



MOTHER LODE UNION *School District*

3783 Forni Road * Placerville CA 95667

Tim Smith, Superintendent
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LATE DISTRIBUTION

DATE 2/27/12

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February 23, 2012

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

2012 FEB 27 AM 10:42
BOARD OF SUPERVISORS
EL DORADO COUNTY

Re Creekside Plaza (Project), Rezone Z10-0009/Planned Development PD10-0005/Parcel Map, P10-0002
Creekside Plaza

Dear Supervisors,

I am writing this letter regarding the Creekside Plaza Project (CPP) on behalf of the Mother Lode Union School District (MLUSD). Since learning of the CCP, the MLUSD has had concerns relative to student safety and traffic congestion, both of which will be impacted as a result of the proposed development. I am requesting the Board of Supervisors consider the MLUSD concerns and requests before taking action to approve the CPP. I want to start by stating that the MLUSD is not opposed to development, and that in fact is supportive of development. The District recognizes the positive effects developments have on schools and the community in general, thus we are not suggesting or advocating the termination of the CPP.

The MLUSD began to consider the impact of the project in the spring of 2011 when we met with Tom Dougherty, Project Planner. Since then, we have attended meetings and public hearings held by the El Dorado County Planning Commission to communicate the MLUSD concerns regarding student safety and traffic congestion related to the CPP.

The following are the primary concerns of the MLUSD:

1. Risk of students being injured and traffic accidents due to increased traffic and congestion related to the CPP.
2. A left hand turn lane into the CPP on Forni Road with two vehicle stacking capacity, which will not mitigate traffic congestion related to the development.
3. A lack of specificity on the improvements to the school frontage on Forni Road, as stated in the mitigation plan.
4. A thirty foot retaining wall behind the development, without a specific plan to mitigate potential safety hazards related to the wall.

The MLUSD is requesting the following to address the above mentioned concerns:

1. Utilize the 50 foot right-of-way on Forni Road to assist in the mitigation of the traffic congestion related to the CPP.
2. Clearly state what improvements will be made to the school frontage on Forni Road. The MLUSD proposes a side walk and a right hand turn lane into the school parking lot on Forni Road.
3. Include a barrier fence on the retaining wall behind the CPP.

I have personally witnessed the daily traffic congestion, near accidents, and several accidents involving vehicles on Forni Road for years. We are fortunate that no students have been injured as a result of accidents, to date. The traffic related to the school site has been significantly impacted by the multitude of surrounding developments on Missouri Flat and Golden Center Drive. Adding additional traffic to Forni Road without utilizing the County right-of-way to mitigate the problem is not a good decision for the MLUSD or the community. It is the opinion of the MLUSD that any development with an entrance on Forni Road will require the 50 foot right-of-way to mitigate traffic to an already congested roadway.

Due to the potentially significant impacts to the students and stakeholders of the MLUSD, I am requesting the Board of Supervisors table the CPP development plan until the above concerns have been addressed.

Respectfully,



Tim Smith
Superintendent
Mother Lode Union School District

MARSHA A. BURCH
ATTORNEY AT LAW**LATE DISTRIBUTION**

Date 8:17 pm, Feb 27, 2012

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February 27, 2012

Via electronic mail
edc.cob@edcgov.us

El Dorado County Board of Supervisors
Suzanne Allen de Sanchez, Clerk
330 Fairlane Court
Placerville, CA 95667

Re: Mitigated Negative Declaration for the Creekside Plaza Project
Rezone Z10-0009/Planned Development PD10-0005/Parcel Map,
P10-0012 Creekside Plaza
State Clearinghouse # 2011092017

Dear Supervisors:

We appreciate the opportunity to provide the following comments on behalf of Friends of the Herbert Green Middle School Neighborhood ("Friends") regarding the above-reference project. These comments are intended to supplement comments submitted previously by other concerned citizens and agencies.

As explained below, the Initial Study and Mitigated Negative Declaration (referred to together herein as "MND") for the Project does not comply with the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*) in certain essential respects. An Environmental Impact Report ("EIR") must be prepared for the Project.

An overarching concern in this case is the fact that the MND ignores potentially significant adverse impacts with little justification and almost no documentation. After review of the MND, we firmly believe that the environmental review has been truncated by avoiding full disclosure of the Project's impacts, and also relying upon future regulatory action to fully "mitigate" impacts, with little or no analysis.

