



# EL DORADO COUNTY PLANNING COMMISSION

Building C Hearing Room  
2850 Fairlane Court, Placerville, CA 95667  
<http://www.co.el-dorado.ca.us/planning>  
Phone: (530) 621-5355 Fax: (530) 642-0508

Walter Mathews, Chair, District IV  
Alan Tolhurst, First Vice-Chair, District V  
Lou Rain, Second Vice-Chair, District I  
Dave Pratt, District II  
Tom Heflin, District III

Char Tim ..... Clerk of the Commission

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## MINUTES

### **Regular Meeting July 9, 2009 – 8:30 A.M.**

#### **1. CALL TO ORDER**

Meeting was called to order at 8:37 a.m. Present: Commissioners Rain, Pratt, Heflin, Mathews, and Tolhurst; Paula Frantz-County Counsel\*; and Char Tim-Clerk of the Planning Commission.  
[\*Arrived at 9:07 a.m.]

#### **2. ADOPTION OF AGENDA AND ADDENDUM**

**Motion: Commissioner Pratt moved, seconded by Commissioner Mathews, and unanimously carried (5-0), to adopt the agenda and addendum as presented.**

**AYES: Rain, Heflin, Tolhurst, Pratt, Mathews**  
**NOES: None**

#### **3. PLEDGE OF ALLEGIANCE**

**4. 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. **Minutes:** June 25, 2009

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (4-0), to adopt the minutes as presented.**

**AYES: Rain, Tolhurst, Heflin, Pratt**  
**NOES: None**  
**ABSTAIN: Mathews**

**SPECIAL USE PERMIT**

**b. S09-0007/Smith Flat House Courtyard** submitted by JOHN CONFORTI to allow outdoor events including concerts, theatre, craft shows, exercise and dance instruction, workshops, and children's events within an outdoor courtyard. The property, identified by Assessor's Parcel Number 048-240-14, consisting of 1.81 acres, is located on the north side of Smith Flat Road, approximately one-fourth mile east of the intersection with Broadway, in the Placerville area, Supervisorial District III. (Categorical Exemption pursuant to Section 15301(a) of the CEQA Guidelines)\*\* *[continued from 6/25/09 meeting]*

Pierre Rivas pulled this item from the Consent Calendar and requested it be moved to the end of the agenda.

Mike Baron informed the Commission that the item was pulled from the Consent Calendar due to additional minor changes needing to be included into the revised conditions of approval. These changes had been identified at the last meeting but had not been incorporated into the revised document that was presented to the Commission for approval today. The changes were: (a) Condition #1: add "outdoor" between the words "allow" and "special"; and (b) Conditions #1 and #6: change "Monday" to "Sunday".

Commissioner Tolhurst stated that after reading the revised conditions, it was apparent that he had been misunderstood regarding his suggested solution to the noise issue. His suggestion had revolved around the daytime noise level and not what was presented in the revised conditions. However, he stated that he wouldn't pursue this different avenue if the applicant found these conditions regarding the noise issue acceptable.

County Counsel Paula Frantz and Commissioner Rain suggested a slight wording modification to Condition #6 to change it from "not occur after" to "end no later than" in front of 7:00 PM and add similar wording in front of 10:00 PM. Mr. Rivas informed the Commission that the change would also be made to Condition #1 to make it consistent.

John Conforti, applicant, expressed concern on allowing advance reservations for weddings, etc. that would go over a year from now since he is conditioned to return to the Commission in a year to ensure that the special events are not creating a nuisance in relation to noise levels. County Counsel Frantz stated that after the approval of this permit, he has the legal right to conduct his business and the review next year is just to ensure that he is complying with the conditions. She also indicated that the Commission does have broad authority on this and could be flexible for certain situations, if the need arose.

No further discussion was presented.

**Motion: Commissioner Rain moved, seconded by Commissioner Tolhurst, and unanimously carried (5-0), to: 1. Certify that the project is Categorically Exempt from CEQA pursuant to Section 15301(a); and 2. Approve Special Use Permit S09-0007 based on the findings proposed by staff, subject to the conditions of approval as modified, to include wording changes to Conditions #1 and #6.**

AYES: Pratt, Heflin, Tolhurst, Rain, Mathews  
NOES: None

This action can be appealed to the Board of Supervisors within ten (10) working days.

