



LATE DISTRIBUTION 6-9-14

EDC COB <edc.cob@edcgov.us>

Comment on 6/10/14 BOS Agenda, Alto map extension & Development Agreement

1 message

Briana Finley-Link <briana@finley-link.com>

Fri, Jun 6, 2014 at 5:29 PM

To: bosone@edcgov.us, bostwo@edcgov.us, bosthree@edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us, edc.cob@edcgov.us

Re: Comment on 6/10/14 BOS Agenda, Alto map extension & Development Agreement

Dear Supervisors:

Please do not approve the Development Agreement to extend the tentative map without first requiring a supplemental environmental analysis, as required by the California Environmental Quality Act (CEQA). People should not be required to sue the county in order for the county policies to be adhered to.

Thank you,

Briana Finley-Link and

Allen R. Link

Ridgeview Village

El Dorado Hills



LATE DISTRIBUTION 6-9-14

EDC COB <edc.cob@edcgov.us>

re: Alto Map Extension and Development Agreement

1 message

blacinfo@aol.com <blacinfo@aol.com>

Sun, Jun 8, 2014 at 4:31 PM

To: bosone@edcgov.us, bostwo@edcgov.us, bosthree@co.edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us, edc.cob@edcgov.us

ALTO - Board of Supervisors Agenda June 10, 2014 - Item # 14-0584

Dear Board of Supervisors,

Please do not approve the Development Agreement to extend the tentative map without first requiring a supplemental environmental analysis, as required by the California Environmental Quality Act (CEQA).

Thank you,

Kathy Prevost

El Dorado Hills, CA 95762

NEASHAM & KRAMER_{LLP}
ATTORNEYS AT LAW

340 Palladio Parkway, Suite 535 • Folsom, California 95630
Tel: (916) 853-8030 • Fax: (916) 853-8039
Web page: <http://www.neashamlaw.com>

June 9, 2014

Board of Supervisors
County of El Dorado
330 Fair Lane Court
Placerville, California 95667

Re: Board June 10, 2014 Agenda Item #85 (14-0584)
Alto LLC Development Agreement

Honorable Board:

This letter is being submitted in response to various public comments on the Alto agenda item which were received on June 6, 2014. The comments are similar in nature, generality and lack of detail as to those submitted to the Planning Commission which recommended approval by your Board for the proposed Alto Development Agreement.

Alto's proposed Development Agreement does not change Alto's currently approved development project in any manner whatsoever. While approval of the Development Agreement would extend Alto's approved tentative map for ten (10) years with an option of an additional five (5) years, the project itself is not being changed. No significant change is being proposed and any significant change would be subject to CEQA analysis even if the Development Agreement is approved. It is important to realize whether the project is built out now or in another ten years will not change the physical impacts the project has on the environment from those analyzed and approved by the County in 2009. Because the project is already approved and could be built out now, the project will have the same impacts- except for the public benefits the project brings- regardless of when it's built. Unless the underlying purpose of the objections is a desire to prohibit all development, the issue before the Board is in essence only when those impacts occur, not whether there are new or significant or increased severity of the impacts.

The public comments submitted attempt to state as fact their opinion that the County cannot legally approve Alto's Application for Development Agreement by utilizing the "outdated" mitigated negative declaration prepared for the original project approvals. The underlying argument is that conditions have significantly changed over the five (5) years since the mitigated negative declaration and tentative subdivision map were approved and new information arguably is now available.

Ms. Van Dyke's letter asserts that the County cannot legally move forward by utilizing the mitigated negative declaration it earlier prepared and adopted for the approval of Alto's

tentative subdivision map as the environmental analysis for a new project-the proposed Development Agreement. While the Development Agreement is a discretionary act by the County, what these assertions fail to realize is that Alto's Application for Development Agreement is not a new project. As indicated in CEQA Guidelines section 15378(c), new or further government action does not automatically convert an existing approval into a new project. Therefore, just as the court in *Moss v. County of Humboldt*, 162 Cal.App.4th 1041 (2008) held that a new application for approval of a previously approved but expired tentative map did not represent a new project (as defined in Pub. Resources Code section 21065) for purposes of environmental review, it is highly probable a court would find that Alto's Application for Development Agreement is not a new project for purposes of environmental review.

