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VIA EMAIL & US MAIL

El Dorado County Board of Supervisors
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Re: Appeal DR-A-21-0001 for Project APN 071500037 at 1020 Northside Dr.

Dear Board of Supervisors and Ms. Moebius,

This office represents the applicant, and now appellant, Woodcrest REV (“Woodcrest”) in the above appeal (DR-A-21-0001) for the Project (APN 071500037) (“Project”) at 1020 Northside Dr. in Cool, CA. This letter is a follow-up to our May 21, 2021, appeal filing which included a description of the action being appealed. This letter provides further factual background on the Project and elaborates on the legal and factual reasons (1) why Woodcrest’s appeal must be granted, and (2) why the separate appeals filed by the Divide Preservation Society and the Cool Pilot Hill Advisory Committee (collectively, the “Opponents”) must be denied.

As to Woodcrest’s appeal, it challenges the following changes (the “Conditions”) made by the El Dorado County Planning Commission (“Commission”) to staff’s recommended actions:

1. The addition to Condition of Approval No. 12 of a requirement that the applicant construct a four (4)-foot-wide asphalt pedestrian path along Northside Drive from SR49 to the Project driveway.
2. The change to Condition of Approval No. 13 removing the in-lieu fee option.

3. The revision to Condition of Approval No. 13 requiring Woodcrest to construct a Class I Bike Path (instead of a Class II Bike Lane) along the shoulder of SR49 from the southerly property line, north to Northside Drive.

Woodcrest appeals these Conditions on the basis that they violate several Federal and State laws, including, but not limited to, the Fifth Amendment of the United States Constitution as unconstitutional exactions, and the California Environmental Quality Act as an abuse of discretion. Thus, Woodcrest's appeal must be GRANTED.

As to the appeals filed by the Opponents, there is not a single citation to the record or any other evidence included with said appeals, let alone any substantial evidence, to refute the conclusions of the final environmental impact report ("Final EIR"), the conclusions of County staff, or the County's consultants, or that necessitates denial of the Project in its entirety. Thus, the Opponents appeals must be summarily DENIED.

Project Background

The Project in this appeal is located on a 1.69-acre site on the east side of California State Highway 49 south of the intersection with Northside Drive in the Cool Rural Center, Supervisorial District 4. Woodcrest proposes to construct a 9,100-square-foot commercial retail establishment on this site with a maximum building height of 33 feet. The building would be located on the western half of the Project site, facing the intersection of Highway 49 and Northside Drive. The Project would include parking for 31 vehicles, a refuse enclosure for solid waste, landscaping, an on-site septic system, and on-site stormwater treatment. The Project is proposed on a General Commercial (GC) zoned parcel with a Design Control overlay (DC). (Final EIR, p. 3.10-1.) The underlying General Plan Land Use Designation for the parcel is Commercial (C). (Final EIR, p. 3-12.10.) The Project is consistent with all applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. (Final EIR, p. 3.10-5.)

Access to the site will be provided via a single driveway on Northside Drive. The driveway is approximately 35 feet from the United States Post Office Driveway to the west and is about 655 feet from the Cool Boat and RV Storage across Northside Drive to the east. Directly across Highway 49 from the site is a local fire station.¹ Immediately to the south of the fire station along Highway 49 are several existing commercial establishments, including two restaurants, the Cool General Store, and Cool Feed and Ranch Supply. Approximately 500 feet south of the site is the intersection of Highway 49 and Georgetown Road (State Route 193), where a number of other commercial retail

¹ The fire station has a driveway onto St. Florian Ct. to the northwest. The fire station does not have a driveway onto Highway 49.

establishments are located southeast adjacent, including Holiday Market, two take-out restaurants, a gym and a bank.

Woodcrest submitted its pre-application on June 27, 2019. On October 1, 2019, Woodcrest submitted its official Design Review application, which was deemed complete on November 8, 2019. The Initial Study performed by the County found that a Mitigated Negative Declaration (“MND”) was appropriate for the Project, as it would not have any unavoidable significant environmental impacts provided standard mitigation measures were employed. County staff prepared an MND and the Commission held a public hearing on the Project on May 28, 2020.

