



PLACER COUNTY PLANNING DEPARTMENT

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PLANNING APPEALS

The specific regulations regarding appeal procedures may be found in the Placer County Code, Chapters 16 (Subdivision), 17 (Planning and Zoning), and 18 (Environmental Review Ordinance).

OFFICE USE ONLY

Last Day to Appeal 5/23 (5 pm)
Letter
Oral Testimony
Zoning
Maps: 7-full size and 1 reduced for Planning Commission items
Appeal Fee \$ 504
Date Appeal Filed 5/20/11
Receipt # 11-0013983
Received by
Geographic Area Central

TO BE COMPLETED BY THE APPLICANT

- 1. Project name CUP (PEPA 2011) TENTATIVE MAP FEEL REZONE MBR-CUP & PA
2. Appellant(s) ADA/DALE SMITH / JOE FORSLUND 889-1523 & 823-8622
Address 11325 TAHOE ST AUBURN CA 95602
3. Assessor's Parcel Number(s): 051-140-056, 051-1-1110-058 & 051-180-059-051-211-016
4. Application being appealed (check all those that apply):
Administrative Approval (AA-)
[X] Use Permit (CUP/MUP-)
Parcel Map (P-)
[X] General Plan Amendment (GPA-)
Specific Plan (SPA-)
Planning Director Interpretation (date)
[X] Minor Boundary Line Adj. (MBR-)
Tentative Map (SUB-)
Variance (VAA-)
Design Review (DSA-)
[X] Rezoning (REA-)
Rafting Permit (RPA-)
Env. Review (EIAQ-)
Other:
5. Whose decision is being appealed: PLANNING COMMISSION
6. Appeal to be heard by: BOARD OF SUPERVISORS
7. Reason for appeal (attach additional sheet if necessary and be specific): SEE THREE PAGES OF REASONS ATTACHED

(If you are appealing a project condition only, please state the condition number)

Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s)
V. DALE SMITH ADA
JOE FORSLUND ADA/DALE SMITH
SAVE OUR QUALITY OF LIFE

To the Placer County Board of Supervisors

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Alfa Omega Associates & the Ad-Hoc Committee specifically oppose the approval by the Planning Commission of the Timberline at Auburn project as delineated & identified on the first page of the appeal, on the following three pages, not in any particular order.

1) - Insufficient Fire Flow Water in accordance with the requirements listed in the 2007 California Fire Code, January 1, 2008 - Fire Flow Water and Chapter 10.40010 California Fire Code, specifically as it pertains to: **Cryogenic fluids**. What are they?

Cryogenic properties as density, boiling points and heat of evaporation for fluids such as hydrogen, methane, oxygen, nitrogen, fluorine and helium.

We have highlighted **oxygen** for the specific purpose of showing that absolutely nothing we could find in the DEIR or FEIR deals with the huge amount of **oxygen** necessary 24 hours a day for emergency care of elderly people regardless of where they are in the multi story buildings, as residents or patients in need of urgent care.

We include by reference all the documents we have filed with Placer County for the Administrative record for this project starting in 2007/08 through the filing date of this Appeal on the issue of Fire Flow Water, and Consumptive Water, neither of which has been totally guaranteed for this project, and all other matters, in particular, the DS written and spoken comments along with a large sheaf of supporting documents turned in at the Planning Commission hearing of May 12, 2011. These are vital to Item 8 in this Appeal.

2) - Where are the low income housing units located in this project? I searched both the DEIR and FEIR several times electronically with the words: "**low income housing,**" and found **NOTHING**. According to the Placer County Housing Ordinance this is illegal and that alone is more than adequate to call for an Appeal.

3) - This is a "piecemealing" project prohibited by CEQA which requires that projects not be piece-mealed. Thus, it is necessary to evaluate impacts associated with the 95-acre project site and to evaluate impacts associated with mitigation actions on the 24-acre ARD owned property separately as they have different property owners. Cutting all those trees at one time is very much "piece mealing" and is not legal under CEQA.

4) - The assumption of a "less-than-significant" classification of the noise levels of this huge project is totally incorrect because of the un solved over flight issues.

5) - Hold harmless? The so called "hold harmless" provision in the Executive Summary outlined in the DEIR does nothing whatsoever to avoid the possibility of a highly destructive crash into any of those three story buildings resulting in an extremely large death and injury toll.

The way the three story buildings are clustered in the C section - C-1 through C-6 is extremely vulnerable to a very disastrous air plane crash into any one of these closely clustered three story buildings. We do not believe that the North Auburn Area has the fire equipment, training and experience to deal with so many three story buildings.

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6) - “Compatibility with the Placer County Airport Land Use Compatibility Plan.”

