



Mr. Aaron Mount, Associate Planner
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RE: PD09-0005 – Macauley Construction Headquarters

Aaron,

Please find our response to the comments contained in the Appeal Package as submitted by Mrs. Carol Louis.

Background: The purpose of Planned Development Application PD09-0005 (Application) is to begin the process of bringing the entire site into compliance with all local, state, and federal codes and laws. Approval of the application is the first step in achieving compliance. Upon approval of the Application, Richard Macauley, (Applicant) is required to apply for and obtain and the meet the requirements of all appropriate grading, building, and other associated permits.

Louis (Appellant):

Deny Phase 2 until all permits and infrastructure are completed. County has no timeline for Phase 2.

Response 1: It is anticipated that all Phase 1 improvements will be complete prior to construction within the Phase 2 project area, however, it has always been the applicants intent to have flexibility within the Phase 2 area for interim uses, so long as they remain consistent with the uses allowed by right within the Industrial Zone District. This flexibility was considered, and approved by the Planning Commission. The conditions of approval, as approved by the Planning Commission, require that Phase 1 project conditions be implemented and approved within 12 months of project Planning Approval, which has been delayed by this appeal process.

Louis: Deny 3 entrances and 3 80 sf signs, this does not fall under County Sign Code.

Response 2: The purpose of the Planned Development (-PD) Districts, includes the ability of the agencies to provide the Applicant the ability to use innovative planning and developing techniques that incorporate the ability to reduce development costs, while allowing the applicant to present alternatives to existing code, with approval at the discretion of the Planning Commission. The applicant has agreed

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to reduce the signs to 50 sf in size; however, due to the nature of the site, fire access, and proposed uses, requests that the number and locations of the signs and entrances remain as approved by the Planning Commission.

Louis: Repeal the waiver requiring the applicant, in an industrial zone, to connect to Public Sewer for Phase 1.

Response 3: Although public sewer facilities do exist south of the project, they are not gravity sewer, and connection to the existing sewer force main in Mother Lode Drive will require the design and installation of a sewer pumping facility. As conditioned, the applicant is required to construct a sewer pumping facility as a part of Phase 2. Phase 1 work is intended to focus on obtaining permits and approvals for the existing facilities on-site, the added burden of a sewer pumping facility would best be delayed until it can be properly designed and incorporated into the Phase 2 project plans. A septic system is sufficient for the limited needs of the existing facility. Additionally, a septic feasibility and perc test have been completed by Carlton Engineering, and Environmental Management has approved the use of a septic system for the property.

Louis: All surfaces must be paved on Phase 1 and Phase 2.

Response 4: The nature of the Phase 1 area, a general engineering contractor construction yard, does not warrant full paving of all surfaces. To do so would mean that paved surfaces are severely damaged by construction equipment such as bulldozers, compaction equipment, excavators and the like. Areas, such as those leading to, and for parking in front of, the office building are proposed to be paved. Additionally, minimizing paving in phase 1 reduces environmental impacts of water quantity and water quality of run-off from paved areas. All parking and travel ways in Phase 2 are proposed to be paved.

Louis: Macauley has for 7.5 years consistently not applied for county permits and has not adhered to code enforcement.

Response 5: Mr. Macauley hired BTConsulting, Inc. to prepare a planning application package, which was turned in in March of 2010, and deemed complete in August of 2010. Since that time, Mr. Macauley has been cooperative, has obtained additional reports, and has hired consultants to complete additional studies. Obtaining these additional studies, as well as conferring with Fish and Wildlife and other entities, has moved slowly but steadily to hearing, and finally approval. Mr. Macauley's diligence in meeting the requirements of the Planning Department in the endeavor demonstrates his ability and willingness to satisfy the conditions of the approval.

Louis: The project has already had a significant impact on the environment.

Response 6: The project, as approved by the Planning Commission, is to establish a Conditioned, Phased Development. In this case, Phase 1 of the project is basically complete, but unpermitted. Upon approval by the Planning Commission, and upon denial of the appeal, Mr. Macauley will begin obtaining all relevant Phase 1 permits, which will require Environmental Management, Air Quality Management District, Building Department, Department of Transportation, State Water Resources Control Board, and other agency review and approval. The Conditions of Approval require the Applicant to mitigate

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environmental impacts as discussed in the staff report, conditions of approval, and appeal package, which will be detailed within this document.

Louis: Greenstone Road is substandard for Industrial Traffic. The concrete bridge will not accommodate this type of traffic. Under measure Y – no traffic study was done.

Response 7: A Phase 1 Traffic Impact Study Initial Determination was completed by El Dorado County DOT. The Initial Determination found that Greenstone Road would handle 200 to 680 trips and remain at Level of Service (LOS) B with the project increasing trips per day from 256 (existing) to 308 (max with project), still well within LOS B for the roadway.

Louis: Applicant has used septic since 2005. Well is unpermitted and not inspected. This land was vacant when purchased.