2020 Planning Commission and Board Hearings

At the May 28, 2020, public hearing, the Commission determined that there were no significant effects on the environment and adopted the MND, approving the Project by a vote of 4-0, with one member absent. Appeals were filed by the Divide Preservation Society and the Cool Pilot Hill Advisory Committee, and the Board of Supervisors (“Board”) held a hearing on the appeals on July 14, 2020.

Despite the Commission and staff’s findings that there were *no significant effects on the environment and the Project approval should thus be affirmed*, the Board neither approved nor denied the Project, but instead required the preparation of a “focused Environmental Impact Report (EIR) pertaining at least to the impact of the Project on traffic and public safety risks,” after which the Project would return to the Planning Commission for consideration of any environmental impacts to traffic and public safety that the EIR might uncover. (July 14, 2020, Board Minutes at 18.)

Woodcrest Voluntarily Elects to Perform a Full EIR to Ensure Compliance with All State and Local Laws

Aware of the vocal public opposition to the Project, including by *at least* one member of the Board of Supervisors,² Woodcrest elected to pay the County and third-party consultants to perform a full EIR, not just a focused one, covering all subjects relevant under CEQA, to ensure complete documentation of the fact that the Project would have no significant effects on the environment. Woodcrest has incurred over \$100,000 in additional costs for the preparation of the Final EIR produced on behalf of the County.

² As will be set forth in a more detail in a separate letter, several actions taken by Supervisor Parlin over the past approximately two years demonstrate actual bias (or at the very least an unacceptable probability of bias) and require her unequivocal disqualification and recusal from participating in the upcoming (re)appeal hearing on the Project. (See *Petrovich Development Co., LLC v. City of Sacramento* (2020) 48 Cal.App.5th 963, 973.)

The EIR extensively studied traffic conditions, both at the prescribed guidelines time of weekday afternoon peak, and at the additional weekend time that was suggested by public comment, including automobile, truck, bicycle, and pedestrian traffic, as well as public safety. (See Final EIR, §§ 3.11, 3.12, and 3.15.) This included an independent traffic impact analysis and addendum (the “TIA”) performed per County Department of Transportation (“County DOT”) guidelines, which evaluated the actual traffic conditions at the site as they exist now, and all changes anticipated due to the Project. (See Final EIR, pp. 3.12-1 – 3.12-5, 3.12-7 – 3.12-11, Appendix I.) The traffic impact analysis counted six total pedestrian crossings over two peak hours on a Saturday afternoon (Final EIR, p. 3.12-8), and counted no pedestrians over two peak hours on a weekday.³ (Final EIR, 21-0733 G, pp. 1419—1438 of 1566.) Similarly, the study counted four bicycle crossings on Saturday afternoon over a two-hour period, and only four bicycle crossing at four separate intersections over the weekday peak hour. (Final EIR, p. 3.12-8; Final EIR, App. I, pp. 1419—1438.) The TIA was reviewed and accepted by the California Department of Transportation (“Caltrans”), a third-party peer reviewer employed by the County, and County DOT.

The Final EIR concluded that while “[s]ome employees or customers of the Project may elect to walk to other commercial uses in the area,” based on midday studies, “*pedestrian activity between uses in the area is low.*” (Final EIR, p. 3.12-8 (emphasis added).) The Final EIR further concluded that “*the Project is not expected to result in appreciable numbers of pedestrians to and from the Project site.*” (*Ibid.* (emphasis added).) Similarly, the Final EIR concluded that “[t]he *number of cyclists associated with this Project is not likely to create any appreciable safety impacts on SR 49 where the paved shoulder is already available to provide access to the Project.*” (*Ibid.* (emphasis added).)

The Draft EIR was noticed and released for a 45-day public review on January 6, 2021. During the public review period, the Project was scheduled for a public workshop with the Commission on January 28, 2021 (the “Workshop”). Upon completion of the Final EIR, which considered and responded to the public and agency comments received, including those comments received at the Workshop, County Planning Staff scheduled the remand hearing before the Planning Commission on May 13, 2021, to reconsider the Project in light of the EIR as directed by the Board (the “Remand Hearing”)

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³ Notably, of the six total pedestrian crossings noted by the survey, *none* occurred at the Project frontage intersection to Highway 49. (Final EIR, p. 3.12-8; Final EIR, App. I, pp. 1370, 1375.)