It is especially surprising that the MND does not include traffic as a potentially significant effect on the environment. (MND, p. 3.) Information in the record, including the traffic analyses done for the Project show that the Project will indeed have

significant impacts, and the County pretends that this is not an issue, relying heavily on impact fees that may or may not ever result in the necessary improvements being constructed. This fatal flaw in the MND is set forth in the traffic section of this letter.

The Project also deviates from various General Plan (“GP”) policies, and County staff is recommending that these deviations be allowed, based upon conclusory analyses. The Project will violate the prohibition of development on slopes greater than 30% and will also violate the 50-foot wetland setback requirements, and these deviations alone are evidence that the Project may have a significant environmental impact. The County may be able to satisfy itself with respect to the criteria used to determine whether a waiver should be granted, but this does not satisfy CEQA.

There are several areas of impact where substantial evidence in the record supports a fair argument that the Project may have a significant environmental impact and that a full EIR is required.

In a recent development in the administrative process, the applicant is now seeking a reasonable use determination in order to avoid mitigating impacts to oak woodlands. This issue is discussed in some detail below. In summary, if the County determines that mitigation for impacts to the oak canopy is infeasible, it may only do so after preparation of an EIR and a finding of overriding considerations. This simply drives home the fact that this Project may not be approved with a MND.

I. Standard for use of a Negative Declaration

The standard in reviewing an agency’s decision not to prepare an EIR for a project is subject to the “fair argument test” and is *not* reviewed under the substantial evidence test that governs review of agency determinations under Public Resources Code sections 21168 and 21168.5. The “substantial evidence test” that generally applies to review of an agency’s compliance with CEQA provides that if any substantial evidence in the record supports the agency’s determination, then the determination will remain undisturbed.

In stark contrast, an agency’s decision to omit the preparation of an EIR will not stand if *any* substantial evidence in the record would support a fair argument that the Project *may* have a significant effect on the environment. (*No Oil, Inc. v. city of Los Angeles* (1974) 13 Cal.3d 68, 75; *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000-1003; Pub. Resources Code § 21151.)

There is substantial evidence to support a fair argument that each of the Project impacts discussed below *may* be significant. A full EIR should be prepared for other reasons as well. The cumulative impacts of the Project are significant. Where a project’s impacts are cumulatively considerable, adoption of a mitigated negative declaration is inappropriate unless the evidence in the record demonstrates that the mitigation measures will reduce all impacts to a level of insignificance. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 391.) In this case it does not. Finally, the Initial Study simply does not contain enough information to fulfill its purpose as an informational document.

II. The Project Description is Insufficient

“An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” (*County of Inyo v. County of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) A complete project description is necessary to ensure that all of the project’s environmental impacts are considered. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450.)

The MND does not provide a complete, consistent project description sufficient to support environmental analysis.

The Project description in the MND describes the surrounding land uses, and omits any mention of the Herbert Green Middle School (“School”). (MND, p. 4.) The Staff Report lists the “Project Issues” and there is no mention of the School, nor any reference to the traffic congestion and safety issues resulting from heavy traffic during times of the day when students are coming to and leaving the School. (December 8, 2011 Revised Staff Report, p. 5.) The maps and diagrams associated with the Project do not include the School. The environmental analysis avoids the issue of the School directly across the road from the Project, and does so because the traffic and safety impacts around the School will be tremendous, and there is no way for the County to justify its decision to certify the MND when a full EIR is so obviously required.

During a public Board meeting on May 10, 2010, Supervisor Jack Sweeney addressed the terrible traffic problems in front of the School, and made an argument that children should be walking to school to alleviate the problem. The fact is, children will not be walking to school, and this may be due in part to the obvious danger to pedestrians in the area. We request that the relevant portion of the tape and/or transcript of the May 10, 2010, meeting be included in the record of proceedings for the Project. (Public Res. Code § 21167.6(e).)

III. The Direct Impacts of the Project are Not Adequately Addressed

The MND does not adequately address the Project’s potential significant impacts, attempting to avoid the analysis by pointing to various regulatory programs, or by simply ignoring the facts.

A. Air Quality

The MND concludes that the Project’s air quality impacts will be less than significant. The MND offers two bases for this conclusion: (1) so long as all of the air quality regulations are followed, impacts will be insignificant; and (2) the 2004 General Plan EIR (“GP EIR”) considered air quality impacts and “mitigation in the form of General Plan policies have been developed to mitigate impacts to less than significant levels.” (MND, p. 11.)

