

6/13/2018

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PC 6-14-18
#4
Serena Carter <serena.carter@edcgov.us>

4 pages

Fwd: Public comment to PC, 6/14/2018 agenda, file no. 18-0861, Creekside Plaza, Z10-0009

2 messages

Char Tim <charlene.tim@edcgov.us>
To: Serena Carter <serena.carter@edcgov.us>
Cc: Rommel Pabalinas <rommel.pabalinas@edcgov.us>

Wed, Jun 13, 2018 at 7:35 AM

Serena,

Please process this public comment for posting today for the Creekside Plaza project. Please confirm receipt with the member of the public. Thank you.

Char Tim
Clerk of the Planning Commission

County of El Dorado
Planning and Building Department
2850 Fairlane Court
Placerville, CA 95667
(530) 621-5351 / FAX (530) 642-0508
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----- Forwarded message -----

From: **Rural Communities United** <contactrcu@gmail.com>
Date: Wed, Jun 13, 2018 at 6:06 AM
Subject: Public comment to PC, 6/14/2018 agenda, file no. 18-0861, Creekside Plaza, Z10-0009
To: "Char Tim, PC Clerk" <charlene.tim@edcgov.us>, Dist 1 PC- Jon Vegna <jvegna@edcgov.us>, Dist 2 PC- Gary Miller <gary.miller@edcgov.us>, Dist 3 PC- Jeff Hansen <jeff.hansen@edcgov.us>, Dist 4 PC- James Williams <james.williams@edcgov.us>, Dist 5 PC - Brian Shinault <brian.shinault@edcgov.us>

Dear Commissioners:

Please consider these comments and include them in the public record for the subject project:

1.) Per the 6/14/2018 staff report, the BOS approved this same project in April 2012, to rezone the residential R1A parcels to Commercial under file Z10-0009. This staff report does not hide the fact that this project is unchanged from its previously challenged and rescinded 2012 form. However, it does conceal the public comments and vehement opposition that caused its approval to be appealed and subsequently rescinded by the Board in October 2012. Where are all those comments?

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File #: 18-0861 Version: 1

Type: Agenda Item Status: Agenda Item

File created: 5/16/2018 In control: [Planning Commission](#)

On agenda: 6/14/2018 Final action:

Title: Hearing to consider the Creekside Plaza project (Rezone Z10-0009/Tentative Parcel Map P10-0012/Planned Development PD10-0005) for the following requests: 1) Rezone; 2) Commercial Tentative Parcel Map subdividing the project site into four parcels and site includes a 0.22-acre portion of Forni Road Right of Way subject to a General Vacation; and 3) Establish a Development Plan for the proposed commercial center on property identified by Assessor's Parcel Numbers 327-211-14, 327-211-16, and 327-211-25, consisting of 4.39 acres, in the Community Region of Diamond Springs, submitted by Grado Equities VII, LLC; and staff recommending the Planning Commission recommend the Board of Supervisors take the following actions: 1) Adopt the Resolution certifying the Environmental Impact Report and adoption of the Mitigation Monitoring Reporting Program in accordance with the California Environmental Quality Act Guidelines Section 15074(d) and the California Environmental Quality Act Findings of Fact...

Attachments: [1. A - Staff Report](#), [2. B - Findings](#), [3. C - Conditions of Approval](#), [4. D - Staff Report Exhibits A-K](#), [5. E - Staff Report Exhibits I-T, J](#), [6. F - Staff Report Exhibit U](#), [7. G - Staff Report Exhibits V-V.1](#), [8. H - Staff Report Exhibit W](#), [9. I - Staff Report Exhibit X](#), [10. J - Staff Report Exhibit Y](#), [11. K - Proof of Publication-Mountain Democrat](#)

History (0)
Text

0 records

Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Video
No records to display.							

