



EL DORADO COUNTY PLANNING & BUILDING DEPARTMENT

2850 Fairlane Court, Placerville, CA 95667
Phone (530) 621-5355, Fax (530) 642-0508

Date: September 20, 2021

To: El Dorado County Board of Supervisors

From: Rommel (Mel) Pabalinas, Current Planning Manager

Subject: **Appeal of Planning Commission Approval of Serrano Village A14
(Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)
Project File No.: TM-A21-0001**

Recommendation

Staff recommends the Board of Supervisors deny the appeal filed by Save Our County and Ruth Michelson, thereby upholding the Planning Commission approval of Serrano Village A-14.

Background

At its scheduled July 22, 2021 meeting, the Planning Commission (Commission) considered the project information and public comments, closed the hearing, voted to conceptually deny the Serrano Village A-14 project and directed staff to return with draft Findings for Denial of the project based on the deliberation for further review and consideration by the Commission. The item was continued to the August 12, 2021 Planning Commission meeting (Legistar File No. 21-1161; Exhibit A: Annotated Minutes of July 22, 2021 Planning Commission meeting).

At the August 12, 2021 meeting, the Commission considered and discussed the draft Findings for Denial of the project prepared by staff, and after deliberation two motions were made. The first motion was made by Commissioner Williams, seconded by Commissioner Ross, to Deny Serrano Village A14 project based on the Findings of Denial as presented by staff. The Commission voted 3-1 to deny this motion (Yes: 1 - Commissioner Ross Noes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna, Abstained: 1 - Commissioner Bly-Chester). The second motion was made by Commissioner Vegna, seconded by Commissioner Clerici, to continue this item to the August 26, 2021 Planning Commission meeting, which would be opened for public hearing, to reanalyze the project based on the edits made to the Design Standards as provided by the applicant. The motion included a direction to staff to bring back edits to specific conditions of approval for further review. The edited conditions of approval involve building setbacks to match similar standards in other Serrano villages and refinement of a noise attenuation requirement. The Commission voted 3-1 to

approve this motion (Yes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna Noes: 1 - Commissioner Ross, Abstained: 1 - Commissioner Bly-Chester) (Legistar File No. 21-1161; Exhibit B: Annotated Minutes of August 12, 2021 Planning Commission meeting).

At the August 26, 2021 meeting, the item was called and was followed by a presentation by staff on the proposed edits to the design standards and specific conditions of approval and input from the applicants. The hearing was formally reopened and public comments were taken. The hearing was closed and the item was brought back to the Commission for further deliberation and motion. A first motion was made by Commissioner Bly-Chester, seconded by Commissioner Ross, to deny Serrano Village A14 project based on the Findings for Denial as provided in the Staff Memo dated August 6, 2021. This motion was immediately followed with a second motion by Commissioner Vegna, seconded by Commissioner Williams, to approve Serrano Village A14 project based on staff's original recommended actions at the July 22nd meeting and modifications provided in the Staff Memo dated August, 20, 2021. Procedurally, the second motion was acted upon first resulting in a 3-1 vote to approve the project (Yes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna, Noes: 1 - Commissioner Ross Abstained: 1 - Commissioner Bly-Chester). The approval was based on the original findings detailed in the documents considered by the Commission on July 22nd, and subject to modified Conditions of Approval (COAs). With the approval of the project based on the second motion in place, action on the first motion was rendered moot and unwarranted (Legistar File No. 21-1161; Exhibit C: Annotated Minutes of August 26, 2021 Planning Commission meeting)

Appeal

On September 3, 2021, Save the County and Ruth Michelson (appellants) timely filed a formal appeal of the Commission's approval of Serrano Village A-14 during the 10-day appeal period (Exhibit D). In summary, the appellants contend that the Planning Commission formally denied the project on July 22nd and therefore, the subsequent meetings and eventual project approval rendered on August 26th should not have occurred. Specifically, the appellant argues that the approval of the project's modified residential development standards (e.g. reduced residential lot size, setbacks and driveway lengths) would result in public safety concerns associated with fire hazards and limited accessibility by disabled persons. The appellants also alleged that there was Brown Act violation and that the approval is inconsistent with the General Plan, Zoning Ordinance and the California Environmental Quality Act (CEQA).

Staff Response

Staff reviewed details of the above appeal. In response, the Planning Commission public hearing proceedings for this project are accurately described in the Background section of this memo. The public safety concerns posed by the appellant have been

sufficiently analyzed and addressed as documented by evidence in the record. In particular findings have been made supporting the design and improvements of the Serrano Village A-14 subdivision (e.g. density, setbacks, road circulation, access, and implementation of Wildfire Safety Plan requirements) to be sufficient in addressing potential fire hazards and accessibility constraints, subject to project conditions of approval. The project conforms to the applicable policies of the General Plan and El Dorado Hills Specific Plan, applicable County codes including the Subdivision Ordinance and Zoning Ordinance, and provisions of the certified Environmental Impact Report for the specific plan.

Response to Brown Act and Cure or Correct Claims

The appeal asserts that the project was denied by a 3-2 vote at the July 22, 2021 Planning Commission meeting. However, the Planning Commission voted to conceptually deny the project with direction to staff to bring forward findings for denial at the August 12, 2021 Planning Commission meeting which was confirmed by the Planning Commission immediately after the vote. At the August 12, 2021 meeting, the conceptual denial was confirmed a second time when the Planning Commission unanimously voted to approve the minutes of the July 22, 2021 meeting, with no corrections.

As was explained to the Planning Commission at the time they voted on the conceptual denial, final action can only be taken at the same time that the findings are made because the denial is based on the findings and it would be improper to deny a project prior to making findings of fact in support of that action. *Topanga Assn. for a Scenic Cmty. v. Cty. of Los Angeles*, 11 Cal. 3d 506, 522 (1974) (“First, by requiring that administrative findings must support a variance, we emphasize the need for orderly legal process and the desirability of forcing administrative agencies to express their grounds for decision so that reviewing courts can intelligently examine the validity of administrative action.”) The only written findings that were before the Planning Commission at the July 22, 2021 hearing were findings for approval; therefore, staff needed time to draft the appropriate findings based on the Planning Commission discussion during the meeting.

The appeal also includes a copy of the cure and correct letter that was sent to the County by Sue Taylor and Save Our County (SOC). The cure and correct letter includes a procedural due process allegation regarding an ex parte communication that occurred after the July 22, 2021 meeting and before the August 12, 2021 meeting which appellants argue is prohibited “during the interstitial period between closure of a hearing and a final decision.” The concern regarding ex parte communications during this time period is the closure of the public hearing (which in this case occurred on July 22nd) since closure of the public hearing would deprive the public of the opportunity to be heard on the ex parte communication and any new information being considered. In this instance, the ex parte communication was fully disclosed (proposed new design

waivers), Commissioner Williams explained his thought process and position (he supported approval of the project with the new design waivers), and the commissioners had the opportunity to discuss the issue. However, since the public hearing was closed on July 22, 2021, prior to the disclosure of the proposed new design waivers, the PC voted to continue the item to the August 26, 2021 PC meeting in order to “reanalyze the project based on the edits made to the Design Standards as provided by the applicant” and, as stated by the Chair, to reopen the public hearing.

At the August 26, 2021 meeting, the PC had both findings of approval and findings of denial available for consideration. The PC reopened the public hearing on August 26th and allowed the public to comment on the proposed new design waivers, as such, the public was afforded the opportunity to be heard on the new information. Members of the public made both written and oral comments on the agenda item. Any alleged due process violation (and solely to the extent that the appellants actually have a protected interest), was cured by full disclosure of the ex parte communication at the August 12th meeting and the re-opening of the public hearing on August 26th for further public comment. Moreover, any such alleged violations are now rendered moot by the Board’s de novo review of the project because the Board will hear the matter independently and without deference to the action taken by the Planning Commission.