### Findings

#### **1.0 CEQA FINDINGS**

- 1.1** This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15301(a) of the CEQA Guidelines which apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
- 1.2** The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department, Planning Services Division at 2850 Fairlane Court, Placerville, CA.

#### **2.0 SPECIAL USE PERMIT FINDINGS**

**2.1 The issuance of the permit is consistent with the General Plan;**

The proposed use would be consistent with the Commercial Land Use Designation which allows for a range of commercial activities. The Acoustical Analysis prepared for outdoor events at the site determined that the anticipated noise levels could exceed established thresholds of the General Plan.

Hours of operation have been established in order to avoid negative impacts within the project area. Project conditions of approval require that event end by 7:00PM ~~Monday~~ Sunday through Thursday and 10:00 PM Friday and Saturday as well as a provision for a one year review by the Planning Commission and that a six foot solid fence be constructed along the north and east property boundaries to ensure consistency with the daytime maximum allowable noise levels listed under Table 6-2 of the General Plan.

**2.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood;**

The proposed outdoor event types would not generate excessive noise levels or other impacts that would be detrimental to the neighborhood. Limiting the hours of operation for special events as well as a provision for a one year review by the Planning Commission and construction of a solid fence would ensure that the surrounding neighbors would not be negatively impacted as a result the proposed project.

**2.3 The proposed use is specifically permitted by special use permit pursuant to this Title.**

The Commercial Zone District permits outdoor events of this type through approval of a Special Use Permit.

**Conditions of Approval**

1. The project, as approved, consists of the following:

This special use permit is based upon and limited to compliance with the project description, the exhibits marked Exhibit F dated March 9, 2009 and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

**Project Description:** This Special Use Permit shall allow outdoor special events ~~including~~ such as weddings, fundraisers, concerts, theatre, craft shows, exercise and dance instruction, workshops, and children's events as an expansion to the existing medical wellness offices. Events can occur any day of the week with no restrictions to the number of events per year. In order to minimize noise impacts to the surrounding neighborhood all special events will end ~~by~~ no later than 7:00 PM ~~Monday~~ Sunday through Thursday and no later than 10:00 PM Friday and Saturday with a maximum of 200 people in attendance.

**Planning Services**

2. All site improvements shall conform to Exhibit F.
3. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a Special Use Permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

4. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
5. Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to issuance of a building permit for verification of compliance with applicable conditions of approval.
6. All outdoor special events shall ~~not occur after~~ end no later than 7:00 PM Monday Sunday through Thursday and no later than 10:00 PM Friday and Saturday any day of the week.
- ~~7. The applicant shall construct a six foot solid fence along the north and western property lines, prior to commencement of any special events.~~
- ~~7. The additional unpaved parking lot shall consist of four inches aggregate base compacted at ninety-five percent.~~
- ~~8. This permit shall be heard by the Planning Commission on or about one year following approval of this permit to ensure that the special events are not creating a nuisance to the surrounding neighborhood from excessive noise.~~

#### **Environmental Management Department**

- ~~8.9.~~ For onsite food preparation, the facility shall provide a commercial kitchen that complies with the California Health and Safety, Retail Food Code.
- ~~9.10.~~ Plans shall be submitted for review and approval and a yearly permit to operate must be obtained from the County environmental Health department.

#### **END OF CONSENT CALENDAR**

#### **5. DEPARTMENTAL REPORTS AND COMMUNICATIONS (Development Services, Transportation, County Counsel)**

Pierre Rivas indicated that there had been no current planning items before the Board of Supervisors since the last Commission meeting, so there was nothing to report out.

Peter Maurer provided a summary of events regarding long-range planning:

- Distributed a memo and PowerPoint presentation regarding the General Plan 5-Year Review. This was discussed and approved at the Board of Supervisors' June 30, 2009,

meeting. Mr. Maurer will distribute the final approved version to the Commission once he receives it from the Board Clerk's office.

- ISAC and INRMP stakeholders were meeting today to discuss recommendations to the Board of Supervisors regarding the selection of a consultant from the recent Request For Proposals (RFPs) received.
- Rare plant issue. Mr. Maurer stated that various agencies are working together to determine a solution to this issue.