No, that is not double-speak, that is the way it is written by Placer County. This is an extremely faulty concept, presumption that a disclosure statement would resolve all possibilities of an air crash into that compound, consisting of these very faulty and highly questionable words. Read it carefully.

“The applicant shall inform and notify prospective buyers and renters of residential properties in writing, prior to purchase or signing of lease agreement, about existing and on-going aircraft overflights in the form of a disclosure statement. The notifications shall disclose that the Timberline at Auburn site is within an overflight zone, which may result in periodic noise from aircraft. The language and format of such notification shall be reviewed and approved by the County Attorney prior to recording any final map(s). Each disclosure statement shall be acknowledged with the signature of each prospective residential property owner/renter.”

If by some strange reasoning, Placer County and the Western Care Construction Company, Inc. believe that this disclosure statement relieves them of an air crash financial responsibility in the reality of how things are done in California’s most litigious mind-set, especially in 2011, both are more naïve than we the taxpayers can imagine. It’s ludicrous.

7) - Further Airport Impacts totally ignored or covered up. At pages 3-22 to 3-24 of the FEIR, containing the County's response to letter number 6 submitted by the PCTPA¹, there is a lengthy explanation and argument to the effect that even though the initially proposed "assisted" living units are inconsistent with the PCALUCP² because assisted living units are analogous to "nursing homes," which "are prohibited in all airport compatibility zones except Zone D ... that a name change is all that is needed.

The (FEIR at p. 3-22), the PCTPA apparently allowed WCCC³ to cure the defect by merely revising the site plan and "deleting the assisted living buildings and replacing them with independent living ones. As a future option, the applicant indicated he might go to the Commission for a determination on the assisting living use." (FEIR at p. 3-23.)

See the AOA letter for the Administrative Record to Planning Director Michael J. Johnson of 5-16-2011 on this; excuse the pun, **highly flammable matter**. We are waiting for a response from Mr. Johnson before we introduce our full revealing documentation on this very questionable action between Placer County, WCCC, Inc. and the PCALUCP, all misleading to the public -- into the Administrative Record.

¹ Placer County Transportation Planning Agency, which submitted a 3-page DEIR comment letter date 12-10-10.

² Placer County Land Use Compatibility Plan.

³ Western Care -- -- , the developer, project applicant and real party in interest in any forthcoming writ of mandate litigation to enforce CEQA.

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CEQA

8) - Financial Data Regarding the Gross & Net Revenue to be Generated by Project During its Anticipated Life. There are several reasons for requiring the project applicant to submit financial information about the gross and net revenue to be generated by the project over its anticipated life. First, as previously pointed out, this financial data is absolutely essential in determining the "feasibility" of mitigation measures--particularly realignment of Richardson Drive and obtaining the larger access easement and the other special requests being made of Placer County for exceptions, variances and other conveyances that can only be obtained by a decision of the Board of Supervisors. Without such information an adequate analysis of these factors cannot take place.

9) - The particularly suspicious manipulation of the law on designation name does not make the dangerous problem go away and this is certainly not the end of this issue because there is a very important element in the Placer County Response to our Ad Hoc Committee Comments on the **DEIR, Comment 7-67:**

The County is in no way committed to approving the Timberline at Auburn project; this decision is solely within the discretionary purview of the Placer County Board of Supervisors. The hearing on the project before this elected body has not yet occurred.

Prior to making any decisions on the project, the Board of Supervisors will need to consider the adequacy of the Timberline at Auburn EIR (including both the Draft EIR and Final EIR).

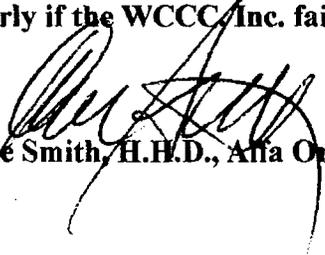
10) - The pressing legal question is why did the Planning Commission make a statement at the hearing on the absolute necessity of filing a timely appeal?

That action put the public into a totally untenable position. If citizens do not file an appeal does it mean that we loose all our rights in any kind of subsequent and possibly forthcoming writ of mandate litigation to enforce CEQA?

Rather than take this risk, because of the double-speak of Placer County, we have raised the funds and are filing that Appeal, after consultation, to the Board of Supervisors, UNDER PROTEST.

We believe that the County, in making the statement above was going to take this matter forward to the Board of Supervisors. The Planning Commission declaration on the necessity to file an appeal threw that whole question into a muddled up state.

Our appeal fee should be refunded under these circumstances, still another reason to appeal this oversized, possibly non-performing project that will cost we taxpayers dearly if the WCCC, Inc. fails to perform. Who IS watching the shop?


Dale Smith, H.H.D., Alfa Omega Associates

Jon Forslund, Ad-Hoc Committee