

9/5/2019

Edcgov.us Mail - Fwd: Public Comments for PD-R19-001 Sept 12 meeting date

PC 9/12/19  
#3  
Charlene Tim <charlene.tim@edcgov.us>  
11 pages



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## Fwd: Public Comments for PD-R19-001 Sept 12 meeting date

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**Planning Department** <planning@edcgov.us>  
To: Charlene Tim <charlene.tim@edcgov.us>

Thu, Sep 5, 2019 at 10:44 AM

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

From: **Rusty Everett** <rusty@incipio.com>  
Date: Thu, Sep 5, 2019 at 9:54 AM  
Subject: FW: Public Comments for PD-R19-001 Sept 12 meeting date  
To: planning@edcgov.us <planning@edcgov.us>

Sorry the attachment didn't go with the letter

Regards

**Rusty Everett | EVP Sales**

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**From:** Rusty Everett <rusty@incipio.com>  
**Date:** Thursday, September 5, 2019 at 9:53 AM  
**To:** "planning@edcgov.us" <planning@edcgov.us>  
**Subject:** Public Comments for PD-R19-001 Sept 12 meeting date

9/5/2019

Edcgov.us Mail - Fwd: Public Comments for PD-R19-001 Sept 12 meeting date

Please see attached local residents concern in the continued piece-mealing attack to PD95-002 including the soon to be submitted plans for massive changes to add Oakmont residential apartments and more commercial retail on this very specific PD.

[Quoted text hidden]



**Planning Comm Letter from Preserve EDH 9-5-19.pdf**

183K

September 5, 2019

**Sent by email**

County of El Dorado Planning and Building Department  
2850 Fair Lane Court  
Placerville, CA 95667  
Email: [planning@edcgov.us](mailto:planning@edcgov.us)

Re: Proposed Superior Self Storage Project #PD-R19-001  
Planning Commission Public Hearing Date: September 12, 2019

Dear Sir/Madam:

I am writing you on behalf of Preserve EDH an association of El Dorado Hills residents. I submit this comment letter on our behalf regarding the above-referenced project proposed in Town Center West ("TCW").

According to the Public Hearing Notice, the project seeks to: (1) revise the adopted TCW Planned Development (PD95-0002) to add self-storage as an allowed use under the TCW Design Guidelines and Development Standards; and (2) revise the adopted California Precision Molding Planned Development (PD95-0007) for the phased remodeling, conversion, and expansion of an existing 89,470 square foot structure into a self-storage facility.

Your Department should be advised that although my residence address is 1321 Manchester Drive, El Dorado Hills, CA 95762, and on more than one occasion I have requested special notice from your Department, I received no notice of this proposal at any prior stage.

Preserve EDH does not support revisions to development plans and/or zoning in Town Center West because we believe that the developers are misusing the application process to piecemeal use conversions which will increase impacts in Town Center West, an area which has been presented to the public as primarily office since 1995, and which relied on studies prepared nearly thirty years ago for support. Preserve EDH believes that these successive applications violate the Planned Development Guidelines for Town Center West, and that further efforts to amend the terms of those Guidelines should only be considered by the public after a full environmental review considering the impacts of all proposed changes or expansions of use.

Our reasons for opposition are as follows:

**1. Self-Storage Facility Cannot Be Treated As An Already Permitted Use Requiring No Further Environmental Review**

The TCW Planned Development (PD95-0002) was approved by adoption of a Mitigated Negative Declaration almost 25 years ago (1995). As stated by County staff, the TCW plan contemplated 1,465,000 square feet of commercial development with specific categories of

commercial uses ranging from commercial to light manufacture. The approved land use plan is divided into specific planning areas (A-E), each allotted with a particular building area and type of use. The Design Guidelines and Development Standards include provisions for specific uses and special standards regulating development. The proposed self-storage project is located in Planning Area A of the plan, which sets the planned commercial use at 10,000 sq. ft., and the entire plan area (A-E) must not exceed 60,000 sq. ft. of commercial use. In 2009, a 15,000 sq. ft. CVS was approved in Planning Area E, therefore the remaining maximum allowable commercial square footage available for the entire plan area is 45,000 sq. ft. A self-storage facility is not a permitted use under the commercial (“C”) category (or any other categories) according to the TCW plan and therefore the category requires a zoning amendment if it is to be treated as Commercial and the C category must be modified to allow for another 125,000 sq. feet of Commercial in Town Center West.