Events Prior to and During the May 13, 2021, Remand Hearing

Prior to the hearing, Woodcrest reached out to each Planning Commissioner individually to meet, discuss the Project, and answer any questions each Commissioner might have. Woodcrest met with Commissioner Vegna via phone on April 26, 2021. Additional in-person meetings were held with Commissioner Clerici on April 28, 2021, and separately with Commissioners Williams and Bly-Chester on April 29, 2021. Commissioner Williams expressed concern at the meeting about pedestrian safety and access to the Project. In subsequent follow-up emails, Woodcrest provided citations from the EIR and other staff memos as answers to Commissioner Williams' questions.

On May 11, 2021, just two (2) days before the Remand Hearing, Commissioner Williams called Woodcrest's representative at approximately 6:50 pm and informed Woodcrest that he would not approve the Project without a Condition to provide pedestrian access both along and from Highway 49. A subsequent meeting was held with County Planning and County DOT staff to discuss the possible condition, and staff of both departments agreed that the condition was not warranted by the EIR.

During the Planning Commission hearing on May 13, 2021, there was virtually no discussion about the EIR, which was the entire purpose of the Remand Hearing. Indeed, none of the Commissioners nor staff *asked a single question* of Brian Grattidge, the Project manager for Dudek, *the independent consultant hired by the County to prepare the EIR*. The discussion focused almost entirely on the novel Conditions formally proposed during the Remand Hearing. Naturally, there was no time for Woodcrest to analyze these proposed Conditions, including the "nexus" or "rough proportionality" of the Conditions, let alone the cost and technical feasibility considerations of complying with said Conditions, in advance of, and then be prepared to discuss them with any substance during the Remand Hearing. Notably, input from the Director of County DOT made it abundantly clear that a Class I Bike Path and pedestrian walkway along Northside Drive (a private road), was unlikely to be feasible due to site constraints.

There is *no* evidence in the record (let alone substantial evidence) to justify the Conditions added to the Project approval by the Planning Commission during the Remand Hearing. The TIA performed for the EIR and certified by County DOT determined that there is very little pedestrian or bike traffic along Highway 49, despite the existence of commercial enterprises along Highway 49 at the location studied. Additionally, there is no indication anywhere in the record that the building of a single new commercial establishment in the area will increase pedestrian or bicycle traffic substantially or at all.

No Evidence Exists to Support the 11th Hour Conditions Imposed, or the Opponents' Separate Appeals

Further, the appeals filed by the Divide Preservation Society and the Cool Pilot Hill Advisory Committee are baseless. The appeals argue that the approval of the Project violates CEQA and the El Dorado County General Plan. The appeals allege that the Project “may have significant impacts on traffic and circulation (including pedestrian and bike safety), aesthetics, air quality, and cumulative impacts.” The appeals further allege that the Project is “not consistent with the El Dorado County Design Guidelines, the Site Planning Guidelines, and the Department of Transportation’s requirements for pedestrian paths and bike paths.” However, the appeals provide no evidence to support their claims, and there is no evidence in the record in support of their claims. In fact, the substantial evidence in the record directly refutes all of the claims raised by the Divide Preservation Society and the Cool Pilot Hill Advisory Committee.

The Final EIR, after extensive study, found that the Project will have no significant aesthetic impacts (Final EIR, § 3.1.4), nor impacts on air quality (Final EIR, §§ 3.2-1, 3.2-2, 3.2-3, 3.2-4, 3.2-5), nor any cumulative impacts in combination with other projects. (Final EIR, § 3.03, 3.1.6, 3.2.5.) Further, as described above and below, the Project will have no traffic impacts, either vehicular, bicycle, or pedestrian. Finally, the EIR reviewed the Project against a regulatory background including the El Dorado County Design Guidelines, the County Site Planning Guidelines, the County’s Active Transportation Plan, and County DOT requirements, and found the Project to be in compliance with all. (Final EIR §§ 1.6, 2.7, 3.10-1; see also Final EIR, pp. 437–514 [Initial Study Checklist, at pp. 8–9]; Staff Report at pp. 3, 5–6.) The appellants have pointed to no evidence in the record, nor have they provided any evidence, that calls any of these findings into doubt.

The Board of Supervisors should reject the appeals by the Divide Preservation Society and the Cool Pilot Hill Advisory Committee and grant the appeal by Woodcrest, overturning the unsupported and illegal Conditions imposed on the Project by the Commission during the May 13, 2021, Remand Hearing that differ from the conditions recommended by staff.