The cure and correct letter included with the appeal also alleges that there was a Brown Act violation relating to the Planning Commission’s approval of the project. However, the cure and correct request fails to clearly describe a violation that is subject to the Brown Act’s cure or correct provisions. A formal response to that letter will be provided separately from this appeal proceeding.

Conclusion

Based on the above, staff recommends that the Board of Supervisors deny the appeal by Save the County and Ruth Michelson and uphold the Planning Commission’s approval and CEQA determination for the Serrano Village A-14 project based on the findings and subject to the conditions of approval as modified at the August 26th Planning Commission meeting.

The Board of Supervisors may also consider the following alternatives:

1. Approve the appeal and deny the project, reversing the Planning Commission approval of Planned Development PD08-0004 and Tentative Subdivision Map TM08-1464 (Serrano Village A14), and approve Findings for Denial as previously submitted by staff for the Planning Commission meeting on August 12th; or
2. Remand the project to the Planning Commission for further review of specified Findings, Conditions of Approval, Design Waiver modifications or modified

Development Standards of the Single-unit Residential Zone (R1) District as may be determined by the Board of Supervisors.

Exhibits

- Exhibit A: Annotated Minutes of July 22, 2021 Planning Commission meeting
- Exhibit B: Annotated Minutes of August 12, 2021 Planning Commission meeting
- Exhibit C: Annotated Minutes of August 26, 2021 Planning Commission meeting
- Exhibit D: Appeal Filed by Save the County and Ruth Michelson



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Minutes - Final Planning Commission

Jon Vegna, Chair, District 1
James Williams, First Vice-Chair, District 4
Amanda Ross, Second Vice Chair, District 5
Cheryl Bly-Chester, Member, District 2
John Clerici, Member, District 3

Julie Saylor, Clerk of the Planning Commission
Tiffany Schmid, Executive Secretary
Breann Moebius, Deputy County Counsel

Thursday, July 22, 2021

8:30 AM

**VIRTUALLY - See Agenda
for Details to View and
Participate**

PUBLIC PARTICIPATION INSTRUCTIONS: The Meeting Room will be closed to members of the public and all public participation will be handled remotely. Please note you will not be able to join the live stream until the posted meeting start time.

PHONE IN: 1-530-621-7603 or 1-530-621-7610, Meeting ID 928 5656 7650

WATCH LIVE STREAM: To observe the live stream of the Planning Commission meeting go to <https://zoom.us/j/92856567650>

PUBLIC COMMENT PARTICIPATION: If you are joining the meeting via zoom and wish to make a comment on an item, press the "raise hand" button. If you are joining the meeting by phone, press *9 to indicate a desire to make a comment. Speakers will be limited to 3 minutes.

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Exhibit A: Annotated Minutes of July 22, 2021 Planning Commission meeting

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For purposes of the Brown Act, Section 54954.2(a), the numbered items on this agenda give a brief description of each item to be discussed. Recommendations of the staff, as shown, do not prevent the Commission from taking other action.

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Step 2. If the disruption continues, the Chair may order a recess of the Commission meeting.

Step 3. If the disruption continues, the Chair may order the removal of the person from the Commission meeting.

8:30 A.M.

CALL TO ORDER / ROLL CALL

Meeting was called to order at 8:30 AM by Chair Vegna, with Commissioner Clerici not present. All Commissioners attended by remote attendance.

Present: 4 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester and Commissioner Vegna

Absent: 1 - Commissioner Clerici

PLEDGE OF ALLEGIANCE TO THE FLAG

ADOPTION OF AGENDA AND APPROVAL OF THE CONSENT CALENDAR

(All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

Public comment: K. Greenwood; B. Brosnahan

A motion was made by Commissioner Ross, seconded by Commissioner Vegna, to Adopt the Agenda and Approve the Consent Calendar.

Votes were by roll call.

Yes: 4 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester and Commissioner Vegna

Absent: 1 - Commissioner Clerici

CONSENT CALENDAR

1. [21-1160](#) Clerk of the Planning Commission recommending the Commission approve the MINUTES of the regular meeting of June 10, 2021.

Item was Approved on the Consent Calendar.

END OF CONSENT CALENDAR

DEPARTMENTAL REPORTS AND COMMUNICATIONS (Planning and Building, Transportation, County Counsel)

Tiffany Schmid, Director of Planning and Building Department, provided the Commission an update on: 1) the appeal for the Conditional Use Permit for the Oak Ridge High School Verizon Wireless Cell Tower was heard by the Board of Supervisors on Tuesday (July 20, 2021) and the Board upheld the appeal thereby reversing the Commission's denial of the project; 2) draft Bylaws are currently undergoing staff review and it is anticipated to return to the Commission in September; 3) the next regularly scheduled meeting of August 12, 2021 is tentatively going to be cancelled; and 4) the Planning Commission Hearing Room is still awaiting a couple of installations and staff anticipates to return to the room late August or beginning of September.

[Clerk's Note: Agenda Item No. 2 was continued to August 12, 2021 and that regular meeting will be held.]

Chair Vegna updated the Commission and staff that he has reached out to Brian Veerkamp about having him come to the Commission for a workshop on water allocations/water rights.

Commissioner Clerici arrived by remote attendance at 8:45 AM

Present: 5 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester, Commissioner Clerici and Commissioner Vegna

COMMISSIONERS' REPORTS

Commissioner Ross advised that District 5 received an update on the turn restriction pilot program from the County Department of Transportation.

Commissioner Bly-Chester advised that she and Supervisor Turnboo were invited by Keep Somerset Rural to attend a community meeting on a proposed project at the corner of Bucks Bar Road and Mt. Aukum Road called Gathering at the Well. Commissioner Bly-Chester advised that at that community meeting a lot of questions arose regarding the proposed construction near Gray's Corner.

Commissioner Bly-Chester made a motion that she would like to have an agenda item brought to a future meeting to have County Counsel report out on the status of the Somerset/Fairplay proposed permit(s) near Gray's Corner and any status of Environmental Management's permit(s) being considered Discretionary.

Discussions continued between Commissioners and staff regarding proposed construction near Gray's Corner.

Commissioner Bly-Chester's motion was tabled until after Public Forum by Chair Vegna.

Commissioner Williams questioned Department of Transportation on: 1) work being done at several interchanges in District 4 at Shingle Springs, El Dorado Hills and Cameron Park; 2) traffic counting being conducted in Shingle Springs and if it is project or County related. Dave Spiegelberg, Department of Transportation, requested clarification on the intersections and noted the Bass Lake traffic signal on the east bound off ramp is being installed per Bass Lake Hills Specific Plan projects. Dave Spiegelberg advised he would verify the other questioned intersection and report back to the Commission.

Chair Vegna talked about signal optimization currently underway at Latrobe, El Dorado Hills Blvd., and Green Valley corridors and lane widening underway at Silva Valley and Harvard Way.

[Clerk's Note: The following report was completed at the end of Public Forum/Public Comment]

Dave Spiegelberg, Department of Transportation, reported to the Commission the work being done on the Shingle Springs interchange is directly under J. Balzer or M. Smeltzer and they would be best to provide a direct update on status.