Further, the statute of limitations has long run on the approval of the tentative map and zoning change and the detailed original Mitigated Negative Declaration. Thus, any challenge to the determination to extend the tentative map approval through the Development Agreement is limited to the legality of the County's decision about whether to require a subsequent or supplemental environmental analysis. The courts have held that the prior environmental approvals such as the underlying Mitigated Negative Declaration may not now be attacked as insufficient. The arguments regarding the deficiencies of the original oak impact analysis do not fall within the limited scope of challenges that can be made regarding the determination of whether to extend the tentative map approval. The focus here is whether or not there is substantial evidence for the conclusion that the Development Agreement does not involve new significant environmental effects or a substantial increase in the severity of previously identified effects. In the Alto matter, no changes are being made to the original project and there are no new significant environmental effects or substantial increases in the severity of previously identified effects.

The asserted issues such as water and traffic impacts cite the Green Valley Road Corridor traffic study and the alleged LOS F intersections at Salmon Falls Rd/Green Valley Rd. and El Dorado Hills Blvd/Francisco as evidence. These claims are only vaguely described and little supporting evidence is submitted except for the CalTrans letter re US Highway 50. Alto has already progressed through all other required approvals from other public agencies-including El Dorado Irrigation District and El Dorado County LAFCO. There is water available for the project and improvements to Green Valley Road such as the Allegheny Road intersection have been made. The project itself is obligated to further traffic improvements on Malcolm Dixon Road and Green Valley Road. And under the Development Agreement, Alto will make a substantial financial commitment for the County to use to further improve traffic safety.

As opposed to the benefits Alto will bring under a Development Agreement, the asserted claims may fairly be found by the Board or a court as an insufficient basis to find that such substantial "changed circumstances" now exist, which would make the preparation of a subsequent or supplemental EIR or negative declaration necessary. Certainly, the incremental traffic impacts of a 23 lot subdivision were known in 2009 and the traffic conditions on Green Valley and US Highway 50 were known then as well. There has not been substantial development in El Dorado Hills or within the project's surrounding area since the 2009 mitigated negative declaration was prepared and adopted, and the area surrounding the Alto property remains almost the same as it was when the 2009 mitigated negative declaration was issued. While the public reaction is largely focused on proposed new large scale projects, Alto is not one of those and is completely different in size, impacts, and many other characteristics.

Moreover, the substantial evidence standard will be used by the courts when determining whether a subsequent environmental document is required under CEQA. If the Board determines that the 2009 mitigated negative declaration sufficiently analyzed the environmental impacts of the project and approval of the proposed development agreement does not raise any new or increased environmental effects, it is likely a court will find that there was substantial evidence supporting the Board's decision not to prepare a subsequent environmental document. In this instance, little, if any, evidence exists to the contrary and what is before the Board is exactly what was approved in 2009- which includes the additional public benefits of enhanced fire protection, public water availability, improved road conditions and traffic safety, approval of the Development Agreement would provide to the community.

Submitted with this letter are proposed Findings in Support of Approval of the Alto LLC Development Agreement.