1. MND is inappropriately “tiered” from the 2004 GP EIR

Where a lead agency intends to rely on an earlier environmental document for its analysis of a project’s impact, the Initial Study, at the very least, should summarize,

with supporting citations, the specific relevant conclusions of the existing documents. Only then can the public determine whether the agency's reliance on extant data is in fact proper. (See *Emmington v. Solano County Redevelopment Agency* (1987) 195 Cal.App.3rd 491, 501-503.)

Public Resources Code section 21068.5 defines "tiering" as:

[T]he coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific **environmental impact reports** which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are *capable of being mitigated*, or (b) were *not analyzed as significant effects on the environment in the prior environmental impact report*. (Emphasis added.)

The 2004 GP EIR was adopted with a statement of overriding considerations because there were multiple areas of impact found to be significant and unavoidable, including impacts to air quality. Where a programmatic or master EIR is approved with a statement of overriding considerations, a lead agency **may not** tier from that document with a negative declaration or a mitigated negative declaration. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 124-125.)

Accordingly, the County's attempt to tier a mitigated negative declaration from an EIR that was approved with a statement of overriding considerations is a violation of CEQA.

2. Impact analyses and mitigation measures are insufficient

The El Dorado County Air Quality Management District ("AQMD") CEQA Guide¹ covers the issue of cumulative impacts, and a Project that proposes to change zoning to a use that will increase pollutant emissions is considered by the AQMD to have a significant impact. (AQMD CEQA Guide, Chapt. 8, p. 2.) The AQMD recently commented on the proposed Tilden Park Project and described this aspect of their CEQA Guide. (We request that all of the comment letters submitted to the County on the Tilden Park project be included in the record of proceedings for this Project, including the September 3, 2010, letter from the AQMD. These comment letters are relevant to this Project because it will also involve a zoning change and the issues raised are similar [Pub. Res. Code § 21167.6(e)(10)].)

The County claims that if the Project is held to various AQMD requirements, then the impacts will be mitigated to a level of insignificance. (MND, pp. 10-12.) There is no evidence whatsoever to support this conclusion. And, "[i]f there is a disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and prepare and EIR." (CEQA Guidelines § 15064(g).) The experts at the AQMD have developed standards that conclude that the Project will have a significant impact, and the MND does not

1 http://www.edcgov.us/Government/AirQualityManagement/Guide_to_Air_Quality_Assessment.aspx

even discuss those standards.

Despite the potentially significant impacts, the MND concludes that if future development in the Project area is held to compliance with requirements of the AQMD, then any air quality impacts will have been reduced to a level of insignificance. (MND, p. 12.) There is no evidence that the County went through any of the analyses required by the AQMD in order to make this finding.

It bears noting here that the County did not do any modeling or develop any data with respect to the pollution emissions that the Project will generate. The El Dorado County AQMD CEQA Guide describes the level of analysis necessary with respect to various types of emissions. With respect to ROG and NO_x, the AQMD indicates that if the Project can demonstrate consistency with the AQAP for ROG and NO_x emissions, the Project may be categorized as not having a cumulative air quality impact with respect to ozone. This requires being able to say that the Project does not require a change in the existing land use designation and projected emissions. That is a statement that *cannot* be made with respect to the Project.

For other pollutants, including CO, PM₁₀, SO₂, NO₂ and TACs, there is no applicable air quality plan containing growth elements. (AQMD CEQA Guide, Chapter 8, p. 2.) For CO, if there exists the possibility of CO "hotspots" caused by the proposed project in conjunction with other nearby projects, "for example, modeling will ordinarily be required if the proposed project and one or more other large projects jointly change traffic density levels to service level E or lower on the same roadway links..." (*Id.* at 2.) The Project *does* lower the level of service to E at area intersections. (December 8, 2011, Revised Staff Report, p. 12.) There was no modeling done for the Project. There is simply not enough analysis of this impact to support the conclusion that it has been mitigated to a level of insignificance.

For PM₁₀, SO₂ and NO₂, the Mountain Counties are in non-attainment for state standards. The impacts of PM₁₀ emissions can be significant cumulatively even where the project-specific emissions are not. The AQMD requires, at a minimum, dispersion modeling in order to determine whether a project will result in significant emissions of these constituents. (AQMD CEQA Guide, Chapter 8, p. 3.) There is no evidence of any dispersion modeling or other data collected for the Project.