PUBLIC FORUM / PUBLIC COMMENT

Public comment: B. Brosnahan; K. Greenwood; S. Telfer; J. King

Commissioner Bly-Chester made a motion to have an agenda item added to a future Commission meeting to have County Counsel and Environmental staff report out on the status of the Somerset/Fairplay proposed permit(s) near Gray's Corner and any status of the permit(s) being considered discretionary and/or requirements of a CEQA (California Environmental Quality Act) review.

Commissioner Williams proposed edits to the motion to have staff return to the August 26, 2021 Commission meeting and provide an update to the Commission and the public regarding the recent comments and letter received regarding development of a commercial site in the Somerset area. Commissioner Bly-Chester agreed to the proposed edits to the motion but clarified that it is Environmental Management staff that should be providing an update to the Commission.

Discussions continued between Commissioners and staff regarding proposed construction near Gray's Corner.

Commissioner Bly-Chester amended her original motion to have an agenda item added to a future meeting, when it is more ripe to hear about this topic, to have County Counsel and Environmental Management staff report out on the status of the Somerset/Fairplay proposed permit(s) near Gray's Corner and any status of the permit(s) being considered discretionary and/or requirements of a CEQA (California Environmental Quality Act) review.

Commissioner Williams proposed edits to the amended motion to request County Counsel to provide the Commission a memo on staff's determination once they have completed their analysis.

Commissioner Bly-Chester agreed to amend the motion to request staff and County Counsel to provide the Commission a memo on status updates on the proposed permit(s) associated with construction of proposed project(s) near the Gray's Corner area. The motion was seconded by Commissioner Williams. Votes were by roll call.

Yes: 1 - Commissioner Bly-Chester

Noes: 4 - Commissioner Williams, Commissioner Ross, Commissioner Clerici and Commissioner Vegna

AGENDA ITEMS

2. [21-1161](#)

Hearing to consider the Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** to request: A) Development Plan for the Serrano Village A-14 residential subdivision including modifications to the development standards for the Single-Unit (R1) Residential Zone District including minimum lot size, minimum lot dimensions and building setbacks; B) A Phased Tentative Subdivision Map of a 35.78-acre parcel creating 51 single-unit residential lots ranging from 3,760 to 10,362 square feet in size, five landscape lots, one open space lot, three remainder lots and one 20.25-acre lot (for the approved Serrano Village C Phase 2 Tentative Map); and C) Design Waiver of the following El Dorado County Design and Improvement Standards Manual (DISM) road improvement standards: 1) Modification of Standard Plan 101B standards for roadway rights-of-way and improvement widths (including sidewalks and curbs) as shown on the Tentative Subdivision Map; 2) Reduction of a 100-foot centerline curve radii on B Street at Lots 3 and 43; 3) Modification of the standard road encroachment under Standard Plan 110 to allow for an entry gate and landscaping median at Russi Ranch Drive and future Country Club Drive; and 4) Reduction of standard lot frontage width of 60 feet to 47 feet or as otherwise dimensioned on the tentative map on property identified by Assessor's Parcel Number 122-590-003, consisting of 35.78 acres, in the El Dorado Hills area, submitted by Serrano Associates LLC; and staff recommending the Planning Commission take the following actions: 1) Find the project to be Statutorily Exempt pursuant to Section 15182 of the CEQA Guidelines; 2) Approve Planned Development PD08-0004 and Tentative Map TM08-1464 subject to the Findings and Conditions of Approval as presented; 3) Approve the following Design Waivers as presented: A) Modification of Standard Plan 101B standards for roadway rights-of-way and improvement widths (including sidewalks and curbs) as shown on the Tentative Subdivision Map; B) Reduction of a 100-foot centerline curve radii on B Street at Lots 3 and 43; C) Modification of the standard road encroachment under Standard Plan 110 to allow for an entry gate and landscaping median at Russi Ranch Drive and future Country Club Drive; and D) Reduction of standard lot frontage width of 60 feet to 47 feet or as otherwise dimensioned on the tentative map.

(Supervisory District 2)

Chair Vegna opened the hearing and upon conclusion of public comment and staff input, closed the hearing.

A motion was made by Commissioner Clerici, seconded by Commissioner Vegna, to approve this item as presented by staff with the following modification to Condition of Approval No. 4: Add "...including all applicable measures as discussed in the submitted project noise study (Exhibit S)...".

Votes were by roll call.

Yes: 2 - Commissioner Clerici and Commissioner Vegna

Noes: 3 - Commissioner Williams, Commissioner Ross and Commissioner Bly-Chester

A motion was made by Commissioner Bly-Chester, seconded by Commissioner Williams, to conceptually deny the project and direct staff to return to the August 12, 2021 Planning Commission meeting with Findings for Denial as outlined by the Commission.

Votes were by roll call.

Yes: 3 - Commissioner Williams, Commissioner Ross and Commissioner Bly-Chester

Noes: 2 - Commissioner Clerici and Commissioner Vegna

ADJOURNMENT

Meeting was adjourned at 1:16 PM by Chair Vegna.

All persons interested are invited to participate remotely (following instructions listed under the Public Participation Instructions in this agenda) and be heard or to write their comments to the Planning Commission. If you challenge the application in court, you may be limited to raising only those items you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to, the public hearing. Any written correspondence should be directed to Planning Services; 2850 Fairlane Court; Placerville, CA 95667.

*A negative declaration has been prepared for this project and may be reviewed and/or obtained in Planning Services, 2850 Fairlane Court, Placerville, CA 95667, during normal business hours. A negative declaration is a document filed to satisfy CEQA (California Environmental Quality Act). This document states that there are no significant environmental effects resulting from the project, or that conditions have been proposed which would mitigate or reduce potential negative effects to an insignificant level.

**This project is exempt from the California Environmental Quality Act (CEQA) pursuant to the above referenced section, and it is not subject to any further environmental review.



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Thursday, August 12, 2021

8:30 AM

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8:30 A.M.

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- Present:** 4 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester and Commissioner Vegna
- Absent:** 1 - Commissioner Clerici

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Clerici arrived by remote attendance at 8:31 AM

- Present:** 5 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester, Commissioner Clerici and Commissioner Vegna

ADOPTION OF AGENDA AND APPROVAL OF THE CONSENT CALENDAR
(All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

A motion was made by Commissioner Williams, seconded by Commissioner Vegna, to Adopt the Agenda and Approve the Consent Calendar. Votes were by roll call.

- Yes:** 5 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester, Commissioner Clerici and Commissioner Vegna

CONSENT CALENDAR

- 1. [21-1289](#) Clerk of the Planning Commission recommending the Commission approve the MINUTES of the special meeting of July 19, 2021 and the regular meeting of July 22, 2021.

Item was Approved on the Consent Calendar.

END OF CONSENT CALENDAR

DEPARTMENTAL REPORTS AND COMMUNICATIONS (Planning and Building, Transportation, County Counsel)

Rob Peters, Deputy Director of Planning, provided the Commission an update on: 1) the Heritage at Carson Creek project was approved by the Board of Supervisors at their meeting on Tuesday (August 10, 2021) with some modifications to the Development Agreement; 2) at the same Board meeting, the Montano project was approved by the Board of Supervisors based on the recommendations of the Planning Commission; and 3) a well permit was issued as a ministerial permit for the proposed construction near Gray's Corner, a septic permit would not be evaluated until an adequate water source was in place, and building and grading permits have not been approved and would be subject to the septic evaluation being conducted. Building, grading and septic permits, as long as standards have been met, will be processed as ministerial projects.