All three phases of this Superior Self-Storage project include plans for an additional 65,000 sq. ft. as Phase III, for a completed project total of 177,148 sq. ft. The project applicant and Staff should not be allowed to defer or exclude review of Phase III from this application in an effort to avoid consideration of total impacts. The Precision Molding site-specific PD95-0007 was for an Industrial Use and does not drive allowable uses in the plan area. (Staff Report, p. 5.)

The proposed project should be subject to full environmental review, for the following reasons:

## **2. Staff Position**

The Staff Report states that the environmental document for the proposed self-storage project is the Mitigated Negative Declaration (“MND”) for PD95-0007, adopted almost 25 years ago. (Staff Report, p. 1.) Staff recommends that the Planning Commission determine that there is no substantial evidence requiring the preparation of a Subsequent Mitigated Negative Declaration or Addendum to the existing MND for PD95-0007 adopted by the Board of Supervisors on May 9, 1995. (Staff Report, p. 2.) Staff reasoning appears to be that the expansion takes place inside the existing building, and that the additional 22,000 sq. ft. expansion area is highly disturbed, previously graded land, and therefore there is no substantial change.<sup>1</sup>

Staff has been inconsistent in applying its standards to Superior Self-Storage applicants. In January 2019, the staff prepared a new Initial Study and required a Negative Declaration for an expansion from a previously approved 91,134 sq. ft. self-storage facility with management services (originally approved in 2002) on Cambridge Road in Cameron Park to 146,624 sq. ft.<sup>2</sup> For the Cameron Park self-storage application, Staff required evaluation of expanded use trip counts and preparation of an On-Site Transportation Review [OSTR] as preconditions to determine whether additional mitigation would be required as part of the approved expansion.

Here, Staff has waived both of these requirements in the super-congested area of El Dorado Hills. Even though the actual approved use was considered last based on 1998/1995 information, Staff has not required either a Traffic Impact Study or an On-Site Transportation Review and in

<sup>1</sup> Note, however, as mentioned above, the actual plans are for a much larger project, including Phase III, that has been excluded from this review (almost 180,000 sq. ft. total when project completed).

<sup>2</sup> See S01-0018-R-2/PD01-0010-R.

fact waived these reviews in Town Center West. Staff's waiver makes no sense in the case of Town Center West. On-Site Transportation Reviews are regularly required where surrounding traffic problems in the local area are well known, such as the interchanges on and off Highway 50, El Dorado Hills Blvd. etc.

**3. Project Substantially Exceeds Commercial Square Footage Allowed For This Planned Development**

Contrary to Staff's analysis of this Superior Self-Storage project, it is our position that the self-storage use is properly categorized as a commercial use, not industrial, and substantially exceeds the allowed commercial square footage for TCW. The existing vacant industrial building proposed to be converted to self-storage is 89,470 sq. ft. (Phase I), and the project seeks to expand that building by an additional 23,000 sq. ft. (Phase II). As stated above, Planning Area A has a planned commercial square footage of 10,000 sq. ft., the remaining commercial square footage for the plan area is 45,000 sq. ft., and these two phases (I and II) totaling 112,270 sq. ft. would grossly exceed what is permitted and what was analyzed in the prior TCW MND.

The El Dorado Hills Specific Plan for the area (Village U) shows the zoning as commercial. Staff states that self-storage is allowed by right in General Commercial (confirmed by looking at Zoning Code). (Staff report, p. 4.) Clearly, self-storage is considered a commercial use. Yet, Staff is now requesting that the expanded square footage be counted against the square footage in the light manufacturing category, presumably because the project would exceed the total square footage for commercial allowed under the PD. Light Manufacturing is listed under the Industrial/R&D category in the Zoning Code. Self-storage is not listed as an allowed use under the Industrial/R&D category of the Zoning Code. However, our review of the project files indicates that the Self-Storage Application is for a much larger size and intended use than is included in this immediate application.

**4. Reliance Upon 1995 Negative Declaration Is Inadequate To Support Material Changes Of Use And Size Of TCW PD**

Staff states that applicable conditions of approval from the prior PD95-0007 MND are proposed to be included in the conditions of approval for the self-storage project. Pre-application project files (PA-18-0007) available to the public on e-TRAKiT show that County Staff told the applicant a Negative Declaration would be prepared, and a Mitigated Negative Declaration could possibly be required, which would be determined after the formal application was submitted. (10/26/18 Letter to David Kindelt from Alex Guilbert, EDC Planner, p. 6.) Yet now, the Staff Report, for no reason that is explained in the documents, indicates there are no impacts, stating site-specific environmental review was done in 1995, and attaches and relies upon the prior Negative Declaration for PD95-0007. Staff does not describe whether or not its decision assumes that the PD95-007 MND covers these changes of use and intensity so that the Self-Storage application can be seen as tiering off the El Dorado Hills Specific Plan, itself approved in 1988.