Response 8: The septic system in place will be submitted to Environmental Management for review, and will be repaired, upgraded or replaced, as a part of Phase 1 improvements. The existing well was in place prior to ownership by Mr. Macauley, and was drilled prior to 1990, and is therefore not on record with El Dorado County Environmental Management (they began tracking such information in 1990). The well is not in use, nor is it intended to be in use during Phase 1 or 2, as the property currently obtains water through a 1” meter from El Dorado Irrigation District.

Louis: The project removed 40% of the oak canopy before applying for permits. Scenic Vistas and Scenic Resources do apply – significant impact. Light and Glare would have significant impact on the neighboring homes.

Response 9: The project is conditioned to replace and monitor all oak tree canopy previously removed on a 1:1 ratio. This includes 119 oak trees in sizes ranging from 24” box to 15 gallon. Phase 1 planting will occur during Phase 1 construction and permitting per the replacement plan prepared by Foothill Tree Service, while Phase 2 planting will be delayed to allow Phase 2 grading to occur prior to planting, offering the best possible survival rate.

Response 10: The project is not within County Recognized Scenic views or roadways, and therefore is of no impact.

Response 11: The project is conditioned to use down facing, shielded lights. Additionally, the two residences in question are non-conforming, being either zoned, or having the land use designation of Industrial. Finally, Development Services is required to review and approve lighting plans prior to installation.

Louis: Air quality – no study was done, Phase 2 of project is unknown. Grading was done prior to permit process.

Response 12: The purpose of this application is to begin the process of bringing the entire site into compliance with all local, state and federal codes and laws. This is the first step in doing so. Upon approval of the Application, the Applicant is required to apply for and obtain all appropriate grading and building permits, and to meet the requirements for such.

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Louis: Violated air quality standards. No water trucks were used during grading for dust control.

Response 13: In actuality, although unpermitted, grading was completed per standard practice, with geotechnical consultants reviewing for compaction and moisture content. Based on requirements of proper moisture content, water trucks were employed, and dust was kept to minimums.

Louis: Applicant destroyed all riparian habitat which included a historic pond and vernal pool violating CEQA and interfered with the movement of native residents.

Response 14: The historic man-made pond was created by an earthen embankment that existed north, and outside of this property. The earthen embankment was removed, under proper permits by the neighbor to the north, allowing seasonal drainage to pass without restriction, and thereby removing any ponding from Mr. Macauley's parcel. As a part of this development application, the entire parcel was surveyed and analyzed for wetlands or such habitat, and none exists. Again, this is not due to any grading by Mr. Macauley, but instead by grading that occurred to the north, and off of his property.

Louis: VELB Credits should be purchased before occupancy and final permit of Phase 1.

Response 15: The project is conditioned to purchase credits prior to obtaining a grading permit. The Applicant intends to comply with the Condition.

Louis: The County should monitor the site (for cultural resources) when further work is done.

Response 16: The project is conditioned to stop all work in the area if cultural, Indian, or human artifacts or remains are found, and contact the appropriate agencies or entities.

Louis: No compaction report available.

Response 17: Grading activities were observed and tested by Youngdahl Consulting Group.

Louis: No [greenhouse gas] study has been done. Phase 2 has potential of emitting Greenhouse Gas Emissions.

Response 18: Tenants in Phase 2 are required by County, State and Federal Law to have and maintain all such permits, and meet the requirements of such.

Louis: Property contains serpentine Rock, known to contain asbestos.

Response 19: Water was used during previous grading operations to ensure adequate compaction moisture and to control dust. All future grading activities will comply with AQMD requirements, including the application for, and compliance with, and Asbestos Dust Mitigation Plan.

Louis: Applicant exceeded 250 yards of graded material without permits. There is not an engineering report for compaction or soil erosion on file with the County. There is a Creek, Slate Creek, north of the property where sediment could occur.

Response 20: The applicant will be applying for all appropriate and required permits, which will include a review of existing compaction and geotechnical reports. Slate Creek is approximately 600 feet to the north, and is buffered by woods, brush, and grasses from sediment transport.

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Louis: Hazards and hazardous materials are unknown. Applicant and future tenants may create these elements unless County has or will implement restrictions and monitor applicant.

Response 21: This is true of any project or residence. Restrictions, permits, and safe handling are required, and it is up to the tenants to obtain and abide by such requirements. Mr. Macauley has a Permit in place with El Dorado County Environmental Management and has been issued a Facility ID for the storage of Hazardous Materials as well as a State Mandated Spill Prevention Control and Countermeasure Plan, and incorporates secondary containment or DOT approved fueling vessels.

Louis: The applicant has more than one above ground fuel tank, stores asphalt on premises and is not connected to public water in case of fire.

