

(related file: PD17-0002)

File Number: PD-18-002
Date Received: 7.13.2018

Receipt No.: 2548
Amount: \$239

APPEAL FORM

(For more information, see Section 130.52.080 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 Better Neighborhoods, Inc.
ADDRESS 17901 Von Karman Ave., Ste. 600 Irvine CA 92614
DAYTIME TELEPHONE (949) 556-8714

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.)

(SEE ATTACHMENT)

2018 JUL 13 PM 1:36
RECEIVED
PLANNING DEPARTMENT

DATE OF ACTION BEING APPEALED June 28, 2018

J. Michael Goolaby
Signature

7/13/18
Date

ATTACHMENT

APPELLANT: Better Neighborhoods, Inc. ("BNI")

DETERMINATION APPEALED: Approval by the Planning Commission on June 28, 2018, Diamond Springs Village Apartments PD17-0002.

The project involves construction of 10 multi-family, two-story residential buildings consisting of 80 residential units (the Project").

Almost all of the potential significant impacts discussed in the BNI's June 20, 2018 comment letter (attached hereto) were not adequately addressed. In addition, the Planning Commission did not (and could not) make a finding that the Project meets all zoning and legal requirements with regard to the proposed vehicular access to the Project through another sub-division (Courtside Manor), and therefore, should not have approved the Project.

Appellant also hereby incorporates all points raised in its correspondence as well as any and all opposing comments made by others at or before the Planning Commission hearing approving this Project.



Better
NEIGHBORHOODS

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June 20, 2018

Mr. Evan Mattes
Assistant Planner
El Dorado County
2850 Fairlane Court
Placerville, CA 95667
Via email: evan.mattes@edcgov.us

Re: Diamond Springs Village Apartments (the "Project")

Dear Mr. Mattes,

Thank you for the opportunity to offer questions and comments regarding the above-referenced Project.

Better Neighborhoods Inc. is an organization established to help people have a voice in local development decisions that will be heard equally to that of the planners and developers, to encourage smart growth that is consistent with the needs of the community, to protect the natural environment and our places of historical and esthetic significance, to support affordable housing, and to balance the needs for growth and livable cities.

The Project

The Project calls for the construction of 10 multi-family, two-story residential buildings consisting of 80 residential units, as well as a "community building" which would include an office, laundry room, food prep area, community room and an art room as well as two play areas. All buildings would be built with stucco finishing, stone veneer accents and composite roofs. The 10 buildings would range in size from 3,667 square feet to 36,880 square feet. The cumulative square footage is 78,401 square feet. The project would provide 190 parking spaces of which 65 would be covered. The project is proposed on a split zoned 10.7-acre site, of which 7.3 acres is zoned Multi-unit Residential, with the remainder 3.4 acres zoned Residential Estate Five-Acres.

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Potentially Hazardous Building Materials

Our biggest concern with the Project is the building materials to be used in the buildings' construction. According to the project description, "All buildings would be built with stucco finishing, stone veneer accents and composite roofs."

These materials contain highly controversial architectural coatings, which have already attracted the attention of California's air quality regulators and made their way into the courts, hence the complicated mitigation measure:

All architectural coatings used on the proposed project shall have a Volatile Organic Compound (VOC) content that does not exceed 150 g/L. This requirement shall be recorded with the filing of the map. The general contractor or site superintendent shall be responsible for ensuring all subcontractors applying architectural coatings comply with this requirement. **Monitoring Requirement:** The mitigation measure shall be noted, in a notice of restriction that shall be recorded on the property and residential construction plans.

This is a notably onerous requirement. What exactly is the VOC ratio of the architectural coatings to be used? How exactly would the county ensure compliance?

Were other building materials considered?

It is also worth noting that an update of Revised Rule 215 – Architectural Coatings and Rule 101 as of Jan. 1, 2018 stated:

To achieve further emissions reductions, AQMD is proposing to lower the allowable content of VOCs in architectural coatings consistent with the California Air Resources Board's Suggested Control Measure (SCM) from 2007." (See: https://www.edc.gov.us/Government/AirQualityManagement/Pages/rule_215_-_architectural_coatings_update_to_scm.aspx).

In a recent legal decision, plaintiffs alleged that California's architectural coating regulations effectively banned certain products manufactured and sold by the plaintiffs. (See Colusa Air Pollution Control Dist. v. Superior Court, 226 Cal. App. 3d 880, 277 Cal. Rptr. 110, 1991 Cal. App. LEXIS 12, 91 Cal. Daily Op. Service 390, 91 Daily Journal DAR 362 (Cal. App. 2d Dist. January 8, 1991)).