The AQMD describes in detail what is required for an adequate CEQA analysis of air quality impacts. (AQMD CEQA Guide, Chapter 8, pp. 3-6.) The adequate cumulative impacts analysis begins as follows:

1. Either one of the following two elements:
 - a. A list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including those projects outside the control of the agency, or
 - b. A summary of projections contained in an adopted general plan or related planning document that is designed to evaluate regional or area-wide conditions;
2. A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that

information is available; and

3. An analysis of the cumulative impacts of the relevant projects. (AQMD CEQA Guide, Chapter 8, p. 4.)

The County did not even begin to meet these requirements for the air quality cumulative impacts analysis. The MND simply acknowledges that this is a potentially significant impact, but fails to follow through by concluding that compliance with standard regulations will mitigate the impacts to a less than significant level.

The conclusion is not based on substantial evidence, and also defers the development and adoption of mitigation measures to the future. The deferral of analysis and development of mitigation measures for air quality impacts is a violation of CEQA, as the MND does not meet the standards for any exception to the rule. In *Gentry v. City of Murrieta* the court of appeal explained that CEQA's normal requirement that mitigation be adopted prior to project approval may be met if an agency prepares a draft EIR that (1) analyzes the "whole" of the project; (2) identifies and disclosed with particularity the project's potentially significant impacts; (3) establishes measurable performance standards that will clearly reduce all of the identified impacts to less-than-significant levels; and (4) describes a range of particularized mitigation measures that, when taken in combination, are able to meet the specified performance standards. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395, comparing and contrasting *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011 with *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.) The *Gentry* court further explained that promises by a lead agency to implement future recommendations that other agencies might make after project approval is not sufficient to find that a proposed project's potentially significant effects have been mitigated to less-than-significant levels. (*Id.*)

The MND's air quality section is insufficient under all applicable legal authority.

B. Biological Resources

The MND concludes that the Project's impacts to biological resources will be less than significant with mitigation measures, and does so in the face of the fact that the Project will destroy 300 feet of stream channel and will be excused from the required 50-foot setbacks, in addition to developing on a greater than 30% slope and removing oak woodlands.

The evidence in the record is clear; the Project will have significant impacts to wetlands and oak woodland. These potentially significant impacts require the preparation of an EIR.

1. Impacts to wetlands

Despite the County's attempt to bury its head in the sand, there is substantial evidence showing that the Project may have significant impacts on biological resources. The MND acknowledges that the Project will "affect the bed, bank, and channel of a stream, including the adjacent riparian habitat. The project as proposed will affect 0.5 acre of riparian habitat, including nearly 300 linear feet of stream channel. This impact

is considered significant.” (MND, p. 14.) The “mitigation” for these impacts is compliance with a “permit” to be issued from the California Department of Fish and Game (“CDFG”). (*Id.*) It is illegal to rely upon conditions that may or may not be imposed by another agency to support a conclusion that an impact will be insignificant. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395.)

The potentially significant impacts to wetlands and riparian habitat trigger the requirement for a full EIR. The threshold for requiring an EIR is extremely low because to end the environmental inquiry at this point precludes evaluating alternatives to the Project that could avoid some or all of the impacts. Additionally, relying on another agency to enforce terms of a permit or agreement is improper.

Similarly, the MND acknowledges that the Project will impact wetlands, and concludes the impact will be insignificant by claiming “[t]he area of Corps jurisdiction is much less than the area covered by Department of Fish and Game Jurisdiction. Consequently, the mitigation measures for impacts to streams and riparian impacts would compensate for impacts to waters of the United States.” (MND, p. 16.) The MND goes on to suggest mitigation requiring the “Applicant to *strive to avoid* adverse [sic] and minimize impacts to waters of the united States, and to achieve a goal of no net loss of wetlands functions and values.” (*Id.*, emphasis added.) This “mitigation measure” is unenforceable and improperly defers development of an actual measure for mitigation, not to mention having no performance criteria.

The MND continues on the path of attempting to foist development and enforcement of mitigation measures onto other agencies by claiming that the California Regional Water Quality Control Board (“RWQCB”) will handle any issues of water quality impacts. (MND, p. 16.)