COMMISSIONERS' REPORTS

Commissioner Bly-Chester questioned staff on the proposed construction near Gray's Corner and status of Environmental Management's report out on CEQA (California Environmental Quality Act) review. Rob Peters, Deputy Director of Planning, noted that his Departmental Report is representative of Environmental Management's determination of the issuance of the well permit and Environmental Management will not be evaluating or issuing any permits related to septic until adequate proof of water is determined from the well permit. The well permit has been issued, so it can move forward but, the well permit has not been finalized.

Commissioner Bly-Chester mentioned that it is her understanding that there was a community meeting with a Native American group and noted that the Native American group has interest in the project site but Commissioner Bly-Chester stated she was not aware of the outcome of that meeting.

Commissioner Bly-Chester questioned staff on the decision and response made regarding recent comments and letters received regarding the discretionary ability of the County as it pertains to proposed development of a commercial site in the Somerset area. Rob Peters, Deputy Director of Planning, noted he provided an update on permit status for the project and stated it was his understanding that the determination on the well permit and other associated permits are being handled as ministerial projects.

Discussions continued between Commissioners and staff regarding proposed construction near Gray's Corner.

PUBLIC FORUM / PUBLIC COMMENT

There was no public comment.

AGENDA ITEMS

2. [21-1161](#)

Returning at the Commission’s direction for final action of the Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** consisting of requests for: A) Development Plan for the Serrano Village A-14 residential subdivision including modifications to the development standards for the Single-Unit (R1) Residential Zone District including minimum lot size, minimum lot dimensions and building setbacks; B) A Phased Tentative Subdivision Map of a 35.78-acre parcel creating 51 single-unit residential lots ranging from 3,760 to 10,362 square feet in size, five landscape lots, one open space lot, three remainder lots and one 20.25-acre lot (for the approved Serrano Village C Phase 2 Tentative Map); and C) Design Waiver of the following El Dorado County Design and Improvement Standards Manual (DISM) road improvement standards: 1) Modification of Standard Plan 101B standards for roadway rights-of-way and improvement widths (including sidewalks and curbs) as shown on the Tentative Subdivision Map; 2) Reduction of a 100-foot centerline curve radii on B Street at Lots 3 and 43; 3) Modification of the standard road encroachment under Standard Plan 110 to allow for an entry gate and landscaping median at Russi Ranch Drive and future Country Club Drive; and 4) Reduction of standard lot frontage width of 60 feet to 47 feet or as otherwise dimensioned on the tentative map on property identified by Assessor’s Parcel Number 122-590-003, consisting of 35.78 acres, in the El Dorado Hills area, submitted by Serrano Associates LLC; and staff recommending the Commission take the following actions consistent with the Commission’s conceptual action and direction to staff:

1) Deny Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464) based on the Findings of Denial as presented.

(Supervisory District 2) (Cont. 07/22/2021, Item 2)

A motion was made by Commissioner Williams, seconded by Commissioner Ross, to Deny Serrano Village A14 project based on the Findings of Denial as presented by staff.
Votes were by roll call.

Yes: 1 - Commissioner Ross

Noes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna

Abstained: 1 - Commissioner Bly-Chester

A motion was made by Commissioner Vegna, seconded by Commissioner Clerici, to continue this item to the August 26, 2021 Planning Commission meeting.

The motion was modified by Commissioner Vegna, seconded by Commissioner Clerici, to continue this item to the August 26, 2021 Planning Commission meeting to reanalyze the project based on the edits made to the Design Standards as provided by the applicant.

Votes were by roll call.

Yes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna

Noes: 1 - Commissioner Ross

Abstained: 1 - Commissioner Bly-Chester

ADJOURNMENT

Meeting was adjourned at 9:16 AM by Chair Vegna.

All persons interested are invited to participate remotely (following instructions listed under the Public Participation Instructions in this agenda) and be heard or to write their comments to the Planning Commission. If you challenge the application in court, you may be limited to raising only those items you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to, the public hearing. Any written correspondence should be directed to Planning Services; 2850 Fairlane Court; Placerville, CA 95667.

*A negative declaration has been prepared for this project and may be reviewed and/or obtained in Planning Services, 2850 Fairlane Court, Placerville, CA 95667, during normal business hours. A negative declaration is a document filed to satisfy CEQA (California Environmental Quality Act). This document states that there are no significant environmental effects resulting from the project, or that conditions have been proposed which would mitigate or reduce potential negative effects to an insignificant level.

**This project is exempt from the California Environmental Quality Act (CEQA) pursuant to the above referenced section, and it is not subject to any further environmental review.



County of El Dorado

Planning and Building
Department
2850 Fairlane Court
Placerville CA 95667
www.edcgov.us
phone:530-621-5355
fax:530-642-0508

Minutes - Final Planning Commission

Jon Vegna, Chair, District 1
James Williams, First Vice-Chair, District 4
Amanda Ross, Second Vice Chair, District 5
Cheryl Bly-Chester, Member, District 2
John Clerici, Member, District 3

Julie Saylor, Clerk of the Planning Commission
Tiffany Schmid, Executive Secretary
Breann Moebius, Deputy County Counsel

Thursday, August 26, 2021

8:30 AM

**VIRTUALLY - See Agenda
for Details to View and
Participate**

PUBLIC PARTICIPATION INSTRUCTIONS: The Meeting Room will be closed to members of the public and all public participation will be handled remotely. Please note you will not be able to join the live stream until the posted meeting start time.

PHONE IN: 1-530-621-7603 or 1-530-621-7610, Meeting ID 945 1850 8250

WATCH LIVE STREAM: To observe the live stream of the Planning Commission meeting go to <https://zoom.us/j/94518508250>

PUBLIC COMMENT PARTICIPATION: If you are joining the meeting via zoom and wish to make a comment on an item, press the "raise hand" button. If you are joining the meeting by phone, press *9 to indicate a desire to make a comment. Speakers will be limited to 3 minutes.

By participating in this meeting you acknowledge that you are being recorded.

If you choose not to observe the Planning Commission meeting but wish to make a comment on a specific agenda item, please submit your comments to the Clerk of the Planning Commission at planning@edcgov.us. Planning Services cannot guarantee that any public comment received the day of the Commission meeting will be delivered to the Commission prior to any action.

The Clerk and Planning staff is here to assist you, please call 530-621-5355 if you need any assistance with the above directions to access the meeting.

Exhibit C: Annotated Minutes of August 26, 2021 Planning Commission meeting

Planning Commission audio recordings, Agendas, Staff Reports, Supplemental Materials and Minutes are available on the internet at: <http://eldorado.legistar.com/Calendar.aspx>

The County of El Dorado is committed to ensuring that persons with disabilities are provided the resources to participate in its public meetings. If you require accommodation, please contact the Clerk to the Planning Commission at 530-621-5355 or via e-mail, planning@edcgov.us.

All Planning Commission hearings are recorded. An audio recording of this meeting will be published to the website. Please note that due to technology limitations, the link will be labeled as "Video" although only audio will play. The meeting is not video recorded***.

***This Planning Commission meeting will be recorded via Zoom Webinar and available for Live Web Streaming on the internet (follow instructions listed under the Public Participation Instructions in this agenda).

The Planning Commission is concerned that written information submitted to the Planning Commission the day of the Commission meeting may not receive the attention it deserves. Planning Services cannot guarantee that any FAX, email, or mail received the day of the meeting will be delivered to the Commission prior to action on the subject matter.

For purposes of the Brown Act, Section 54954.2(a), the numbered items on this agenda give a brief description of each item to be discussed. Recommendations of the staff, as shown, do not prevent the Commission from taking other action.

Staff materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for inspection during normal business hours in Planning Services located at 2850 Fairlane Court, Placerville, CA. Such documents are also available on the Commission's Meeting Agenda webpage subject to staff's ability to post the documents before the meeting.