Legal Arguments in Support of Woodcrest’s Appeal to Remove the Illegal Conditions

1. The Conditions Amount to an Unconstitutional Taking

The Conditions imposed by the Planning Commission, if upheld by the Board, violate the Fifth Amendment to the United States Constitution and are unconstitutional

takings.⁴ Under *Nollan v. California Coastal Commission* (1987) 43 U.S. 825, and *Dolan v. City of Tigard* (1994) 512 U.S. 374, the United States Supreme Court held that there must be a “nexus” between the anticipated effects of the Project and any real property exactions in the form of conditions of approval demanded by the government in approving the Project. (See *Nollan, supra*, pp. 837–38.) Further, the Supreme Court has held that there must be “individualized determinations” to show that there is “rough proportionality” between the impacts of the land use Project and the real property exaction. (*Dolan, supra*, at p. 391 [rough proportionality requires the government “make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development”].)

More specifically, in *Nollan v. California Coastal Commission* (1987) 483 U.S. 825, the property owner petitioned to replace a small beachfront bungalow with a new, larger house. (*Id.* at p. 828.) The Commission permitted the replacement but demanded a public easement across the property on the beach because the new house would interfere with visual access to the beach and create a psychological barrier to using the beach. (*Id.* at p. 828, 838.) The U.S. Supreme Court overturned the Commission, finding that the easement violated the Fifth Amendment takings clause. (*Id.* at 838.)

The Court held that the easement condition did nothing to promote visual access to the beach or overcome psychological barriers to its use. (*Nollan, supra*, at p. 838.) Because the easement requirement lacked a logical link, or “essential nexus,” to the alleged impact, the easement was unconstitutional. (*Id.* at 837; see also *Action Apartment Assn. v. City of Santa Monica* (2008) 166 Cal.App.4th 456, 469 [“...there must exist an “essential nexus” between the “legitimate state interest” the government asserts will be furthered by the condition of a development permit and the exaction itself” [Citations.]”].)

Later, in *Dolan v. City of Tigard* (1994) 512 U.S. 374, the Supreme Court expanded on the *Nollan* “nexus” rule. In *Dolan*, the property owner wished to expand her store and pave a gravel parking lot. (*Id.* at 379.) The City Planning Commission approved the

⁴ The imposition of the Class I Bike Path, as well as the requirement to pave the four-foot-wide “pedestrian path” on Northside Drive, are clearly takings subject to Fifth Amendment protections. (*Surfrider Found. v. Martins Beach 1, LLC* (2017) 14 Cal.App.5th 238, 266 [“government action imposing a permanent public access easement is generally treated as a per se taking requiring compensation, if not imposed as a proper adjudicative exaction.”]; *Lingle v. Chevron USA Inc.* (2005) 544 U.S. 528, 546 [holding that condition requiring dedication of easement would have constituted a per se physical taking had the government simply appropriated the easement instead of conditioning it on a permit approval]; *Property Reserve, Inc. v. Super. Ct.* (2016) 1 Cal.5th 151, 196 [“It is well established that an easement may constitute a compensable property interest for purposes of the [state] takings clause.”].) In fact, the requirement for a Class I Bike Path is almost identical to one of the conditions challenged in *Dolan*. (*Dolan, supra*, at p. 380.)

property owner's permit but required her to dedicate the part of her property in a floodplain for a public greenway, allegedly to mitigate a projected increase in drainage due to the expansion on the property. (*Id.* at 379–381.)

While the Court found that there was a “nexus” between the dedication of the land and the need for additional drainage as well as a footpath to reduce vehicular traffic (*Dolan, supra*, at pp. 387–388), the Court held that the public dedication was too much and there was no “rough proportionality” between the demanded exaction and the impact it was designed to mitigate. (*Id.* at 393–394.) The Court held that the City failed to make findings sufficient to justify such a taking, and it was therefore unconstitutional. (*Ibid.*)

California courts have routinely followed these cases when dealing with property exactions in a discretionary permit setting. (See *Action Apartment Assn. v. City of Santa Monica* (2009) 166 Cal.App.4th 456, 471.) For example, in *Surfside Colony, Ltd. V. California Coastal Com.* (1991) 226 Cal.App.3d 1260, the property owner sought permission from the Coastal Commission to build a rock barricade on its property. (*Id.* at 1265.) The Commission insisted that the property owner dedicate an easement for public access along its private beach, ostensibly because scientific studies showed that similar barricades generally cause coastal erosion. (*Id.* at 1265–66.) However, the property owner had submitted reports and photographic evidence that its barricade was actually mitigating the impact of erosion and bringing back the beach. (*Id.* at 1266.)