The evidence in the record shows that the Project will have tremendous impacts to the stream, wetlands and riparian habitat, and yet analysis of these impacts, as well as development of mitigation measures, is deferred to the future and assumed to be the responsibility of other agencies. Additionally, the Project will include waivers of the 50-foot setback requirement as well as a waiver of the prohibition on development on slopes greater than 30% (and possibly oak woodland mitigation). These waivers effectively gut the GP requirements that would go some distance toward mitigating impacts to wetlands as well as water quality. This approach fails to fulfill the requirements of CEQA and an EIR must be prepared in order to fully evaluate the impacts to biological resources and consider alternatives and mitigation measures.

2. Impacts to oak canopy

With respect to oak canopy, the Project was found to require removal of more than 10% of the oak canopy on site, and so Option B of Policy 7.4.4.4 was determined to be the method of mitigation. The Third District Court of Appeal recently struck down Option B as violating CEQA, and so the MND now makes the impossible switch to Option A, claiming that despite the removal of more than half of the oak canopy, the Project proponent will be able to retain 90% of the oak canopy. (MND, p. 18.)

There is no analysis of how the Project proponent will achieve this, which is astonishing in light of the fact that the development takes up nearly all of the area on the site.

There is nothing in the analysis or discussion in the MND or the staff reports that would support a conclusion that it is feasible for 90% of the oak canopy to be retained on the site. The impact will go unmitigated, and so it will not be possible to certify the MND.

C. Greenhouse Gas Emissions

Based upon a finding that the greenhouse gases generated by the project would be small relative to the global emissions, the MND concludes that the Project's impacts would be less than significant. (MND, p. 23.) This conclusory analysis falls short of CEQA's requirements.

The MND discusses interim guidance on the issue of evaluating climate change impacts, issued in 2008 by the Office of Planning and Research. This area of the law has evolved since 2008, and the MND does not comply. The CEQA Guidelines (effective on March 18, 2010) clarified how greenhouse gas ("GHG") emissions should be analyzed and mitigated under CEQA. These Guideline requirements are *not optional*. The adopted changes to the CEQA Guidelines include the following:

- A lead agency should make a good-faith effort to calculate or estimate the amount of GHG emissions resulting from a project. Although a lead agency retains discretion to determine the model or methodology used for such analysis, the lead agency is required to support its decision to employ a particular model or methodology with substantial evidence (14 CCR § 15064.4(a));
- The following factors should be considered when assessing the potential significant impacts from GHG emissions on the environment: (i) the extent to which the project may increase or reduce GHG emissions as compared to the existing environmental setting; (ii) whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; and (iii) the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions (14 CCR § 15064.4(b));
- When adopting thresholds of significance, a lead agency may adopt thresholds previously adopted or recommended by other public agencies or recommended by experts, provided the decision to adopt such thresholds is supported by substantial evidence (14 CCR § 15064.7(c));
- Lead agencies must consider feasible means, supported by substantial evidence and subject to monitoring and reporting, of mitigating the significant effects of GHG emissions related to a project (14 CCR § 15126.4(c));
- If an Environmental Impact Report is required, then the EIR should evaluate any potentially significant impacts of locating development in areas susceptible to hazardous conditions such as floodplains, coastlines and wildfire risk areas, in addition to considering any significant environmental effects the project might cause by bringing development and people into the area affected (14 CCR § 15126.2(a)); and Appendix G (the sample form with questions a lead agency

should consider in its Initial Study) has been modified to include analysis related to whether the project will generate GHG emissions and whether the project would conflict with any applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

The County has not evaluated any of the areas required under CEQA. None of the Project's emissions have been quantified, and none of the required analysis has been done. At this time, the County has the opportunity and the obligation to evaluate the GHG emission impacts of the Project and develop and adopt feasible mitigation measures for the entire Project area.

D. Land Use Planning

In the section on Land Use Planning, the MND notes that a Project would have a significant impact if it would "[r]esult in a use substantially incompatible with the existing surrounding land uses." (MND, p. 27.) The MND discusses the GP land use designations of the Project site, oddly ignoring all surrounding land uses. There is, again, no mention of the School.

The School is an existing use and several comment letters have been, and will be, submitted regarding the extremely dangerous conditions for students and others around the School. During the January 26, 2012, Planning Commission hearing, Commissioner Pratt opined that the traffic and safety problem is the School's problem, and that the School should mitigate any impacts "on site." Not only does this position completely violate the letter and spirit of CEQA, it is a shocking statement by a public official.