PROTOCOLS FOR PUBLIC COMMENT

Public comment will be received at designated periods as called by the Commission Chair.

Except with the consent of the Commission, individuals shall be allowed to speak to an item only once.

Matters not on the agenda may be addressed by the general public during Public Forum/Public Comment. Comments during Public Forum/Public Comment are limited to three minutes per person. The Commission reserves the right to waive said rules by a majority vote. Public Forum/Public Comment is for comment only. No action will be taken on these items unless they are scheduled on a future agenda.

Public testimony will be received on each agenda item as it is called. Individuals will have three minutes to address the Commission. Individuals authorized by organizations will have three minutes to present organizational positions and perspectives and may request additional time, up to five minutes. At the discretion of the Commission, time to speak by any individual may be extended.

Upon completion of public comment on an agenda item, the matter shall be returned to the Commission for deliberation. Members of the public shall not be entitled to participate in that deliberation, or be present at the podium during such deliberation, except at the invitation of the Commission for a point of clarification or question by the Commission.

Individual Commission members may ask clarifying questions but will not engage in substantive dialogue with persons providing input to the Commission.

If a person providing input to the Commission creates a disruption by refusing to follow Commission guidelines, the Chair of the Commission may take the following actions:

Step 1. Request the person adhere to the Commission guidelines. If the person refuses, the Chair may ask the Clerk to turn off the speaker's microphone.

Step 2. If the disruption continues, the Chair may order a recess of the Commission meeting.

Step 3. If the disruption continues, the Chair may order the removal of the person from the Commission meeting.

8:30 A.M.

CALL TO ORDER / ROLL CALL

Meeting was called to order at 8:30 AM by Chair Vegna, with all Commissioners present. All Commissioners attended by remote attendance.

Present: 5 - Commissioner Williams, Commissioner Ross, Commissioner Bly-Chester, Commissioner Clerici and Commissioner Vegna

PLEDGE OF ALLEGIANCE TO THE FLAG

ADOPTION OF AGENDA AND APPROVAL OF THE CONSENT CALENDAR

(All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

Public Comment: K. Davis; T. Hamilton; S. Taylor; S. Telfer; J. Maynard; K. Link

A motion was made by Commissioner Clerici, seconded by Commissioner Vegna, to Adopt the Agenda and Approve the Consent Calendar. Votes were by roll call.

Yes: 4 - Commissioner Williams, Commissioner Ross, Commissioner Clerici and Commissioner Vegna

Abstained: 1 - Commissioner Bly-Chester

CONSENT CALENDAR

- 1. [21-1403](#) Clerk of the Planning Commission recommending the Commission approve the MINUTES of the regular meeting of August 12, 2021 and the special meeting of August 17, 2021.

Item was Approved on the Consent Calendar.

END OF CONSENT CALENDAR

DEPARTMENTAL REPORTS AND COMMUNICATIONS (Planning and Building, Transportation, County Counsel)

Rob Peters, Deputy Director of Planning, provided an update to the Commission on: 1) there is one scheduled item for the Commission's September 9, 2021 meeting, and 2) the Planning and Building Department is heavily engaged in Post Disaster Rebuilding efforts.

COMMISSIONERS' REPORTS

Commissioner Bly-Chester noted that District II is largely on fire and discussed the idea of continuing this hearing.

Commissioner Ross noted that much of District V is also on fire and a lot of District V is also under evacuation or evacuation warnings. Commissioner Ross discussed the County's webpage for the Caldor Fire which has resources available for evacuees. Julie Saylor, Clerk of the Planning Commission, noted the County's main webpage of www.edcgov.us and to click on 'Alert: Fire Information & Resources'.

Commissioner Williams summarized activities taken and made clarifications in regards to the agenda item number two (Serrano Village A14 project).

Commissioner Clerici expressed his support to Commissioner Williams report.

PUBLIC FORUM / PUBLIC COMMENT

Public Comment: T. Hamilton; S. Taylor

AGENDA ITEMS

2. [21-1161](#) Hearing to consider the Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** to request: A) Development Plan for the Serrano Village A-14 residential subdivision including modifications to the development standards for the Single-Unit (R1) Residential Zone District including minimum lot size, minimum lot dimensions and building setbacks; B) A Phased Tentative Subdivision Map of a 35.78-acre parcel creating 51 single-unit residential lots ranging from 3,760 to 10,362 square feet in size, five landscape lots, one open space lot, three remainder lots and one 20.25-acre lot (for the approved Serrano Village C Phase 2 Tentative Map); and C) Design Waiver of the following El Dorado County Design and Improvement Standards Manual (DISM) road improvement standards: 1) Modification of Standard Plan 101B standards for roadway rights-of-way and improvement widths (including sidewalks and curbs) as shown on the Tentative Subdivision Map; 2) Reduction of a 100-foot centerline curve radii on B Street at Lots 3 and 43; 3) Modification of the standard road encroachment under Standard Plan 110 to allow for an entry gate and landscaping median at Russi Ranch Drive and future Country Club Drive; and 4) Reduction of standard lot frontage width of 60 feet to 47 feet or as otherwise dimensioned on the tentative map; on property identified by Assessor’s Parcel Number 122-590-003, consisting of 35.78 acres, in the El Dorado Hills area, submitted by Serrano Associates LLC; and staff recommending the Planning Commission take the following actions: 1) Find the project to be Statutorily Exempt pursuant to Section 15182 of the CEQA Guidelines; 2) Approve Planned Development PD08-0004 and Tentative Subdivision Map TM08-1464 subject to the Findings and Conditions of Approval as presented; and 3) Approve the modified Design Waivers and Conditions of Approval as outlined in Staff Memo dated August 20, 2021. (Supervisory District 2) (Cont. 08/12/2021, Item 2)

Public Comment: S. Taylor

[Clerk's Note: Serrano Village A14 project is located in Supervisory District 1.]

Chair Vegna opened the hearing and upon conclusion of public comment and staff input, closed the hearing.

A motion was made by Commissioner Bly-Chester, seconded by Commissioner Ross, to Deny Serrano Village A14 project based on the Findings for Denial as provided from Staff Memo dated August 6, 2021 and amended to include: the Design Standards have not been met with this proposed development.

No vote was taken.

A second motion was made by Commissioner Vegna, seconded by Commissioner Williams, to Approve Serrano Village A14 project with staff's recommended actions which include modifications as provided in Staff Memo dated August, 20, 2021.

Votes were by roll call.

Yes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna

Noes: 1 - Commissioner Ross

Abstained: 1 - Commissioner Bly-Chester

ADJOURNMENT

Meeting was adjourned at 9:31 AM by Chair Vegna.

All persons interested are invited to participate remotely (following instructions listed under the Public Participation Instructions in this agenda) and be heard or to write their comments to the Planning Commission. If you challenge the application in court, you may be limited to raising only those items you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to, the public hearing. Any written correspondence should be directed to Planning Services; 2850 Fairlane Court; Placerville, CA 95667.

*A negative declaration has been prepared for this project and may be reviewed and/or obtained in Planning Services, 2850 Fairlane Court, Placerville, CA 95667, during normal business hours. A negative declaration is a document filed to satisfy CEQA (California Environmental Quality Act). This document states that there are no significant environmental effects resulting from the project, or that conditions have been proposed which would mitigate or reduce potential negative effects to an insignificant level.

**This project is exempt from the California Environmental Quality Act (CEQA) pursuant to the above referenced section, and it is not subject to any further environmental review.

