound) out onto Green Valley Road, we have to wait at the stop sign for an excessive amount of time for huge lines of cars to clear. A few years ago, after years and years of asking and multiple accidents, our intersection finally got left turn pockets on Green Valley Road. However, this does not solve the problem of turning left (west bound) from Deer Valley onto Green Valley. This intersection is so dangerous that I have even banned my teenage drivers from turning left, unless there is not a car in sight.

Please listen to the citizens that must actually drive this road every day. There is no good reason to excuse the project from this condition of approval. Deny their request.

Thank you,

Jeremiah & Ali Bailey

Rescue, CA



PC 04-14-2022
#4

Planning Department <planning@edcgov.us>

3 PAGES

Planning Commission - Public Comment for April 14, 2022 Agenda Item #: 22-0616

1 message

robv@sonic.net <robv@sonic.net>
To: planning@edcgov.us

Tue, Apr 12, 2022 at 4:29 PM

Commissioners:

With respect to your review of the Summer Brook Tentative Subdivision Map Revision TM-R21-0001, I ask that you review the following as contained in **Staff Report Exhibits A-I which is clearly a re-publishing of the original 2008 staff report, but is now before you again in 2022:**

1. Staff documents describe the location inaccurately beginning in 2008 and again in 2022 when they state: "**...is located on the north side of Green Valley Road, approximately 500 feet west of the intersection with Bass Lake Road in the Cameron Park area,**". The eastern boundary of the property is approximately 2400 feet west of Bass Lake Rd according to Google Maps. This distance also appears on the "Environmental Checklist Form and Discussion of Impacts", which was submitted as page 9 of 36 in Staff Report for Agenda item 18-1090, and then again as page 22 of 49 for Agenda item 22-0616. Bass Lake Rd is approximately 1.5 miles from the intersection of Green Valley Rd & Deer Valley Rd.
2. Staff describes this as in the Cameron Park area, however this was reviewed by the Rescue Fire Protection District and would therefore clearly place it in the area of Rescue. "**The Rescue Fire Protection District provides structural fire protection to the project site**"
3. It is odd that the original traffic study by Kimley-Horn from 2007, which relied on their own "anticipated" traffic count data but does not include the anticipated additional trips each day for the 2021 data. And in 2007/2008 the traffic counts were sufficient, but not presented, to warrant a traffic signal at the Green Valley Rd & Deer Valley Rd intersection. **Lets be clear on these points:**
 - a. The roads have not been modified that greatly [exceptions- the new intersection at Green Valley Rd & Silver Springs Pkwy; addition of turn pockets at Deer Valley]
 - b. The **2007 Kimley-Horn study** recommended a signal at Green Valley and Deer Valley Roads as indicated in the Staff Report detail on page 44 of 49; as well as installation of sidewalks and bike lanes.

- c. Kimley-Horn submitted a memorandum to Blue Mountain **dated June 4, 2021** [include in Staff Report as page 9 of 49] in which they indicated they conducted site visits to the intersection on Feb 18, 2019 and again on May 11, 2021 and May 26, 2021, and based on their traffic counts they found signalization of the intersection was not warranted and refer the reader to their Attachment B [page 21 of 49] for the summarized results of this study. There is one instance under Warrant 1 Condition B Part 2, where from 1200-1300 hrs both conditions are actually met, but not for an 8-hr period using the data provided.
- d. Kimley-Horn does not indicate, nor reference if they used the proper lower thresholds allowed by the CMUTCD for traffic counts when "if the intersection lies within the built-up area of an isolated community having a population of less than 10,000", failure to do so would result in skewed data. This could result in a reduction of the standard by as much as 24%, since the 85 percentile speed on Green Valley Rd exceeds 40 MPH, this would in fact skew data relative to the warranting for a signal.

1. From CMUTCD Page 833:

Standard:

07 The need for a traffic control signal shall be considered if an engineering study finds that both of the following conditions exist for each of any 8 hours of an average day:

A. The vehicles per hour given in both of the 80 percent columns of Condition A in Table 4C-1 exist on the major-street and the higher-volume minor-street approaches, respectively, to the intersection; and

B. The vehicles per hour given in both of the 80 percent columns of Condition B in Table 4C-1 exist on the major-street and the higher-volume minor-street approaches, respectively, to the intersection.

These major-street and minor-street volumes shall be for the same 8 hours for each condition; however, the 8 hours satisfied in Condition A shall not be required to be the same 8 hours satisfied in Condition B.

On the minor street, the higher volume shall not be required to be on the same approach during each of the 8 hours.

Option:

08 If the posted or statutory speed limit or the 85th-percentile speed on the major street exceeds 40 mph, or if the intersection lies within the built-up area of an isolated community having a population of less than 10,000, the traffic volumes in the 56 percent columns in Table 4C-1 may be used in place of the 80 percent columns.

e. The Kimley-Horn "Traffic Signal Volume Warrant Analysis" does not report data outside of the 1100-1900 hrs timeframe and therefore does not enable a full analysis of the morning traffic volume pattern, which could be higher based on trips to nearby schools, etc. This is perhaps due to the limited data on page 12 of 49, collected on 5-26-21, which does not offer any data outside of the 1100-1900 hrs timeframe. This Intersection Turning Movement Count was apparently only collected on the one day and is separate and distinct in dates of collection from the traffic volumes collected between 5-11-21 and 5-17-21. One needs to ask the question why were the counts taken over a week apart? If the turning movements data was collected on Wednesday 5-26-21, is there a valid reason why they didn't coincide with the count on Wed 5-12-21? This could result in un-acceptable skewed data, and an invalid conclusion from the analysis. I doubt this split traffic count collection process meets the test requirements for the CMUTCD, and should be considered with far less weight by the County, **because these are two separate data sets and should not be analyzed together, which negates the entire analysis.**

i. Example: Adding up the data for "turning movements" N/B & S/B on Green Valley Rd on Wed 5-26-21 from 1700-1800 hrs equals 998 trips; BUT adding up trip "volumes" on Wed 5-12-21 between 1700-1800 hrs equals 916 trips or over 8% difference

f. The Kimley-Horn studies make no reference to, nor do they report any data with respect to **traffic collisions** occurring at the intersection, which would be criteria under the **California MUTCD [2014 Edition] "Section 4C.08 Warrant 7 Crash Experience"**, which suggests **this study is therefore limited in scope based on the data presented. It was intended for the user/addressee [Blue Mountain] but it should be viewed as incomplete in that it does not include any data regarding collisions, and therefore cannot be considered by staff, nor the Planning Commission to revise the original COAs. Limiting the presentation of pertinent data such as this only presents one skewed perspective that may result in the wrong interpretation as to this intersection warranting a signal light.**

g. Kimley-Horn does not address why their findings changed – they originally found the necessity for a signal light and now they do not – without full justification of the basis for this...a fact that is being side-stepped with what appears to be an incomplete study based on incomplete data.

Thank you,

Rob Vosper