The County has apparently decided to whistle past the graveyard and pretend that this risk to children and their families and teachers is not an issue. It is an issue; it is a traffic issue, a safety issue and a land use incompatibility issue, and it does not even appear in discussion in the MND. A full EIR is required because of the traffic, safety and incompatibility issues that will be created by the Project.

E. Traffic and Circulation

The MND finds that the Project will **not** have a significant impact on traffic, then oddly goes on to discuss how the impacts will be reduced to a level of insignificance through mitigation measures, including the payment of traffic mitigation fees.

The School is ignored, and subsection (d) of this section of the MND includes a conclusion that the Project will not result in any substantial increase in hazards. (MND, p. 33.) Substantial evidence in the record reveals that the Project will increase hazards to motorists and pedestrians as a result of uses that will be incompatible with the adjacent School.

Additionally, the proposed mitigation measures are inadequate. The MND notes that the "traffic study recommended signalization of two intersections." Strangely concluding, "[t]he impacts have been mitigated and meet General Plan consistency requirements." (MND, p. 33.)

Significant impacts at the Missouri Flat Road/Enterprise Drive intersection will, according to the MND, be mitigated to a level of insignificance by the construction of the Diamond Springs Parkway (CIP project # 72334.) (MND, p. 34.) Unfortunately, the Parkway is “included in the ten-year CIP.”

Thus, the “mitigation” will occur if and when the County Capital Improvements Program (“CIP”) has sufficient funds to build the Parkway. Payment of mitigation fees to go toward capital improvement programs is an acceptable form of mitigation, but it must be shown that the improvements will actually be completed and mitigate the impacts if the County wishes to make a conclusion of less than significant impact. (See *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173; and *Napa Citizens for Honest Government v. Board of Supervisors* (2001) 91 Cal.App.4th 342.) The County may not make a finding of insignificant impacts with respect to the Missouri Flat Road/Enterprise Drive intersection.

The MND goes on to say that significant impacts were also noted at Forni Road/Golden Center Drive, and that the traffic study suggested signalization. (MND, p. 34.) Then, without any discussion, the MND concludes that signalization is infeasible and so some additional turn lanes will “mitigate the impacts.” There is no evidence to support this claim, not to mention the fact that a finding of infeasibility may only be made in the context of a statement of overriding considerations, which may only be adopted after preparation of a full EIR.

The payment of fees and future annexation into a community services district will not reduce the significant impacts to a level of insignificance before Project construction. The tremendous impacts to traffic are either completely ignored, or “mitigated” through illegal means. A full EIR must be prepared with a complete analysis of traffic impacts.

F. Mandatory findings of significance

There are two mandatory findings of significance that must be made for the Project. The Project may indeed substantially reduce the habitat of a fish or wildlife species. The MND acknowledges that the Project will destroy 300 linear feet of stream, and then makes the assumption that other agencies will require mitigation for the impacts. There is no evidence that the CDFG, the Army Corps of Engineers or the RWQCB will step in and ensure that the impacts are mitigated to a level of insignificance. Those agencies will enforce their policies and requirements, but there is no reason to believe that the impacts will be mitigated to the level assumed by the County.

The second mandatory finding relates to cumulative impacts. The County failed to do an adequate analysis to be able to make a determination regarding cumulative impacts. Section 15130(b)(1) of the CEQA Guidelines provides two options for considering potentially significant cumulative adverse impacts. This analysis can be based on either: (1) A list of past, present and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control

of the agency; or (2) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

The County did not perform the required analysis under either of the options, and so the MND contains an insufficient review of the Project's cumulative impacts.

IV. Conclusion

Because of the issues raised above, we believe that the MND fails to meet the requirements of the California Environmental Quality Act and the Project is inconsistent with the General Plan and its approval will violate the planning laws. For these reasons, we believe the document should be withdrawn and a revised environmental document, a full EIR, should be prepared.