File Number: TM-A21-0001
Date Received: 9/3/2021

Receipt No.: R34058
Amount: \$239.⁰⁰

APPEAL FORM

(For more information, see Section 130.52.090 of the Zoning Ordinance)

Appeals must be submitted to the Planning Department with appropriate appeal fee. Please see fee schedule or contact the Planning Department for appeal fee information.

APPELLANT Save Our County & Ruth Michelson
ADDRESS 3651 Indian Creek Court, Placerville, CA 95667
DAYTIME TELEPHONE 930 401 2365

A letter from the Appellant authorizing the Agent to act in his/her behalf must be submitted with this appeal.

AGENT _____
ADDRESS _____
DAYTIME TELEPHONE _____

APPEAL BEING MADE TO: Board of Supervisors Planning Commission

ACTION BEING APPEALED (Please specify the action being appealed, i.e., approval of an application, denial of an application, conditions of approval, etc., and specific reasons for appeal. If appealing conditions of approval, please attach copy of conditions and specify appeal.)

We are appealing, to the Board of Supervisors, the approval of the Serrao Village A14 project Planned Development PD08-0004/Tentative Subdivision Map TM08-1464 project with staff's recommended actions which include modifications as provided in Staff Memo dated August 20, 2021. Also see attached appeal supplemental, and cure and correct letter sent to the Planning Commission.

DATE OF ACTION BEING APPEALED August 26, 2021

Signature Ruth Michelson Date Sept 3 '21

Sec. 130.52.090 - Appeals.

Any decision by the review authority of original jurisdiction may be appealed by the applicant or any other affected party, as follows:

- A. An appeal must be filed within 10 working days from the decision by the review authority by completing the appeal form and submitting said form together with the applicable fee, as established by resolution of the Board, to the Department. The appellant shall clearly identify on the appeal form the specific reasons for the appeal and the relief requested.
- B. The hearing body for the appeal shall consider all issues raised by the appellant and may consider other relevant issues related to the project being appealed. The hearing body for the appeal shall be as follows:
 1. All decisions of the Director are appealable to the Commission and then to the Board.
 2. All decisions of the Zoning Administrator and the Commission are appealable to the Board.
 3. All decisions of the Board are final.
- C. The hearing on an appeal shall be set no more than 30 days from receipt of a completed appeal form and fee. If the Board meeting is canceled for any reason on the date on which the appeal would normally be heard, the appeal shall be heard on the first available regularly-scheduled meeting following the canceled meeting date. The 30-day time limitation may be extended by mutual consent of the appellant(s), the applicant, if different from the appellant, and the appeals body. Once the date and time for the hearing is established the hearing may be continued only by such mutual consent.
- D. In any appeal action brought in compliance with this Section, the appellant(s) may withdraw the appeal, with prejudice, at any time prior to the commencement of the public hearing. For the purposes of this Section, the public hearing shall be deemed commenced upon the taking of any evidence, including reports from staff.
- E. Upon the filing of an appeal, the Commission or the Board shall render its decision on the appeal within 60 days.
- F. No person shall seek judicial review of a County decision on a planning permit or other matter in compliance with this Title until all appeals to the Commission and Board have been first exhausted in compliance with this Section.



Cash Register Receipt

County of El Dorado

Receipt Number
R34058

DESCRIPTION	ACCOUNT	QTY	PAID
ProjectTRAK			\$239.00
TM-A21-0001 Address: 0 APN: 122590003			\$239.00
APPEALS FEES			\$239.00
ALL APPEALS	3720200 0240	0	\$239.00
TOTAL FEES PAID BY RECEIPT:R34058			\$239.00

2021 SEP -3 PM 2:52
 RECEIVED
 PLANNING DEPARTMENT

Date Paid: Friday, September 03, 2021
 Paid By: Save Our County and Ruth Michelson
 Cashier: MAA2
 Pay Method: CHK-PLACERVILLE 3494

RECEIVED
 PLANNING DEPARTMENT

You can check the status of your case/permit/project using our online portal [etrakit](https://edc-trk.aspgov.com/etrakit/) <https://edc-trk.aspgov.com/etrakit/>

Your local Fire District may have its' own series of inspection requirements for your case/permit/project. Please contact them for further information. Fire District inspections (where required) must be approved prior to calling for a frame and final inspection through the building department.

9-2-2021

AGENDA ITEM #2 on the August 26, 2021 Planning Commission meeting

Legistar # 21-1161.

We (Save Our County and Ruth Michelson) are appealing the approval of the requests for Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** as stated in the 8/26/21 Planning Commission Agenda and the actions that were taken:

Agenda Item:

Hearing to consider the Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** to request: A) Development Plan for the Serrano Village A-14 residential subdivision including modifications to the development standards for the Single-Unit (R1) Residential Zone District including minimum lot size, minimum lot dimensions and building setbacks; B) A Phased Tentative Subdivision Map of a 35.78-acre parcel creating 51 single-unit residential lots ranging from 3,760 to 10,362 square feet in size, five landscape lots, one open space lot, three remainder lots and one 20.25-acre lot (for the approved Serrano Village C Phase 2 Tentative Map); and C) Design Waiver of the following El Dorado County Design and Improvement Standards Manual (DISM) road improvement standards: 1) Modification of Standard Plan 101B standards for roadway rights-of-way and improvement widths (including sidewalks and curbs) as shown on the Tentative Subdivision Map; 2) Reduction of a 100-foot centerline curve radii on B Street at Lots 3 and 43; 3) Modification of the standard road encroachment under Standard Plan 110 to allow for an entry gate and landscaping median at Russi Ranch Drive and future Country Club Drive; and 4) Reduction of standard lot frontage width of 60 feet to 47 feet or as otherwise dimensioned on the tentative map; on property identified by Assessor's Parcel Number 122-590-003, consisting of 35.78 acres, in the El Dorado Hills area, submitted by Serrano Associates LLC; and staff recommending the Planning Commission take the following actions: 1) Find the project to be Statutorily Exempt pursuant to Section 15182 of the CEQA Guidelines; 2) Approve Planned Development PD08-0004 and Tentative Subdivision Map TM08-1464 subject to the Findings and Conditions of Approval as presented; and 3) Approve the modified Design Waivers and Conditions of Approval as outlined in Staff Memo dated August 20, 2021. (Supervisory District 2) (Cont. 08/12/2021, Item 2)

Minutes:

Chair Vegna opened the hearing and upon conclusion of public comment and staff input, closed the hearing.

A motion was made by Commissioner Bly-Chester, seconded by Commissioner Ross, to Deny Serrano Village A14 project based on the Findings for Denial as provided from Staff Memo dated August 6, 2021 and amended to include: the

Design Standards have not been met with this proposed development. No vote was taken.

A second motion was made by Commissioner Vegna, seconded by Commissioner Williams, to Approve Serrano Village A14 project with staff's recommended actions which include modifications as provided in Staff Memo dated August, 20, 2021. Votes were by roll call. Yes: 3 - Commissioner Williams, Commissioner Clerici and Commissioner Vegna Noes: 1 - Commissioner Ross Abstained: 1 - Commissioner Bly-Chester.

First of all, the hearing for the above request had been closed on July 22, 2021 after the Planning Commission had denied the project. Commissioner Bly-Chester made the motion to deny and gave staff the findings. That motion was approved with a 3 to 2 vote. Therefore, this agenda item should not have come to the August 26, 2021 Agenda let alone be redeliberated.

Save Our County has submitted a Cure and Correct letter to the Planning Commission and to the Board of Supervisors demanding that this agenda item be corrected as a denial and then the applicant can go through the correct procedures for appeal if the applicant so chooses.