2.) Neither the project Findings nor the Staff Report indicates which version of the General Plan is applicable to the project for any verification of consistency. The project was deemed complete prior to the Dec 2015 TGPA/ZOU approval indicating the 2004 version applies, yet it also claims that elements of the approved 2015 General Plan and zoning update (TGPA/ZOU) apply. Page 7 of the staff report specifically avoids designating which version is being used by utilizing the word "applicable" rather than a date. A potential project approval appears to be dependent upon cherry picking which version of the General Plan is to be utilized, and that is not okay for Findings of consistency or CEQA or the Subdivision Map Act.

From attachment A-Staff Report, beginning on pg 2 (emphasis added):

"The project application materials were re-submitted for review in February 2015 under the original application file numbers. **The application was deemed Complete for processing in March 2015.** In August 2015, the Scope of Work for the preparation of the EIR was executed. There were no significant changes to the project. **Since the rescission of the project approvals, some changes to the General Plan and Zoning Ordinance as part of the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU) that was adopted by the County Board of Supervisors on December 15, 2015 have taken place that are relevant to the project.** First, the subject parcels were rezoned from One-Acre Residential (RIA) to Community Commercial-Design Control (CC-DC). Second, development restrictions on slopes 30% or greater under General Plan Policy 7.1.2.1, has been codified into the Zoning Ordinance under Section 130.30.060 (Hillside Development Standards; 30 Percent Slope Restriction). Third, regulation of oak resource impacts under General Plan Policy 7.4.4.4 has also been codified under Section 130.39 of the Zoning Ordinance implementing the Oak Resource Management Plan (ORMP) (note: this ordinance was not a part of the TGPA/ZOU). Lastly, regulation of impacts to wetlands under General Plan Policy 7.4.4.4 has been codified under Section 130.30.030 of the Zoning Ordinance (General Development Standards-Setback Requirements Protections of Wetland and Sensitive Riparian Habitat)."

3.) The proposed oak tree removal necessary to accommodate the project clearly exceeds what was allowed under the General Plan as of Mar 2015. There is clearly a conflict as to which version of the General Plan is to be followed. From attachment I-Staff Report Exhibit X, pdf pg 12/33-

"...the Project as proposed would not maintain the required amount [of on-site oak canopy] and therefore would not be consistent with the previous version of General Plan Policy 7.4.4.4. ... While the Project's application approval predates new regulations under the General Plan Biological Resources Policy Update and ORMP, because the Project cannot implement Option A of the previous Policy 7.4.4.4, it must comply with the newly adopted ORMP. (DEIR at 7-12)."

Additionally, the new policies the project is choosing to adhere to are currently in court under litigation. Pending an outcome on that case, any approval dependent upon those policies could be overturned.

4.) The pre-TGPA General Plan policies did not allow development on slopes over 30%. The post TGPA General Plan was ruled by the court to have those sections of the EIR overturned, and the county is to refrain from approving development based on those policies until they have been addressed (pg 239 of the Tentative Ruling).

From the Court's final ruling, pg 5:
(comment O-1-62 references the changes to policy regarding development on hillsides, and is reproduced below*)

22		THE COURT ORDERS PARTIAL DECERTIFICATION OF THE EIR RELATED TO THE SPECIFIC RESPONSES TO COMMENT NUMBERS 0-1-54 TO 0-1-58, 0-1-70, 0-1-62, I-37-14, I-37-16, I-37-23, AND I-37-24 AND (Underscore added.)	
23			
24			

From the Court's Tentative Ruling pg 239:

Law and Motion Calendar – Department Nine (1:30 p.m.) April 25, 2018

CONCERNING THE PROJECT AND THE REQUIREMENTS TO COMPLY WITH
GOVERNMENT CODE, §§ 65302(G)(1) AND 65302(G)(3)(C). THE REMAINING PORTIONS
 OF THE EIR REMAIN CERTIFIED. THE COURT WILL ISSUE A WRIT OF MANDATE
 DIRECTING THE COUNTY TO **REFRAIN FROM FURTHER CERTIFICATION AND**
APPROVALS CONCERNING THE ABOVE-CITED RESPONSES TO COMMENTS AND
 DISAGREEMENT BETWEEN THE CALIFORNIA BOARD OF FORESTRY AND FIRE
 PROTECTION AND THE COUNTY UNTIL THE COUNTY COMPLIES WITH THE
 REQUIREMENTS TO PROVIDE SUFFICIENT RESPONSES TO THE COMMENTS, FAIRLY
 PRESENTS THE DISAGREEMENT BETWEEN THE CALIFORNIA BOARD OF FORESTRY
 AND FIRE AND THE COUNTY IN THE BODY OF THE EIR, AND EXPLAINS IN THE BODY
 OF THE EIR WHY THE COUNTY DECLINED TO ACCEPT THE CALIFORNIA BOARD OF
 FORESTRY AND FIRE PROTECTION'S SUGGESTIONS.

5.) Whichever General Plan policy is being followed, Table TC-2 has allowances regarding road segments that are permitted to go to Level of Service F due to new development, and neither Forni Rd, Enterprise, or the Highway 50 interchange, which are already or will be at LOS F due to the project, are currently included in this table.

Measure E, well known prior to the completion of this application and passed by voters June 7, 2016, requires a vote of the people to allow road segments to be added to this list. And Measure Y as extended indefinitely under the TGPA/ZOU, requires a 4/5th vote of the Board of Supervisors to expand the table. Clearly this must be addressed with this project, and hasn't been.

The Creekside Plaza project is resubmitted now, *in its same 2012 form*, because the 2015 TGPA/ZOU approval granted a rezone without resolving the problems that resulted in the project being overturned back in 2012. The rezone was simply granted. We request that you respect the will of County residents as you consider this project.

Ellen Van Dyke on behalf of Rural Communities United

*FEIR comment referenced in the TGPA/ZOU court ruling regarding development on 30% slopes:

Revised Policy 7.1.2.1: *Development or disturbance of slopes over 30% shall be restricted. Section 17.30.060(D): Exemptions. Agricultural activities that utilize [Best Management Practices] BMPs, as recommended by the County Agricultural Commission and adopted by the Board.*

Mitigation Measure BIO-1a: *The proposed relaxation of the prohibition on development on slopes of 30% or greater would potentially result in a significant and unavoidable impact. Mitigation Measure BIO-1a would reduce this impact, but not below the level of significance. This would be a significant and unavoidable impact.*

Comment 6A: Grading and Hillside Ordinances

Development on slopes \geq 30% will have a significant impact on water quality. Septic effluent will be likely to "daylight" as it travels downslope. Effluent will travel down fractured rock aquifers and—if development occurs in a high-density residential development served by private wells—effluent from residences upslope will contaminate neighborhood wells downslope. Septic effluent is also more likely to contaminate nearby surface water sources as it travels downslope into aquifers that feed surface water, or as it combines with subsurface runoff that enters streams.

O-1-61

Comment 6B: Unknown Impact

The TGPA states, "... the number, size, and habitat value of sites to which the proposed amendments might be applied cannot be known ...". This does not constitute a reasonable and fair assessment of the impact. Topography maps of the county, and/or other sources of such information, could easily delineate areas of \geq 30% slope, and this information—coupled with known zoning densities, and in some cases, on-site review—would enable planners to estimate the scope of impact of development under this policy. (Remember, the project description must include "precise boundaries" of the project on a "detailed map, preferably topographic." (See CEQA Guidelines, sec. 15125, subd. (a).) For this part of the project, that would be a map of areas of the county with private land over 30% slope.) This analysis should be done in order to provide a fair and balanced estimate of the impact policy implementation.

O-1-62

Serena Carter <serena.carter@edcgov.us>

Wed, Jun 13, 2018 at 8:06 AM

To: contactrcu@gmail.com

Cc: Char Tim <charlene.tim@edcgov.us>, Rommel Pabalinas <rommel.pabalinas@edcgov.us>

Your public comment has been received for the Creekside Plaza project Z10-0009, PD10-0005, P10-0012 that is agendized for the Planning Commission's June 14, 2018 meeting.

Please let me know if you have any questions.

Thank you.

[Quoted text hidden]

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Administrative Secretary

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