Very truly yours,

// Marsha A. Burch //

Marsha A. Burch
Attorney

cc: Friends of the Herbert Green Middle School Neighborhood



EDC COB <edc.cob@edcgov.us>

Creekside strip mall

1 message

renee hargrove <writeon@internet49.com>

Tue, Feb 28, 2012 at 8:06 AM

To: edc.cob@edcgov.us

With regard to the proposed Creekside strip mall, I continue to question why El Dorado County needs more retail space when there are so many vacancies. Plus, if there are favored developers who do not pay the appropriate fees, is that not taking revenue out of County coffers when it could be spent on road maintenance, **economic** development, job creation/security (after all, there are employees who are furloughed because of lack of funding) and other much-need services?

It seems counter-productive to favor developers when citizens are struggling with employment. I sincerely doubt that new strip malls are going to employ any more citizens than using existing ones. For instance, why not "encourage" the absentee owners of the strip mall on Broadway, anchored by The Dollar Tree and Grocery Outlet, to repair that property and rent it out? I am aware that there was a revitalization plan for that area...why was that stymied?

If more strip malls and unchecked development ensues, it seems that traffic will increase, more roadways will be built and everyone will be going around in circles to nowhere. Has anyone noticed the increased vehicular speed and running of red lights everywhere? Another case in point is the safety of the children at Herbert Green School and pedestrians everywhere. Along with that goes distracted drivers who are texting, talking on their cell phones and checking their GPS while driving. Are they going to be looking out for the children as they hurry from one strip mall to another? Doubtful.

I am here to vote for revitalization and smart, planned use of existing retail and commercial space and properties. Our county is beginning to look bedraggled with darkened commercial/retail buildings, unkempt grounds, bankrupt businesses who failed because of decreased revenue from shoppers, and more. Not to mention, I personally do not want El Dorado County to look like Folsom where there are a million food places and the same retail recipe around the big box stores. Why not preserve charm and the unique qualities that exist here? What about honoring heritage and inventiveness? I am against cookie-cutter development.

Thank you for your attention. Renee' Hargrove, Placerville

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BOARD OF SUPERVISORS
EL DORADO COUNTY
8:42 am, Feb 28, 2012

25

LATE DISTRIBUTION
Date 8:43 am, Feb 28, 2012

February 27, 2012

Re: Creekside Plaza #12-0224

Hearing Date: February 28, 2012, 2:00PM

Dear Board of Supervisors:

I am writing to you with concerns regarding the Creekside Plaza development. I am a parent of a student attending Herbert Green Middle School and have concerns about the development's negative impact on the safety of Herbert Green's students and on the traffic conditions around the school as well as at the Forni Road/ Missouri Flat intersection particularly during peak school drop-off and pick-up times.

I understand from viewing several documents included in the planning file, that the developer of this project does not need to widen Forni Road at the project site, does not need to provide a turn lane/middle lane on Forni Rd. for the increased amount of traffic that the project will attract, and they do not need to provide a designated crosswalk for the students and community members accessing the development and/or the school.

I would encourage the decision-makers of this project to visit the school area during peak drop-off and pick-up times as it would provide them a clearer understanding of the traffic and safety concerns which surround this project if it is allowed to go forward as proposed and as recommended by the county's planners.

If more parents and the general public knew and understood the ramifications of this proposed plan, I am sure there would be more public outcry for the Board of Supervisors to take a common sense approach when approving design and making recommendations for commercial developments in and around school zones. I believe most parents and community members have the belief that because Herbert Green Middle School is in close proximity to this development project, our elected officials have most certainly kept the protection and safety of our school-aged community members a priority. I am hoping for our whole community's sake that we are not wrong.

As I do not agree that the project (as designed) has adequately addressed the safety and traffic concerns in and around the school area, I am respectfully requesting that the Board of Supervisors review, address, and resolve the traffic and safety concerns as expressed by the Herbert Green Middle School community and the community as a whole, before they give their final approval of the Creekside Plaza development project.

Sincerely,

Danielle Peterson
5030 Treemont Drive
Diamond Springs, CA 95619
530-344-1926

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Palos Verdes Properties Inc

February 28, 2012

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BOARD OF SUPERVISORS
EL DORADO COUNTY

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

Dear El Dorado County Supervisor(s):

We apologize for this late request; however, we respectfully request a continuance of this matter to your April 3rd hearing date. The reason for this request is to continue work towards a revised site plan which will be compliant with Option A of General Plan Policy 7.4.4.4.

We asked for a "Reasonable Use" exception but feel that it would be preferable to achieve Option A compliance as recommended by the Planning Commission.

Thank you for your consideration of this request.

Best regards,

Leonard Grado
President