The *Surfside Colony* Court reversed the Commission's decision, holding that there was no nexus between the demanded easement and any alleged erosion because there was no “site *specific* evidence” in the record to indicate that erosion would happen at the property. (*Surfside, supra*, at pp. 1268, 1272 [emphasis in original].) The Court noted that only one report in the record dealt specifically with the property in question – the report submitted by the property owner that showed no erosion would occur, and that none of the reports the Commission relied on showed that “*this* [barricade] [would have] cause[ed] erosion at *this* beach.” (*Id.* at 1268 [emphasis in original].)

Later, in *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854, the city conditioned permits for the development of a residential complex on the site of a former tennis club by requiring the property owner's to pay a \$280,000 fee to be used for recreational facilities within the city. (*Id.* at 862.) While the California Supreme Court agreed that the monetary exaction was subject to the *Nollan/Dolan* test (*id.* at 874–881 (plur. opn. of Arabian, J.); *id.* at 899–901 (conc. opn. of Mosk, J.); *id.* at 907 (conc. & dis. opn. of Kennard, J.); *id.* at 912 (conc. & dis. opn. of Werdegar, J.)), the Court held that “generalized statements” as to the rough proportionality of the exaction and the impact to be mitigated are not enough – there must be “individualized findings to support” the

connection. (*Id.* at p. 883 (plur. opn. of Arabian, J.); see also *id.* at p. 901 (conc. opn. of Mosk, J.).)

In the instant matter involving Woodcrest and its Cool Project, there is neither a “nexus” between the new Conditions of approval imposed by the Commission at the Remand Hearing and the anticipated effects of the Project, nor is there any “rough proportionality” between the conditions and the anticipated impacts of the Project.

Specifically, the Final EIR concluded that there are currently no significant safety risks to pedestrians or bicyclists at the site (because there are very few such pedestrians and bicyclists, and, as noted by staff and at least one of the Commissioners during the Remand Hearing, the existing paved shoulder of SR49 is wide enough to accommodate the scant foot and bike traffic)⁵ and that the Project will not change this. There is no evidence in the record that there will be *any* additional safety risks to either pedestrians or bicyclists at the site or in the area as a result of the Project.

However, several of the Commissioners argued at the Remand Hearing - without any factual support whatsoever - that the Conditions be added (or revised) to account for alleged traffic and safety impacts to pedestrians and bicyclists arising from the Project. (See, e.g., Hearing Video, at 05:38:00—05:40:10 [Comm. Williams noting that there is an alleged problem with the Traffic and Circulation policy, despite protestations from Woodcrest’s counsel that there is no evidence of such a problem in the record]; *id.* at 05:52:30—05:53:00 [Comm. Bly-Chester noting alleged problem with the Traffic and Circulation policy]; *id.* at 07:08:00—07:08:20 [Comms. Williams and Ross discussing the “safety aspect” on Northside Drive].)

Importantly, because the Commissioners added the Conditions based on an impact *for which there is no evidence in the record*, there is no “nexus” between the anticipated impacts of the Project and the above conditions of approval.⁶ There are, simply put, no pedestrian or bicyclist safety or traffic impacts associated with the Project. Therefore, there can be no “nexus,” or “logical connection” between the conditions, which were added due to baseless concerns about pedestrian and bicycle traffic and safety, and the anticipated impacts of the Project. (See *Ocean Harbor House Homeowners Assn. v. California Coastal Com.* (2008) 163 Cal.App.4th 215, 232 [holding that “nexus” requires a “logical connection.”].)

⁵ See discussion of existing shoulder *infra*, fn. 7.

⁶ Ironically, Commission staff identified this, using the exact term “nexus,” during the remand hearing, yet the majority of the Commissioners completely missed this point. (See Hearing Video, at 05:04:00—05:04:30 [county staff discussing how neither county personnel nor CalTrans found any “nexus” for widening Highway 49 due to increased traffic].)