We are appealing this decision for design waivers because we believe that the county design standards were put in place for a purpose. Allowing shorter setbacks and lot sizes increases the fire danger by placing homes closer together with less defensible space between structures, which increases the likelihood in a fire situation that embers will jump from one house to the next and the entire community will burn down. This is the situation that was observed in the Tubbs Fire in 2017 in Santa Rosa. The Caldor Fire has made us all very aware of the fire safety dangers in El Dorado County and we should not be allowing new developments to have design waivers from our county standards that will increase the fire hazard in our community. Additionally, the waiver to allow shorter driveways may result in emergency or recreational vehicles blocking the sidewalk preventing access that is complainant with the Americans with Disabilities (ADA) Act. During the meeting on July 22, 2021 the El Dorado County Fire Department representative indicated that with these shorter driveway distances their vehicles may block the sidewalk when they pull into a driveway. These waivers from the county standards being requested by the developer decrease the safety of our community, decrease the access to the community by those with disabilities, and should not be allowed regardless of what might have been done historically for previous Serrano developments when the planning commission and public may have been less acutely aware of the safety hazards associated with granting waivers to the county design standards. The planning commission rightly denied these design waivers during the July 22, 2021 meeting and found that the waivers did not meet 3 of the 4 criteria to grant a design wavier.

Here are the findings that were brought forth for approval as directed by the Planning Commission on August 12th after the project had been denied on July 22nd:

"2. To approve a design waiver the Planning Commission or Board on appeal must find that each of the following conditions exist:

- a. There are special conditions or circumstances peculiar to the property proposed to be subdivided which would justify the waiver;
- b. Strict application of the design or improvement requirements of this subpart would cause extraordinary and unnecessary hardship in developing the property; 21-1161 2A 1 of 4 PD08-0004/TM08-1464/Serrano Village A-14 Planning Commission/August 12, 2021 Findings for Denial Page 2 of 4
- c. The waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public;
- d. The waiver would not have the effect of nullifying the objectives of this subpart or any other law or ordinance applicable to the subdivision.

The requested Design Waivers for Serrano Village A-14 and corresponding Planning Commission findings are shown below:

Design Waiver 1: Modification of road improvements under Standard Plan 101 B including the reduction of right-of-way width from 50 feet to 46 for Russi Ranch Drive and from 50 feet to 42 feet for A Street and B Street, reduction and construction of road pavement width from 36 feet to 31 feet; construction of 4-foot wide sidewalks along one side of Russi Ranch Drive and on both sides of A and B Streets, and construction of modified rolled curb and gutter;

Planning Commission Finding for Design Waiver 1: The Planning Commission finds that conditions under subsections 128.08.020.a through c, as noted above, do not exist or are not sufficiently corroborated as submitted, and therefore, cannot support Design Waiver 1 for the Serrano Village A-14 Tentative Map.

Design Waiver 2: Reduction of minimum 100-foot centerline curve radius length to reduced lengths identified on the map;

Planning Commission Finding for Design Waiver 2: The Planning Commission finds that conditions under subsections 128.08.020.a through c, as noted above, do not exist or are not sufficiently corroborated as submitted, and therefore, cannot support Design Waiver 2 for the Serrano Village A-14 Tentative Map.

Design Waiver 3: Modification of standard road encroachment under Standard Plan 110 with Serrano encroachment design.

Planning Commission Finding for Design Waiver 3: The Planning Commission finds that conditions under subsections 128.08.020.a through c, as noted above, do not exist or are not sufficiently corroborated as submitted, and therefore, cannot support Design Waiver 3 for the Serrano Village A-14 Tentative Map. Based on the

above Findings for the Design Waivers, the Planning Commission hereby denies the requested Design Waivers 1, 2, and 3 for the Serrano Village A-14 Tentative Map.

The motion for denial of the requested waivers was approved by the planning commission in a 3-2 vote.”

The approval should also be denied based on the findings as was approved by the Planning Commission that the design waivers did not meet at least 3 of the 4 requirements to allow a design waiver.

We are appealing based on the grounds that the project approval violated the Brown Act which has not been corrected, that the project violates California Environmental Quality Act (CEQA), the project violates the applicable General Plan policies and zoning laws, that the project may violate voter approved Measure E, and the comments voiced and submitted to the Planning Commission contained accurate statements of significant legal violations that were not addressed by the Planning Commission at the hearing.

Also, there were ex-parte discussions after the hearing had closed between the applicant and many of the commissioners that should have been addressed and thrown out by County Counsel. These actions and others make the County ripe for litigation in which can be avoided by returning to the process that was required after the motion and reverting back to the decision for denial that had been approved at the July 22nd hearing.

August 28, 2021

El Dorado County Planning Commission
2850 Fairlane Court
Placerville, CA 95667

Dear Planning Commissioners:

I have watched many Planning Commission hearings over this last year and witnessed the lack of correct instruction given to the Commission from County Counsel during the proceedings in which the Planning Commission is heavily relying on.

After the last hearing of August 26, 2021, there is an urgency in which this needs to be corrected. Therefore, I am demanding the Planning Commission to cure and correct the violations of the Ralph M. Brown Act open meeting laws government code 54953(b)(1) that occurred during the zoom meeting hearings, on July 22, 2021, August 12, 2021 and August 26, 2021, to consider the Serrano Village A14 project, Planned Development PD08-0004/Tentative Subdivision Map TM08-1464, here forward referred to as "the Project". The Commission must go back and listen to the original motion made by Commissioner Cheryl Bly-Chester and then adhere to that motion to deny the project. The Commission must also create findings as requested by the motion that was approved by the Planning Commission.

On 7-22-21 the public hearing was closed at 3:46:43 for the project, then the Planning Commission deliberated. Vice-Chair Clerici made the motion to approve staff recommendations and Chair Vegna made the second. Then a discussion ensued and conditions were asked to be tightened up, which was added to the motion. The motion failed 2 to 3. Chair Vegna said motion failed and that the decision could be appealed to the Board of Supervisors. The Planning Clerk stated that, no, there needed to be another motion. The Clerk let them know that they could make an approval or if they decided they wanted to do a denial staff would need to talk to Counsel as to whether or not they would have to come back for findings or not. **Commissioner Bly-Chester offered findings that the design waivers did not meet at least 3 of the 4 requirements to allow a design waiver.** County Counsel then intervened that it was not a good idea to make findings on the fly and that they should come back to approve findings.

At 4:10:20 Ms. Bly-Chester made the motion, "I would like to make a motion for denial based on the findings as we outlined for the staff to fill out the actual language of it for the future."

There was a discussion that ensued regarding how to proceed. Commissioner Williams asked if they needed to give staff time to prepare findings. Commissioner Bly-Chester said no. She stated that we make the findings and staff crafts the language and bring it back. Vegna stated they would be brought back in the minutes.

Tiffany Schmid, the Director of Planning and Building Services, showed up for the meeting at 4:12:50. Some statements were made and then Ms. Schmid asked for a break to confer with County Counsel at 4:15:58. Upon return she made clarifications regarding the findings and

then advised for the Planning Commission to "conceptually" deny the project and return date certain with staff findings. The Chair asked for a second to the motion. Commissioner Williams asked for the motion to be repeated. The staff referred to Commissioner Bly-Chester to repeat her motion.

At 4:33:11, a repeated motion was made by Commissioner Cheryl Bly-Chester as stated:

"Deny the conceptual design based on the design waiver not meeting at least three of the four required findings that we need to make and that we continue the hearing returning on date certain to the August 12, 2021 meeting."