## **6. COMMISSIONERS' REPORTS**

Commissioner Pratt stated that the recently approved three-sided sign in Diamond Springs has begun to be constructed and is looking good. He was concerned of the numerous signs currently in that area and is anticipating that it will be cleaned up in the near future. He stressed that this needs to be managed.

Commissioner Rain inquired if modifications to General Plan Policy 2.2.4.1.b, regarding density bonus, which had been heard by the Commission on February 26, 2009, had been approved by the Board of Supervisors. There was some discussion amongst the Commission that it appeared that the motion for that amendment had eventually failed. Commissioner Rain was particularly interested in the developable vs. undevelopable land for calculations and wanted clarification on what the current procedures were. Pierre Rivas stated that staff would return back to the Commission with a detailed explanation of how the calculations are currently being applied.

*(Clerk's Note: Commissioner Rain's comments were received at the end of the meeting.)*

## **9:00 A.M.**

### **PUBLIC FORUM/PUBLIC COMMENT**

Paul Sayed requested policy changes on the following items:

- Projects with Negative Declarations have a 30-day public comment period, but notices include language that requests written information be received one week prior to meeting date. He stated that this is unfair to the public as they are losing 7 days of the comment period and suggested the Commission should change procedures to allow the full 30 day comment period prior to taking action.
- Continuance Process. The trend appears to be last minute continuances which are a means to break-up public comment. He suggested that if a continuance is received within three days of the scheduled hearing, then the project can not be heard for 90 days.

## **7. SPECIAL USE PERMIT**

**S09-0003** submitted by EL DORADO HILLS COMMUNITY SERVICES DISTRICT (CSD)/SANDI KUKKOLA to revise an approved Special Use Permit to allow an LED reader board sign for the El Dorado Hills CSD Community Park. The property, identified by Assessor's Parcel Number 125-110-09, consisting of 39.5 acres, is located at the intersection of El Dorado

Hills Blvd and Harvard Way in the El Dorado Hills area, Supervisorial District I. (Statutory Exemption pursuant to Section 15270(a) of the CEQA Guidelines)\*\*

Jonathan Fong presented the item to the Commission with a recommendation for denial as the findings could not be made.

Wayne Lowery, General Manager of the El Dorado Hills Community Services District (CSD), distributed a document to the Commission that listed the advantages, design criteria, self imposed rules, design specs, examples of sign messages, and various photos for the project. He stated that there is a clear disconnect between the residents of El Dorado Hills and the rest of the County and this proposed sign is an example. Several years ago, a survey was conducted and residents complimented the CSD on the parks but were critical of communications (i.e., website and banners instead of readerboards). Mr. Lowery was interested in the readerboard for CSD purposes, but would consider noticing health and safety issues for the fire departments/ government agencies or for emergencies like Amber Alerts. A demo sign was set up in the room for the Commission's view. He stated that the board could be dimmed when dark; amber lights could be used; proposed intersection is already quite bright; and in regards to the Zoning Ordinance and General Plan policies: (a) readerboard would be turned off at 10:00 pm, but could condition it to be turned off at 9:00 pm; and (b) won't impact dark skies policies. Mr. Lowery said that the goal was to eventually eliminate the need for banners.

Commissioner Pratt inquired on the split vote (4-4) from the El Dorado Hills Area Planning Advisory Committee (as identified in Exhibit G of the Staff Report). Mr. Lowery responded that the issue was the concern of proliferation.

Chair Mathews inquired if there were any other options available as the main issues of readerboards are that they are bright, it catches public's attention and they could be everywhere.

County Counsel Paula Frantz responded to the proliferation issue. She stated that a distinction can be made between commercial and non-commercial, but not on content. The issue at hand was the 1<sup>st</sup> Amendment rights. County Counsel Frantz explained that they can't make a decision on who the applicant is or what the message states. They can regulate the time, place, and manner of speech but not the content as it must be uniformly applied. She further explained that possibly allowing government entities to notice only public safety messages could withstand scrutiny, but not if they were allowed to provide other types of messaging. In response to inquiries on why schools are allowed readerboards, County Counsel Frantz stated that the County does not have land use authority over the schools, are autonomous from the County and they answer to the State.