Further, and as described in more detail below, the Condition requiring a Class 1 Bike Path is completely out-of-character for the local area. There are no similar, Class I Bike Paths that would connect to the Class I Bike Path required by the Conditions; in fact, the proposed Class I Bike Lane will connect to *nothing* to the north or south of the property. Instead, the Class I Bike Path will be approximately 140 feet long and connect to the intersection of Northside Drive and Highway 49 to the north and *nothing but empty property* up a hillside to the south.⁷ It will effectively be a bike path to nowhere.

In short, the lack of any traffic or public safety impacts was a clear determination of the final EIR, which the Planning Commission accepted and adopted, including staff's recommended findings. The imposition of the revised conditions has no logical or evidentiary connection to the impacts of the Project as determined by staff. Further, the Conditions imposed have no logical connection to the Project site as it exists or as it will come to exist after construction. What is really, and obviously, happening here is that the Conditions have been imposed in a blatant effort to try and force Woodcrest to give up on the Project entirely, which is clearly inappropriate and illegal.

As noted by the *Dolan* court, the lack of nexus in *Nollan* means that that Commission was “in the position of simply trying to obtain an easement through gimmickry, which converted a valid regulation of land use into an out-and-out plan of extortion.” (*Dolan, supra*, at p. 387 [citations omitted].) That is exactly what happened in this case – the Planning Commission decided they wanted a Class I Bike Lane along Highway 49 for the sole purpose of trying to stop the Project by making it so burdensome and/or expensive that Woodcrest would have little choice but to give up. Critically, without consulting their staff or Woodcrest, and without any discussion of nexus to Project impacts or rough proportionality, or even plan consistency, the Commission decided to impose that condition on Woodcrest for improper purposes.⁸ This is exactly the “extortion” the *Dolan* court warned about.

⁷ Due to topography, visibility and other site constraints, the only plausible locations for a Class I Bike Path would be on top of the existing embankment along Highway 49. Notably, the existing shoulder of Highway 49 is more than sufficient for what little existing bike and pedestrian traffic there is and would be more than sufficient for any bike and pedestrian traffic added by the Project. This was noted numerous times in the May 13 Remand Hearing, where it was further noted that the existing shoulder is “way better than most roads in El Dorado County.” (Hearing Video, at 06:46:52—06:46:56 [quoting Comm. Clerici]; see also *id.*, at 05:27:15—05:27:25 [Comm. Vegna noting that there is already a “nice, wide shoulder” fronting the Project site along Highway 49]; *id.*, at 06:46:45—06:46:55 [Comm. Ross mistaking existing shoulder for formal bike lane].)

⁸ In addition to inappropriately and illegally attempting to force Woodcrest to give up the Project entirely, the Commission apparently saw this as an opportunity to extract funding for future, unrelated purposes. (See Hearing Video, at 06:02:00—06:02:30 [Comm. Vegna discussing how a Class I Bike Path would be a “huge catalyst” for further grant money]; *id.*, at 07:05:40—07:05:50 [Comm. Vegna discussing same]; *id.*,

In addition, in arbitrarily adding the Conditions, the Planning Commission made no “*individualized determination[s]*” that the required dedication is related *both in nature and extent* to the impact of the proposed development.” (*Dolan, supra*, p. 391.) In fact, the Commission made no determination at all that the revised Conditions are, in any way, related to the nature and extent of the impact of the Project.⁹

Notably, even during deliberations during the Remand Hearing, Commissioner Clerici, who is actually knowledgeable about transportation impacts and planning, noted that ***there was no evidence in the record upon which to base such a determination and warned the other Commissioners of going ahead with such arbitrary action.*** (See Hearing Video, at 7:09:25 – 7:10:20; see also *id.*, at 07:11:00—07:12:30 [Comm. Clerici noting that the Commission is “making up” the “huge influx of pedestrian traffic” due to the Project].) The Planning Commission approved the revised conditions anyway, *despite making no determination*, individualized or other. Without an individualized determination, the conditions cannot be “rough[ly] proportional.” (*Dolan, supra*, pp. 393-394; *Ehlich, supra*, p. 883.) This is a direct violation of the law.