a. Staff provides no support for why this project should be treated as included in the original approvals, and as shown in section 3 above, its actual size and use are substantially different and more intense than that considered in 1995.

b. El Dorado County should not continue to rely upon 1988 and 1995 evaluations for non-conforming uses and projects, given the enormous changes in population, traffic numbers and patterns, and resulting air quality impacts. Although actual population numbers over the last 20 years differ depending on the source, rough calculations of population increase show a 20,000 increase in overall El Dorado County population since 2000; the El Dorado Hills Chamber of Commercial estimates 50,000 for the El Dorado Hills area; and the EDH Chamber shows a census population increase in radius immediately around Central EDH as 2,100 in 1990, and 4,500 by 2000.<sup>3</sup> The El Dorado Hills Fire Department shows an increase of 3,760 homes in the area immediately surrounding Town Center West and the shopping areas on both sides of Highway 50.

c. Prior TCE Litigation. Based on a directly applicable analysis in 2015 for the Town Center East Apartments, the Court determined that El Dorado County's attempts to build a layer cake of Negative Declarations and exempt projects on top of a 1995 Negative Declaration violate CEQA. As stated by the El Dorado Superior Court in its ruling on the Town Center East Apartments (Statement of Decision) in *Citizens for Sensible Development in El Dorado Hills v. County of El Dorado*, El Dorado County Superior Court Case No. PC20150001 ("Town Center East Apartments case"), the expanded impacts of planned apartments in Town Center East, even seen as "in-fill," could not be approved on the basis of a twenty-year old negative declaration. The County's findings, which the Court set aside, just like this proposed self-storage project, asserted that the relevant approvals for the project had been previously granted and that the [apartment] project would replace and supersede the prior original approved uses, but would not contain impacts larger than or more intense than originally considered. (Town Center East Apartments Statement of Decision, p. 5:14-19.) Just as in the Town Center East Apartments case, multiple entitlements to conform the proposed project to prior approved entitlements are needed here.

As we understand the Town Center East Apartments decision, the Court determined that where a proposed project is not consistent with the program, plan, policy or ordinance [here the 1988 SP] for which the original EIR was prepared (if treated as commercial, consistent with SP but still not consistent with PD as self-storage not an approved use), the County is required to prepare an independent environmental review. (See Town Center East Apartments Statement of Decision, p. 26:18-21.) The Town Center East Apartments Court held that the number of revisions to the SP and the Town Center East PD that were required, together with the substantial traffic impacts to Highway 50 and the increase of over 10,000 homes in the immediate area significantly affecting Highway 50, White Rock Road and Latrobe Road, all since 1988, argued strongly that a full EIR be prepared for the Apartments (Town Center East Apartments Statement of Decision pp. 26-38.) The same enormous impacts, together with the entitlements which must be revised, argue that no waiver of traffic impact reviews be granted.<sup>4</sup>

In this Self-Storage proposal, the Applicant needs to revise PD95-0002 to allow self-storage as an acceptable "Industrial" use and revise PD95-0007 and seeks to expand the existing

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<sup>3</sup> Sources: Wikipedia, El Dorado Hills Chamber of Commerce, and 2018 El Dorado Hills Fire Department.

<sup>4</sup> Rather than prepare a full EIR the Apartment owners entered into a settlement agreement, which among other things mandated the construction of a traffic signal light at the connection between Town Center Blvd. and Latrobe Road.

87,550 sq. ft. building to 112,270 sq. ft. and convert the use self-storage from the previous approved use, which was a light manufacturing facility and office. The size, intensity and use of the project when complete (almost 180,000 sq. ft.) rubs up against what was planned for the planned development, but the impacts of the use planned for this project, juxtaposed with the traffic and air quality impacts of the project to the overall surrounding environment, has not been considered.

We described why this application must be treated as Commercial based on the definitions in the Zoning Code in Section 3, above.

d. Traffic Impacts Should Be Disclosed. County staff has inconsistently issued a waiver rather than considered traffic impacts or trip counts resulting from the proposed self-storage project. Such a waiver should not have been granted. The mitigation applicable to the 1988 EDH Specific Plan EIR upon which this proposed project relies required funding mechanisms for Latrobe, White Rock, and Highway 50 through a Development Agreement. This Development Agreement mitigation was a condition for approving the Negative Declaration for the original California Precision Molding use (PD-0007), but the Development Agreement has expired because of the lapse in time from the 1988 SP EIR, and the approval of PD95-0007 in 1995, and those agreements were not completed.