In view of these circumstances, it seems imprudent for the county even to consider a development – especially one as large as this – that would involve the use of materials air quality regulators seek to limit and may one day soon preclude altogether.

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The proposed building materials are also implicated in problems with installation and moisture ingress and not only in California. When one Googles the terms, 'stucco finishing, stone veneer accents and composite roofs' as per the project description, the search yielded 426,000 results with few, if any, endorsements. The case law regarding these materials echoes these complaints. The report doesn't indicate whether the apartments will be rental or condominiums. This is significant because of the very different maintenance obligations involved. Building maintenance is a major undertaking for condo owners. Either way, use of these building materials creates a risk of invasive major repairs, a preventable and significant environmental disaster. In view of the fact that this is already a project that would generate emissions that may contribute to an existing or projected air quality violation during construction, the proposed building materials pose a more significant adverse environmental impact than the report considered.

Is there a similar development in the county involving the same building materials and similar mitigation requirements so that we might at least assess the effectiveness of the proposed mitigation measures?

Biological Resources

According to the Biological Resources Report, Attachment A, the project site consists of primarily non-native annual grassland with minor areas of shrubs and oak woodland. The report identified potential habitat loss for Nissenan manzanita, Pleasant Valley mariposa lily and Brandegee's clarkia. However, "the impacts to these species are not anticipated as the occurrence of these species is unlikely and the surrounding development and small size of the project site reduces the biological value." Huh?? With respect, reduces the biological value of these lost assets to whom? Are these species present currently or not? A project involving the construction of 10, two story buildings is not small. Therefore, the question remains, what would be the impact of the project on the identified species?

The proposed development also requires an onerous, 10-year revegetation and restoration plan. According to the tree report, "the future management plan must include an annual inspection by a qualified ISA Certified Arborist to keep abreast of the trees' changing condition(s) and to assess the trees' ongoing structural integrity and potential for hazard in a developed environment." (p. 149). How would the county ensure compliance with such a requirement?

Riparian Habitat and Wetlands

According to the report, "Three wetlands were identified on the project site, a small mesic meadow, Willow-Oak Riparian Habitat and a tributary within the Willow-Oak Riparian Habitat. The wetland delineation determined that none of the identified wetlands are jurisdictional waters and that no onsite wetland features would be impacted." Does this mean that no wetland features at the project site would be impacted or that none of the identified wetlands at the site are under county jurisdiction or both?

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Land Use/Planning

The report states incorrectly that the project would not physically divide an established community. The project site is currently a vacant lot such that development of 10, two-story buildings surrounded by other multifamily buildings and single-family dwellings will be divisive and therefore a significant environmental impact.

The proposed development would also result in conversion of undeveloped open space for more intensive land uses, which would have a substantial adverse effect on Land Use. This would occur regardless of zoning, so that conclusion is also erroneous.

Population and Housing/Density

As the report indicates, the land use designation permits a maximum density of 24 dwelling units per acre. If the project were approved, the parcels would have a density of 11 units per acre. That may be so but calculating density requires a comparison between current density of the area and the amount by which it would increase if the project were approved. That information has not been provided so there is no way to assess whether the increase in population growth/density would be significant.

Also, what is the county's current jobs to housing ratio? How would the proposed development change that ratio? A substantial adverse effect on Population and Housing would occur if the implementation of the project would create a more substantial imbalance in the county's current jobs to housing ratio.

The report states that because the project falls below the maximum 175 permitted residential units that its impact would be less than significant. Again, that may be so, but the addition of 10, two story residential buildings would induce substantial population growth in the area. How many other similar developments are planned or under review by the county today?

How many visitors might residents at the project attract? How exactly is the community building to be used and by whom? Why a food prep area? Are the two play areas intended for residents only or might anyone in the area or beyond have access?

Public Services

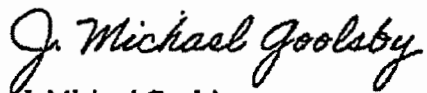
According to the report, the project may result in "a small increase" in calls for police services but not enough to significantly impact the department beyond what is anticipated in the General Plan. Nor would the project significantly impact the sheriff's current response time. How exactly was this measured?

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Conclusion

In view of the issues and concerns discussed above, the county would be ill advised to allow the project to proceed as planned.

Sincerely,



J. Michael Goolsby
President and CEO
Better Neighborhoods, Inc.