Finally, the Commission revised the Conditions arbitrarily and capriciously, and in violation of the California Environmental Quality Act (“CEQA”). CEQA requires agencies making determinations about impacts and mitigation to base those determinations on substantial evidence in the record. (Pub. Resources Code, § 21168.5.) “Substantial evidence” includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. (Guidelines § 15384 (b).) An agency making a determination without substantial evidence in the record to back it up has committed an abuse of discretion. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1197.) As discussed above, there is *no* evidence in the record that there will be any pedestrian- or bicycle-related traffic or safety impacts associated with the Project. The evidence actually in the record indicates the *exact opposite* – that there is currently very little pedestrian traffic in the area (including in the vicinity of the Project

at 05:55:00—05:55:40 (Comm. Williams asking staff whether the possibility of future grant money would affect whether the County could legally exact a longer bike path from the applicant]. See also Hearing Video, at 05:29:20—05:29:30 [clarifying Comm. Vegna’s proposal that the work on Northside Drive be abandoned in favor of a Class I Bike Path extending all the way to the intersection with Highway 193, well beyond the Project’s property frontage].)

⁹ Despite a lack of any evidence in the record or elsewhere, and despite expert opinion (both third-party and from their own staff) asserting otherwise, some Commissioners were adamant that the Project would have pedestrian- and bicycle-related traffic impacts. Notably, these same Commissioners often contradicted themselves during the hearing regarding traffic and general conditions at the site. (See discussion in Hearing Video, at 07:04:00—07:05:10 [Comm. Ross noting that there are no pedestrians on the road now because the Project has yet to be built, while acknowledging that there are existing facilities across the street]; *id.*, at 07:09:40—07:10:00 [Comm. Bly-Chester noting that people could be walking to the post office on the same side of the highway as the Project, but Comm. Clerici noting that no people currently are].)

site, which is across Northside Drive from the existing post office and a restaurant) and given the development patterns of the area (especially the absence of housing in close proximity to the Project area), there is a very low likelihood of any substantial increase in pedestrian and bike traffic resulting from the Project.

In short, the Planning Commission blatantly violated several State and Federal laws simply because certain members of the Planning Commission, and of the Board, do not want the Project to go move forward for personal and otherwise illegitimate reasons. This is wrong and will result in a legal challenge by Woodcrest if not fully corrected by the Board during the upcoming (re)appeal hearing.

2. *The Conditions Make no Practical Sense in the Context of the Local Area*

The Conditions requiring a Class I Bike Path along Highway 49 and a 4-foot-wide “pedestrian path” along Northside Drive are impractical, cannot be completed without having other potential impacts, and make no sense in the context of the local area.¹⁰

Among other things, the imposition of a Class I Bike Path along Highway 49 will require at least the following significant engineering challenges:

- Relocation of an existing fire hydrant;
- Relocation of a major power and fiber optic transmission pole, which will require guy-wiring;
- Extensive grading in the right-of-way;
- Treatment of drainage runoff to the CalTrans right-of-way;
- Realignment of Northside Drive to accommodate the required “Pedestrian Path” within the prescribed easement.

Further, there may be potential impacts to neighboring properties to the north due to realignment, and further impacts that are yet to be determined.

Additionally, the implementation of a paved “Pedestrian Path” to the Project is inconsistent with the area. County DOT staff removed the requirements for a sidewalk prior to the first Planning Commission Hearing on May 28, 2020 (See attached **Exhibit A** [Email from Dave Spiegelberg, May 21, 2020, stating . “[u]rban [s]treetscape, such as curb, gutter, and sidewalk, is not consistent with the character of the area, and were therefore, removed from the proposed project”].) The El Dorado County Code specifically states that “The basic requirement shall be to construct shoulders, on-street parking, class II bike lanes... driveways... and sidewalk, curb and gutter, *where*

¹⁰ Notably, “pedestrian path” is not defined anywhere in the El Dorado County Code or the California Building Code and it is unclear exactly what the Commission intended with such a “path.”

appropriate, as determined by the Director (or designee).” (Code, § 12.09.050, subd. (A)(1), emphasis added).

County DOT staff has repeatedly recommended that there be no frontage improvements along Northside Drive, except for those necessary to ensure a minimum of 24-foot width for truck and fire department access. Additionally, the El Dorado County Code requires that “[d]evelopers shall provide an irrevocable offer of dedication to El Dorado County for any frontage improvements required by this chapter.” (Code, § 12.09.050, subd. (A)(3).) Finally, County DOT has specifically indicated to Woodcrest that it has no intention of requiring Northside Drive to be a dedicated County right-of-way, leaving the maintenance and improvement of Northside to the private property owners who have easement access rights.