Jim O'Camb/El Dorado Hills Fire Department stated that their current signs are mechanical but many are no longer working as they are unable to be repair due to being obsolete. They are interested in the readerboards for announcements on classes, events and fire dangers. Mr. O'Camb said that they are in support of participating in helping to resolve this issue of not being allowed readerboards in the County as it is long overdue.

Mark Strough, owner of an AM/PM mini market, stated that the LED lights do not put out a glare and questioned why the County is not allowing them when other counties and CalTrans are using this technology.

Jim Campo said that he resides 400 yards from the proposed location and is opposed to the sign as it would degrade the neighborhood. He also stated that the CSD currently uses mailings, website, and banners as methods for announcements. Mr. Campo stated that the traffic patterns in that area have decreased due to new routes available in the area and doesn't feel that the proposed location would be effective. He indicated that the CSD is under the local CC&Rs, which state that signs are prohibited, and he is also against self-imposed rules since personnel changes occur in every organization.

Scott Blaze, El Dorado Hills resident, said that the banners do not get cleaned up and that the readerboard signs would probably be used more for announcements than for public safety.

In response to the clean-up of banners, Mr. Lowery stated that the County does not have the resources to remove banners that are left in the County's right of way. He also stated that if CSD personnel removed the signs, according to the law, they are required to contact the sign's owner and return the signs back to them.

Commissioner Tolhurst indicated that he is on the Scenic Committee in Tahoe and he objects to these types of signs. He stated that there needs to be a 1:10 contrast ratio, which is similar to white on black paint. This is not offensive and does not give off a glare. Commissioner Tolhurst said that he likes the banners as they have character and that the demo sign actually distracted him when they put it up during the meeting.

Chair Mathews said that the demo sign bothered him as well, but did feel that the LED signs do have value when they are in the right spot. He again questioned that there had to be other types of technology available instead of what was being proposed. He agreed with Commissioner Tolhurst on the contrast ratio.

Commissioner Rain indicated that he would like to approve the readerboards for specific uses, but after County Counsel provided the explanation of the 1<sup>st</sup> Amendment in regards to this issue, he felt that his hands were tied.

Commissioner Tolhurst suggested that a workshop be conducted that could show alternative solutions and what other counties are allowing.

Commissioner Pratt agreed with the workshop suggestion and also the contrast ratio brought up earlier.

Chair Mathews indicated that he would like the workshop conducted in the very near future.

No further discussion was presented.



**Motion: Commissioner Pratt moved, seconded by Commissioner Tolhurst, and unanimously carried (5-0), to take the following actions: 1. Certify the project is statutorily exempt from CEQA pursuant to Section 15270(a) of the CEQA Guidelines; 2. Deny S09-0003 since the required findings cannot be made; and 3. Direct staff to return with a workshop on signs and modern technology.**

**AYES: Rain, Heflin, Tolhurst, Pratt, Mathews**  
**NOES: None**

This action can be appealed to the Board of Supervisors within ten (10) working days.

**Findings for Denial**

**1.0 CEQA FINDING**

1.1 Pursuant to Section 15270(a) of the CEQA Guidelines, projects which are disapproved are exempt from the provisions of CEQA and no further environmental review is required.

**2.0 SPECIAL USE PERMIT FINDINGS**

**2.1 The issuance of the permit is not consistent with the General Plan;**

General Plan Policy 2.8.1.1 requires that new development limit excessive nighttime glare. LED readerboard signage is not permitted within the County as they have the may expose motorists and nearby residents to potentially significant glare. The potential light and glare would be incompatible with surrounding uses and would be inconsistent with Policy 2.2.5.20 which requires new development to be compatible with surrounding land uses.

**2.2 The proposed use would be detrimental to the public health, safety and welfare, or injurious to the neighborhood;**

The ability for LED readerboard signs to produce changeable sign copy and varying intensity would distract motorists and nearby residents. The potential to create a vehicular hazard would pose a safety hazard along El Dorado Hills Boulevard and Harvard Way.

**2.3 The proposed use is not specifically permitted by a special use permit pursuant to this Title.**

Sections 17.16.070 and 17.16.080 of the County Code prohibit signage which has the potential to produce objectionable glare and has the potential to be movable. The proposed LED reader board sign utilized exposed LED's and has the ability to produce moveable images which is not consistent with the County Code.