Second, before a waiver of mitigation is granted, the County must provide evidence that the impacts anticipated from the expanded self-storage use are no greater than those anticipated at the time of planned development approvals in 1995. Because Staff waived the preparation of either a TIS or OSTR, there is no evidence presented to support a belief that this self-storage use has no impacts greater than the Precision Molding use.

Third, the County must evaluate the congestion condition on all affected roadways surrounding Town Center East and West because the mitigation anticipated by the 1988 SP EIR was never completed. As everyone who lives around El Dorado Hills knows, traffic congestion on the Highway 50 interchanges and on both sides of Latrobe and El Dorado Hills resulted in citizen initiatives to force mitigation, and mitigation plans adopted by El Dorado Hills. In fact, as a result of the settlement of the Town Center East litigation, the developers were required to install a traffic light at Town Center Blvd. and Post Street, to be synchronized with the traffic light at Town Center Blvd. and Latrobe Road (see Condition Nos. 14 & 15 re MM C-TRA 2). There is no way that a waiver of review of traffic impacts under the tortured circumstances of the roadways surrounding Town Center East and West can be supported. Key to the court in the Town Center East Apartments litigation was that the change would add 250 units and increase maximum density from 24 dwelling units to 55 dwelling units, including traffic.

Since the original plans for Town Center West were approved in 1995, substantial circulation impacts have increased, which must be addressed before further expansion and/or zoning changes should be considered. At the time of the 1995 review of Town Center West, total population of the El Dorado Hills area was about 2,100, and none of the residential projects now located along White Rock Road and Latrobe Road existed. As has been challenged and litigated in El Dorado County multiple times, the substantial expansion of residential developments means that any realistic evaluation of traffic, and reliance on analysis of projects

approved in 1995, are factually unrelated to the traffic on Latrobe Road and resulting air quality impacts. Please understand, we are not arguing that the applicant and County must consider the impacts of the approved projects on this increase in intensity of use, but that any evaluation of a substantial change in use in Town Center West must consider that change in light of substantially increased traffic along Latrobe Road, and the mitigation measures adopted in the EDH SP EIR, and the expired Development Agreement to assure that such proposed expansions must be evaluated by current standards, not the historic conditions of 1988 and 1995.

The Staff Report for this project and other materials provided to the public for review do not include any information related to anticipated vehicle trips or traffic impacts. Even if Staff is of the opinion that the proposed project would result in lesser impacts than the existing use or of that analyzed in the prior MND, the information should be provided to the public in the interest of full disclosure, especially considering information contained in the pre-application project files. Project files available to the public through e-TRAKiT indicate that the County waived a Traffic Impact Study (TIS) and On-Site Transportation Review (OSTR), concluding that no further transportation studies are required, even though the County's 10/26/18 letter to the applicant stated that at the minimum an OSTR is required, and that a supplemental tech memo would be necessary to document the project's trips even if fewer trips were anticipated. (See 10/26/18 letter to David Kindelt from Alex Guilbert, EDC Planner, p. 5; and 10/16/18 email from Dave Spiegelberg, Senior Civ. Engineer, Transportation Division.) Trip counts should be provided not only for Phase I (592 units) and Phase II (201 units), but future Phase III as well (no units provided, but third facility is 65,000 square feet, three (3) times larger than Phase II).

Preserve EDH believes that the entire point of CEQA is full disclosure of impacts resulting from a proposed project. As is obvious from the County's file, the proposed project is different in kind and much larger and/or intense than that originally approved for the site, yet County Staff determined that no disclosure of impacts was necessary. This determination violates the purpose of Public Resources Code 21000. See *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal. App. 4th 2082. Therefore, there is no reason to ignore the impacts of the proposed project, especially on roadways already identified as LOS E's and F's.

Measure Y, the "Control Traffic Congestion Initiative", was enacted by the voters in 1998 and required, among other things, that developer-paid traffic impact fees fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the County for a period of ten (10) years. These Measure Y policies were adopted into the 2004 General Plan and re-named Policy TC-Xa. In 2008, with Measure Y set to expire, the Board of Supervisors proposed an amended Measure Y that was approved by the voters and adopted for an additional ten (10) years, which kept in place the above requirement but modified other provisions. In 2016, Measure E was enacted by the voters amending the language of Measure Y that was proposed in 2008. Litigation ensued, and as a result of that litigation, in 2017, the County Board of Supervisors adopted the following modification to the TC-Xa(3) provision pertinent here:

"Developer-paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully



offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county. This policy shall remain in effect until December 31, 2018.”