Respectfully Submitted,



William C. Neasham
Attorney for Alto LLC

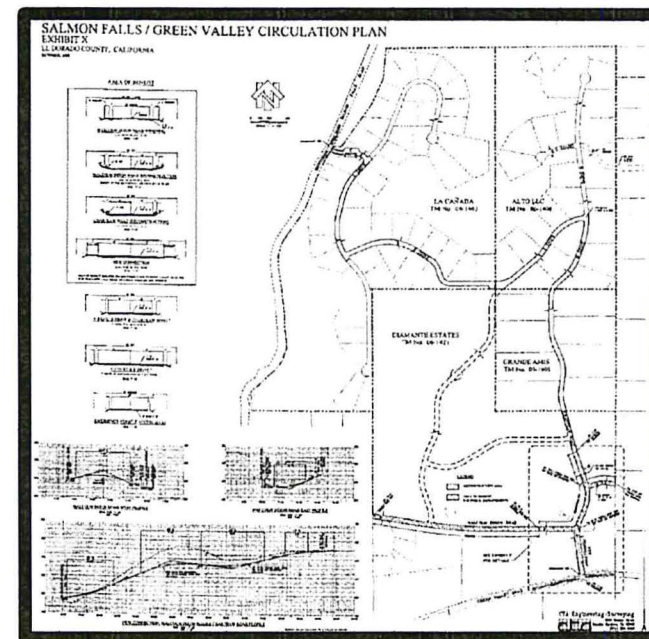
FINDINGS IN SUPPORT OF APPROVAL OF PROPOSED ALTO DEVELOPMENT AGREEMENT

1. The proposed Development Agreement is a further approval for the Alto Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 “Alto Project” that were approved on May 5, 2009 and for which a negative declaration was adopted;
2. The standards of California Public Resources Code section 21166, regarding “changes necessitating subsequent report,” apply with respect to whether more than one environmental review must be prepared for the proposed Development Agreement;
3. Approval of the proposed Development Agreement does not make any changes to Alto’s Zone Change, Tentative Map or Planned Development Z06-0005/TM06-1408/PD06-0006 as they were approved on May 5, 2009;
4. There is substantial evidence for the conclusion that approval of the Alto Development Agreement does not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
5. No substantial changes have occurred with respect to the circumstances under which Alto’s Zone Change, Tentative Map or Planned Development Z06-0005/TM06-1408/PD06-0006 is being undertaken which would require major revisions in the negative declaration;
6. No new information which was not known and could not have been known at the time the negative declaration was adopted has since become available;
7. Repeating a substantial portion of the in-depth environmental review that was prepared for action on Alto’s Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 is not justified under California Public Resources Code section 21166;
8. The negative declaration prepared for action on Alto’s Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 sufficiently analyzed the environmental impacts of the Alto Project and approval of the proposed Development Agreement does not raise any new or increased environmental effects.

Motion: Adopt the above findings and approve the Alto Development Agreement.

BENEFITS TO THE COUNTY & SURROUNDING AREA

- ❖ 3 VERY LARGE OPEN SPACE LOTS TOTTALLING 25.40 ACRES
- ❖ EMERGENCY VEHICLE ACCESS ROAD FOR ARROYO VISTA WAY
- ❖ PUBLIC WATER LINE FOR FIRE SUPPRESSION
- ❖ \$245,111 ESTIMATED CONTRIBUTION TO AREA OF BENEFIT
- ❖ REDUCTION IN TRAFFIC DELAY IMPACTS TO THE MALCOLM DIXON ROAD INTERSECTIONS WITH ALLEGHENY ROAD AND SALMON FALLS ROAD
- ❖ NO SEWER – ALREADY APPROVED FOR INDIVIDUAL SEPTIC SYSTEMS
- ❖ \$30,000 UNRESTRICTED CONTRIBUTION TO COUNTY FOR COMMUNITY BENEFIT
- ❖ PARTICIPATION IN THE AREA OF BENEFIT = TRAFFIC & SAFETY BENEFITS ALONG MALCOLM DIXON ROAD