**8. REZONE/PLANNED DEVELOPMENT/TENTATIVE MAP**

**Z08-0001/PD08-0003/TM08-1463/La Canada Subdivision** submitted by DAN and LAURA PARKES (Agent: CTA Engineering and Surveying) to rezone from Estate Residential Five-Acre (RE-5) to Estate Residential Five-Acre-Planned Development (RE-5-PD); Development Plan to allow clustering of lots and a reduction in the minimum parcel size of five acres in the RE-5 zone district and to allow for a density bonus; and a phased tentative subdivision map to create 47 residential lots ranging in size from 1.09 to 4.04 acres and four lettered open space lots (three open space lots and one landscape lot) totaling 63.85 acres. Phase I would encompass Lots 1-3 & 26-46 (24 lots), Phase II would encompass Lots 4-6, 12-25, & 47 (18 lots), and Phase III would encompass Lots 7-11 (5 lots). The property, identified by Assessor's Parcel Numbers 126-100-18 and 110-020-12, consisting of 143 acres, is located on the east side of Salmon Falls Road, approximately three-fourths of a mile north of the intersection with Green Valley Road, in the El Dorado Hills area, Supervisorial District IV. (Mitigated negative declaration prepared)\*  
*[continued from May 28, 2009, meeting]*

Mike Baron informed the Commission that the applicants have requested a continuance off-calendar.

Joel Koroktin, applicant's agent, apologized for the second continuance and stated that he does not utilize the continuance process for strategic purposes because it does tend to cause anger. He stated that this request for continuance was due to litigation for a previously approved project which used similar documents that this project is utilizing. Mr. Koroktin stated that if the continuance request was denied and the project was heard and approved today, it was very likely that the County would have two lawsuits on its hands instead of just one. He also stated that he had already informed the project's opponents via e-mail on the request for a continuance off-calendar and he is anticipating on meeting with interested parties prior to the Commission hearing this project.

Paul Sayed voiced concern over the last minute request for continuance and summarized the numerous continuance requests that have occurred with this project and asked the Commission to either hear the project today or if the request was granted, to not allow it to be heard for 90 days. Mr. Sayed provided the Clerk his speaking notes for record.

County Counsel Paula Frantz stated that the applicant has the discretion of to when to apply for a permit and how quickly to proceed, which includes the right to put their project on hold, if desired. She also said that the County will not be altering the processing of permits due to the recent Alto lawsuit.

Scott Blaze, area resident, informed the Commission that he is in charge of a large company and has had to cancel two international flights in order to attend these public hearings and again, today cancelled a business trip to New York to attend this meeting because he felt it was important. Mr. Blaze stated that these continuances place a burden on the public and that their time should also be respected. He encouraged the Commission to accept Mr. Sayed's suggestion.

Mr. Korotkin provided another public apology for the last minute continuance and stated that some external situations (i.e., contractual) are beyond his control.

Chair Mathews understands the public frustration and inquired if there could be a penalization for last minute continuance requests by the applicant. County Counsel Frantz responded that the current bylaws have no limitations on continuances and cautioned the Commission on issuing a penalty today without researching the issue further (i.e., reviewing other jurisdictions).

Commissioner Tolhurst reminded everyone that the continuance request requires a vote and if a Commissioner feels that the continuance process is being abused, then they have the right to vote against it.

Commissioner Rain voiced his anger at the last minute continuance request and strongly cautioned Mr. Korotkin that if this project was continued, then he did not want to see another eleventh hour continuance request.

Chair Mathews felt that there has been some very good discussion on this continuance issue, but due to the lawsuit of the related project, understands that in this case the continuance request makes the most sense.

No further discussion was presented.

**Motion: Commissioner Tolhurst moved, seconded by Commissioner Rain, and unanimously carried (5-0), to continue the project off-calendar.**

**AYES: Pratt, Heflin, Rain, Tolhurst, Mathews**

**NOES: None**

**9. ADJOURNMENT**

Meeting adjourned at 11:03 a.m.

**APPROVED BY THE COMMISSION**

Authenticated and Certified:

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Walter Mathews, Chair