She made it very clear that her motion was to deny the project and that staff come back with the findings as referred to in the motion. She did not think that the project could even meet the 3 conditions required to allow for the design waivers. The Commission voted 3 to 2 to approve the denial and continue to the August 12th meeting to approve the findings. Both the Director and the Counsel used the language to conceptually deny and suggested that Commissioner Bly-Chester include that in her motion.

The staff recorded the motion on the minutes as – which is what staff and counsel were recommending, but not what was actually stated:

"A motion was made by Commissioner Bly-Chester, seconded by Commissioner Williams, to conceptually deny the project and direct staff to return to the August 12, 2021 Planning Commission meeting with Findings for Denial as outlined by the Commission. Votes were by roll call."

Yes: 3 - Commissioner Williams, Commissioner Ross and Commissioner Bly-Chester

*Noes: 2 - Commissioner Clerici and Commissioner Vegna
The motion carried 3-2 and the hearing was continued.*

A vote of denial had been approved and all that was needed was to bring the findings onto the 8-12-21 minutes for approval as is a standard.

Instead, on 8-12-21 the item was returned to the agenda as "Returning at the Commission's direction for final action of the Serrano Village A14 project (Planned Development PD08-0004/Tentative Subdivision Map TM08-1464)** consisting of requests for:... then the request for the modification were again listed as an item.

The options by staff at the end of the posted item reiterated "conceptual" denial as if the motion and vote for denial had never occurred: *...and staff recommending the Commission take the following actions consistent with the Commission's conceptual action and direction to staff: 1) Deny Serrano Village A14 project (Planned Development PD08-0004/Tentative*

Subdivision Map TM08-1464) based on the Findings of Denial as presented. (Supervisory District 2) (Cont. 07/22/2021, Item 2)

Then at the staff directed "so call returned and continued" item 2 on August 12, 2021, Commissioner Bly-Chester addressed the agenda item during approval of the agenda and the clerk of the commission at 4:09 stated that "the motion made was to "conceptually" deny the project and direct staff to return to the August 12th Planning commission meeting with findings for denial as outlined", the minutes were reviewed and adopted despite the closed hearing not being finalized and despite the language of the motion not being accurately reflected in the draft minutes.

With the discussion of Item 2 of the 8-12-21 meeting, staff misled the commission to believe that the last hearing had been a conceptual action. Then Chair Vegna started out at this already **closed hearing**, stating that he wanted to start off with the applicant and stated, "Kirk is there anything you would like to say before we start getting into the findings for denial." This was improper to allow the applicant to speak at this point.

The next shocking thing we hear is that Kirk Bone stating that there was much conversation with various commissioners since the July 22nd meeting and he felt that they had made headway with the development standards. The chair then offered Kirk to share a brief outline since the other commissioners did not know what was coming. Kirk led in with, "The comment was that there was quite a bit of conversation about the design standards and we reviewed those with Commissioner Williams, if I may use that, and I think we've come to an agreement on what would be acceptable to us to move this project forward, to make a long story short, we would implement the development standards that we utilized at a project that was previously approved call J7." Then the Chair had Commissioner Williams speak to the discussion. From his conversation it appeared that the developer and Williams had make concessions that Williams appreciated and since the Board of Supervisors did not have the will to adhere to county standards, Williams did not see the benefit in moving forward with a denial.

Kirk Bone then told the Chair that he wanted to "thank James for his efforts on this" and went on to say that they had tried to create a different set of setbacks to enhance the project and that they again thanked the commissioner for working with them and that they concurred with the changes and they could accept the changes to the development standards.

This is what is called ex parte communications with the applicant which is not allowed after a hearing has closed but before the hearing is finalized. The result of this brought forward negotiated new conditions for the project which were discussed outside of the open meeting, after the hearing had closed, without the involvement of the full commission, and out of the view of the public. Again this type of communication is not allowed after a hearing has closed.

To Commissioner James Williams defense you will hear numerous times by advisors to the Commission when someone questions a procedure, "This was done this way in the past", or they are threatened if they don't give what they are asking for they can do something worse by right. An example currently being used, as was handed to the developers by our county counsel, "we could just use State Bill 35 for high density by right".

To her credit, Commissioner Bly-Chester was outraged at this breach of the Brown Act and appealed to the County Counsel to explain and provide direction to the Commission. County Counsel instead approved the Brown Act and due process violation, thus giving incorrect direction which many of the Commissioners relied on. Due to this misguided and incorrect process the meeting continued with contention and confusion among the Commissioners.

Citing the Ralph M. Brown Act government code § 54954.3. and § 54954.2(a)(2), within Chapter 9 as referenced in § 54953 (b)(1) , The League of California Cities explains the breach of public trust and denial of due process that ex parte communications foster. In this case the violation is reportedly especially egregious and must be rejected when it occurs after the hearing has closed and before the action is finalized, as stated below:

"Ex Parte Communications After a Quasi-Judicial Hearing Must Be Prohibited If the Decision is Not Final. A corollary to the due process protection provided by pre-hearing disclosure of ex parte communications is that there must be no ex parte communications during the interstitial period between closure of a hearing and a final decision. This arises most often when a city decisionmaker closes a quasi-judicial hearing and directs the preparation of written findings by staff. "Lobbying" by parties to the matter or other persons must be rejected."

(League of California Cities, Let's Ex Parte! The Limits and Disclosure Requirements of Ex Parte Contacts in the Public Hearing Context.

https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2016/Annual-2016/10-2016-Annual_Calonne_Lets-Ex-Parte!-The-Limits-a.aspx)

Critical discussion is heard on August 12th, time stamped 11:28-41:26 regarding the violations of the process and the Brown act. These violations of the public trust appear to have been driven by County Counsel mis-stating and manipulating the actual language and clear intent of the Planning Commission to deny the project and by County Counsel's active approval and even encouragement of ex-parte communication while the hearing is active but not in public session.

The original and final motion from July 22, 2021 was clearly to deny the project and return with findings for denial. The efforts that were put out by Staff, the Chair, County Counsel to work against the will of the Commission, in favor of this developer when the Commissioner that had made the motion made it very clear they had denied the project and would return to a date certain to approve findings for denial, were reprehensible.

Therefore, I demand that the Planning Commission rescind their decisions of August 12, 2021 and August 26, 2021, then return to the hearing to approve language of the findings for denial as was stated in the deliberations and motion from July 22, 2021. The stated findings agreed to by the Commission did not include the low-income housing element, but design standards in which the Commission is under no obligation to allow county standard concessions to an applicant. After this has taken place, the applicant has the opportunity to adjust the project or appeal the decision to the Board of Supervisors. I further demand that the entire Planning Commission and the entire compliment of County Counsel's Office attend an 8-hour Brown Act Open Meeting Law course taught by outside counsel.

I request that this letter be circulated to the entire Planning Commission and that the Planning Commission deliberate about it in open session for the benefit of the Public at large. As this is a clear indictment of the competence of the County Counsel's Office, I demand that outside counsel be secured for the deliberation regarding this Cure and Correct Demand.

Sincerely,

s/Sue Taylor
and
Save Our County

For reference:

(El Dorado County Planning Commission Video for July 22, 2021)

http://eldorado.granicus.com/player/clip/1525?view_id=2&redirect=true

El Dorado County Planning Commission Agenda/Video for August 12, 2021

http://eldorado.granicus.com/player/clip/1532?view_id=2&redirect=true

El Dorado County Planning Commission Agenda/Video for August 26, 2021

http://eldorado.granicus.com/player/clip/1536?view_id=2&redirect=true