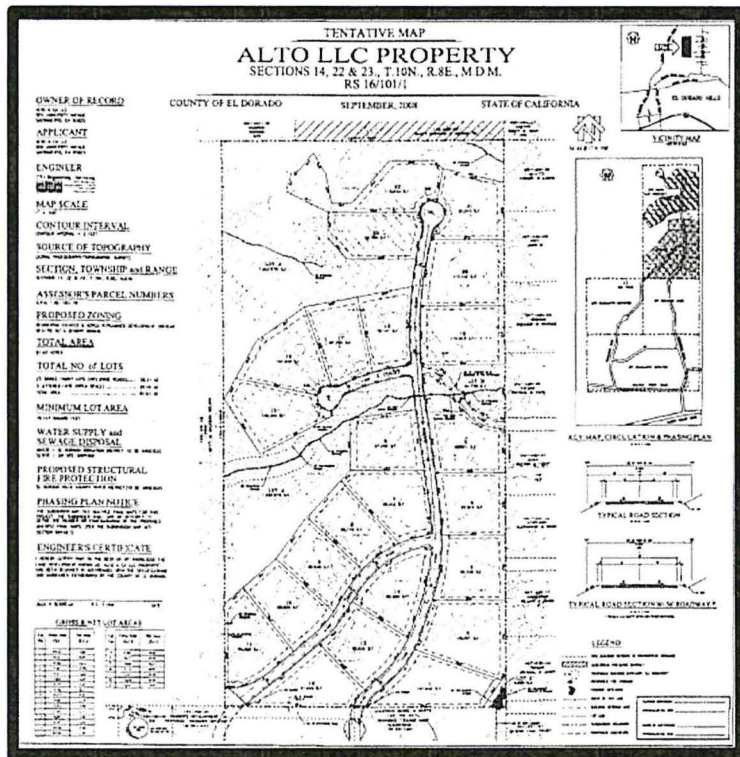
REQUESTED ACTION

FINDINGS IN SUPPORT OF APPROVAL OF PROPOSED ALTO DEVELOPMENT AGREEMENT:

1. The proposed Development Agreement is a further approval for the Alto Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 "Alto Project" that were approved on May 5, 2009 and for which a negative declaration was adopted;
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5. No substantial changes have occurred with respect to the circumstances under which Alto's Zone Change, Tentative Map or Planned Development Z06-0005/TM06-1408/PD06-0006 is being undertaken which would require major revisions in the negative declaration;
6. No new information which was not known and could not have been known at the time the negative declaration was adopted has since become available;
7. Repeating a substantial portion of the in-depth environmental review that was prepared for action on Alto's Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 is not justified under California Public Resources Code section 21166;
8. The negative declaration prepared for action on Alto's Zone Change, Tentative Map and Planned Development Z06-0005/TM06-1408/PD06-0006 sufficiently analyzed the environmental impacts of the Alto Project and approval of the proposed Development Agreement does not raise any new or increased environmental effects.

Motion: Adopt the above findings and approve the Alto Development Agreement.

PROJECT APPROVED MAY 5, 2009



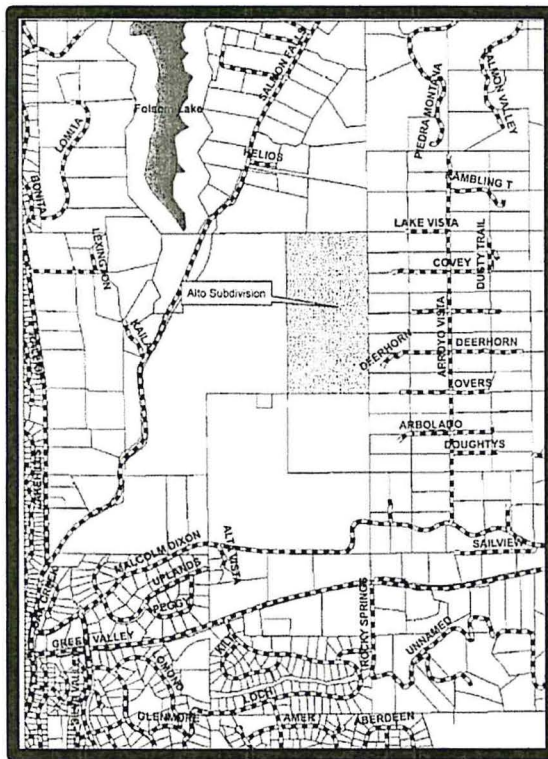
PROJECT APPROVALS DO NOT EXPIRE UNTIL MAY 5, 2016:

- Z06-0005 REZONING ALTO PROPERTY FROM EXCLUSIVE AGRICULTURE TO ESTATE RESIDENTIAL FIVE-ACRE-PLANNED DEVELOPMENT.
- ADOPTION OF ORDINANCE FOR REZONE.
- PLANNED DEVELOPMENT APPLICATION PD06-0006.
- TENTATIVE SUBDIVISION MAP TM06-1408.
- ANNEXED INTO EL DORADO IRRIGATION DISTRICT & EL DORADO HILLS FIRE PROTECTION SERVICES ON MAY 26, 2010

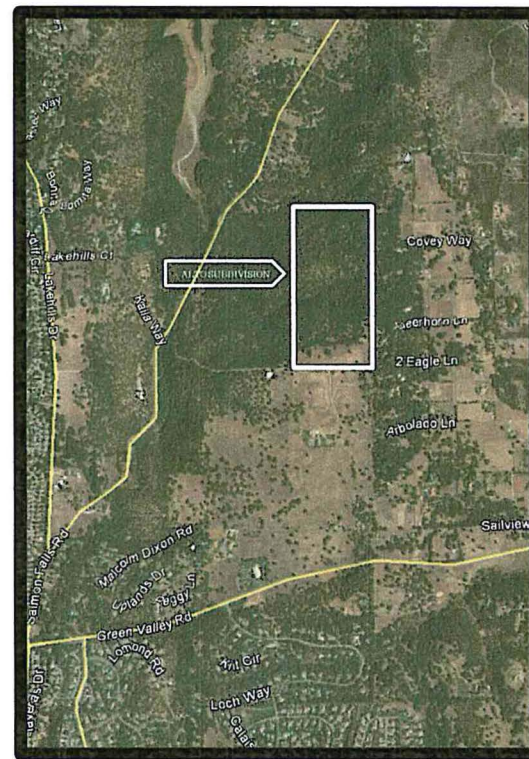
PROJECT LOCATION

OFF MALCOLM DIXON ROAD, BETWEEN ALTA VISTA COURT & CASA ROBLES ROAD

VICINITY MAP



GOOGLE EARTH VIEW



PROJECT DESCRIPTION

APPROVED 23-LOT SUBDIVISION
ON 81.6 ACRES

LOT SIZES RANGE FROM 1.79 –
2.76 ACRES

3 VERY LARGE OPEN SPACE LOTS
TOTALING 25.40 ACRES



ALTO'S PROPOSED DEVELOPMENT
AGREEMENT DOES NOT INCLUDE
ANY CHANGES TO ALTO'S
CURRENTLY APPROVED PROJECT

PROPOSED DEVELOPMENT AGREEMENT

REQUESTING EXTENSION OF PROJECT APPROVALS FOR A 10 YEAR INITIAL TERM WITH AN ADDITIONAL 5 YEAR TERM EXTENSION

- **UNTIL RECENTLY, NOT ECONOMICALLY FEASIBLE TO DEVELOP – LOW DEMAND FOR RURAL RESIDENTIAL DEVELOPMENT**
- **ADDITIONAL TIME IS NECESSARY FOR ALTO TO RECORD ITS FINAL MAP DUE TO THE COMPLEXITY OF DEVELOPING & COORDINATING THE ROAD CIRCULATION WITH THREE OTHER PROPERTY OWNERS**
- **WOULD RELIEVE ALTO FROM THE TIME & EXPENSES OF APPLYING FOR UP TO 6 YEARS OF DISCRETIONARY EXTENSIONS**