After the Measure E litigation, General Plan Policy TC-Xf, which applies to non-residential development, still reads as follows:

“For all other discretionary projects that worsen (defined as a project that triggers Policy TCXe<sup>5</sup> [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; or (2) ensure the construction of the necessary road improvements are included in the County’s 20 year CIP.”

Modifications were also made to Policy TC-Xg based on the Measure E litigation as follows:

“Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts from traffic from the development project, including impacts from truck traffic, and require dedication of right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.”

In late 2018, the County Board of Supervisors adopted a new TC-Xc which duplicated TC-Xa(3), but removed the sunset date of December 31, 2018.

It is our understanding from Measure E proponents that the County has not been upholding the requirements of Measure Y/E.

Clearly, the proposed Self-Storage project is a commercial project, and Staff is required to obtain an analysis of traffic from the development project applicant and then determine based on that analysis what mitigation contributions or construction are required. That staff waived all traffic reviews in this case makes no sense to Preserve EDH.

The self-storage facility approvals rely upon the approvals of a 25-year old Negative Declaration (PD95-0007) and determine that a change of use from commercial to industrial and a 20% expansion in size have no impacts above those considered in the 1995 Negative Declaration. As mentioned above, the Staff Report does not consider that the Precision Molding business [which would have office space and limited retail traffic on a daily basis] use by its nature would have

substantially less traffic to its facility than a self-storage of almost 800 units, where vehicles drop off and pick up items on a regular basis.

Where, as here, the project does not fall within any exemption, the agency must proceed with the second tier and conduct an initial study. Staff was initially of the opinion that such an analysis was required. “If the initial study reveals that the project will not have a significant environmental effect, the agency must prepare a negative declaration, briefly describing the reasons supporting the determination. (Guidelines, §§15063, subd. (b)(2), 15070.) But given the physical expansion, change of use, evasion of the commercial square footage limitations and anticipated traffic impacts, attempts to apply the negative declaration standards to this project are not appropriate.

e. Expiration of Development Agreement; Substantial Change In Baseline Review.

The expiration of the Development Agreement (acknowledged by Staff in the Staff Report at p. 5) and related Specific Plan approvals require extensive review, zoning amendments, and environmental review by the County for any project anticipated for Town Center West, especially any project involving commercial uses that were never anticipated by the original plans and environmental documents.

f. Improper Segmentation/Deferral (Exclusion) of Phase III.

It should be noted that future Phase III for the self-storage project, which was originally included in the pre-application, was for some reason left out of the current proposal set for hearing on September 12th. Phase III includes plans for an additional 65,000 sq. ft., for a completed project total of 177,148 sq. ft. The project applicant and Staff should not be allowed to defer or exclude Phase III from the analysis of the project at this time, especially since Phase III is three times as large as the Phase II expansion requested in this proposal. According to pre-application project files, Phase III is located on undisturbed land, with existing trees, shrubs and slopes. Phase III environmental impacts should be considered at this time, otherwise this piecemeal fashion of analysis constitutes improper segmentation or deferral in violation of CEQA<sup>6</sup>. See *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 293–295 (describing “piecemealing” as “attempting to avoid a full environmental review by splitting a project into several small projects which appear more innocuous than the total planned project” and rejecting challenges based on approval of feasibility study, half-street closure, and direction to consider general plan amendment).

It is our understanding that another Town Center West project is in the pre-application phase, a mixed-use residential subdivision project which will require another change to PD95-0002. Again, we object to any change to the PD. However, if economic or other changes in circumstances over the course of 25-30 years dictate a change in the overall planned development of Town Center West, it should be reviewed holistically and include a comparison and contrast with the growth of the area over the same period to determine impacts. In either circumstance, a full and complete current environmental review should occur instead of each project trying to piggy-back on an outdated negative declaration.

For all these reasons, the Planning Commission should deny the project as proposed and direct Staff to complete an initial study comparing and contrasting the impacts of the Precision Molding use with the much expanded Superior Self-Storage use; and make recommendations and studies available to the public related to the actual impacts anticipated to occur from these changes in use.

Sincerely,

PRESERVE EDH

Rusty Everett  
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El Dorado Hills, CA 95762