Response 22: Mr. Macauley has a Permit in place with El Dorado County Environmental Management and has been issued a Facility ID for the storage of Hazardous Materials as well as a State Mandated Spill Prevention Control and Countermeasure Plan, and incorporates secondary containment or DOT approved fueling vessels. The applicant is connected to public water through an existing 1" EID service meter. A fire hydrant exists at the southwest corner of the property.

Louis: There is no drainage or erosion control plan submitted to the County. Slate Creek runs through the back north area of the project – 2 parcels over. Property drains in that direction. Applicant changed the drainage of the project before submitting for permits. County and State law violation.

Response 23: The purpose of this application is to begin the process of bringing the entire site into compliance with all local, state and federal codes and laws. This is the first step in doing so. Upon approval of the Application, the Applicant is required to apply for and obtain all appropriate grading and building permits, and to meet the requirements for such. Slate Creek is approximately 600' north of the project and is buffered by grasses, brush, and tree canopy from the deposition of sediment, if any was to leave the site. There is no evidence that any drainage patterns were changed by Mr. Macauley.

Louis: General Plan conflicts with zoning. Existing residential Homes in an Industrial Zone.

Response 24: Though there is a conflict between the zoning and land use designation on the property to the south, and the property to the east is a home on an industrial parcel, this is true of many non-conforming parcels within the County and is not due to anything Mr. Macauley has done or has the ability to correct. Furthermore, the Applicant's property, along with the parcels to the north and west are all zoned Industrial and have a land use designation of Industrial and therefore the project conforms with surrounding uses.

Louis: Construction noise, every day, will cause significant impact to residences.

Response 25: The existing homes in the vicinity are non-conforming, and either zoned, or have the land use designation of Industrial. The project's Noise Study includes recommendations for proper mufflers on all equipment, which the Applicant does, and will continue to do.

Louis: This project has caused the foreclosure of one residence on Greenstone Cutoff. Lack of response of County for Code Enforcement, plus the inability to sell the home, because of this project led to foreclosure.

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Response 26: On August 30, 2007, the property owner to the east refinanced at a loan amount of \$475,000. This suggests that the property was appraised near or above that amount. Google Earth photographic evidence dated 6/29/2007 shows the property much as it is today, with the construction yard in full operation. Typically, the cause of foreclosure is due to the inability of the homeowner to make their mortgage payments, therefore, the claim that the project caused foreclosure cannot be supported given the parcel sales and loan history.

Louis: Phase 1 does not have appropriate turn around for fire equipment.

Response 27: The plans have been reviewed by the Fire Department for proper access and turning movements. Phase 1 currently operates as a construction yard and therefore large trucks and equipment travel around the property on a regular basis.

Louis: Phase 1 will rely on a septic system which could pollute ground water from hazardous chemical discharge.

Response 28: The septic system is being used for, and intended to serve only the office building kitchen and bathroom, and will be permitted as such.

Louis: Metered water is only for Phase 2, not Phase 1.

Response 29: The statement is not true. The existing facility is served by a 1" water meter from EID.

Louis: Applicant has dumped asphalt and concrete onsite. It is in the view of a residence.

Response 30: The asphalt and concrete are temporary construction material stockpiles consistent with the proposed use, which is allowed in an Industrial Zone.

Louis: This project had no permits prior to the destruction of wildlife and oak canopy. This project degrades the quality of the environment, and destroyed habitat of endangered species.

Response 31: Valley Elderberry Longhorn Beetle (VELB) is the only known species of concern and has not been found at this elevation, the project is conditioned to mitigate all past and future impacts through the purchase of VELB Credits and the replacement of Oak Canopy.

Louis: The approval by the Diamond Springs and El Dorado Community Advisory Committee is three years old and should have been re-submitted to the Committee.

Response 32: The Advisory Committee approval, with all members in favor, was obtained by the Applicant during this application process and no changes to the project, as reviewed by the Advisory Committee, have occurred since it was reviewed in 2010.

Louis: The applicant is occupying the project prior to all conditions.

Response 33: The Applicant is attempting to rectify past actions and understands that there are requirements to mitigate, which is a requirement within 12 months of approval, which is further delayed by this appeal.

Louis: Encroachment on Greenstone Road should be denied. Greenstone Cutoff is adequate.

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Response 34: Access from both locations allows a better project, more consistent with existing terrain, while allowing a better variety and mix of business establishment, and is consistent with the intent of the Planned Development concept.

Louis: Fire hydrants should be done in Phase 1

Response 35: Hydrants serving Phase 1 will be installed as a part of the Phase 1 building permit and development process, as required within the conditions as approved by the Planning Commission. A hydrant is required within 600' of all portions of any building. Additional fire hydrants, if determined necessary to meet the 600' requirement, will be installed concurrently with Phase 2 building development, again as conditioned in the Planning Commission approval.

Additional comments throughout the appeal package are repeats, and addressed within the responses above.

As always, if you have any questions, or are in need of any additional information, please feel free to contact me.

Kindest regards,



Peter K. Thorne
Vice President, BTConsulting, Inc.

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