3. There is no indication that CalTrans will approve the Class I Bike Lane, and there are multiple technical constraints in the way of such an approval

Since the Remand Hearing, Woodcrest has engaged with CalTrans to discuss the feasibility and acceptability of the Conditions. CalTrans staff have expressed the opinion that the conditions are infeasible (or impractical) due to potential runoff from improvements, potential traffic related issues and restriping of Highway 49 due to intersection movement. Specifically, Caltrans has communicated to Woodcrest that it will not approve a Class I Bike Lane as proposed since it would be a path to nowhere and it would be a potential liability to lead pedestrian and cyclists along a path that outlets to an unimproved area.

Both CalTrans and County DOT have planned for a Class II Bike Path along Highway 49, not a Class I Bike Lane. Caltrans’ Transportation Concept Report for District 3 does not indicate a project involving a Class I Bike Path through Cool. (See attached **Exhibit B**, relevant pages.) Indeed, the report only indicates Class II Bike Lanes from Gold Hill Rd (approximately 15 miles south of the Project) up through Cool, CA. (*Ibid.*, at p. 23.) The report further notes that the plan is to “[c]onstruct [p]edestrian safety improvements and traffic calming elements” along SR49 in the Town of Cool.¹¹ (*Ibid.*) Additionally, the County’s Active Transportation Plan (the “ATP”), approved unanimously by the El Dorado County Transportation Commission (including four County Supervisors) designates Highway 49 north of Highway 193 to be Class II Bike Lanes. (See ATP, Ch. 7, Map 2 [Fig. 7-4 noting stretch of Highway 49 along Project site as Class II Bike Lane].)

¹¹ Of note here is that the Class II Bike Lanes from Gold Hill Rd to Cool are estimated to complete in the year 2026, while the pedestrian safety improvements and traffic calming project has a TBD completion date. (*Ibid.*)

Finally, Caltrans has indicated to Woodcrest that it would support a cash-in-lieu fee for a Class II Bike Lane because paving and striping a Class II Bike Path is required in both directions for the flow of traffic and there exists no shoulder on the southbound side of Highway 49 for a Class I Bike Lane.

The Opponents Appeals are Entirely Meritless and Must be Denied

The appeals from Opponents' Divide Preservation Society and the Cool Pilot Hill Advisory Committee should be denied because there is no evidence in the record to back up their claims, nor have they provided any such evidence with their appeals.¹²

The appeals allege that the Project "may have significant impacts on traffic and circulation (including pedestrian and bike safety), aesthetics, air quality, and cumulative impacts." The appeals further allege that the Project is "not consistent with the El Dorado County Design Guidelines, the Site Planning Guidelines, and the Department of Transportation's requirements for pedestrian paths and bike paths." However, these alleged impacts were studied in the Final EIR and were found to be non-existent. (See Final EIR, § 3.1.4 [no aesthetic impacts]; id. at §§ 3.2-1, 3.2-2, 3.2-3, 3.2-4, 3.2-5 [no adverse impacts to air quality]; id. at § 3.03, 3.1.6, 3.2.5 [no cumulative impacts with other Projects]; and id. at §§ 1.6, 2.7, 3.10-1 [compliance with Design Guidelines, Site Planning Guidelines and County DOT requirements].)

Neither Opponent has provided any citation to the record, nor provided any exhibits or attachments to their appeal, which conclusively refute the conclusions of the Final EIR above or the conclusions of County staff or the County's consultants. (See, e.g., Staff Report at pp. 3, 5-6.) While it is unclear whether Opponents argue that the Final EIR fails to adequately study the impacts they claim will result from the Project, or whether they are arguing that the EIR came to inappropriate conclusions based on the substantial evidence in the record, the burden is nonetheless on the Opponents to produce evidence or citations to the record to back up their claims. (*Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 206 ["petitioner bears the burden of demonstrating that the record does not contain sufficient evidence justifying a contested Project approval."]; *State Water Res. Control Bd. Cases* (2006) 136 Cal.App.4th 675, 795 ["The party challenging the EIR, however, bears the burden of demonstrating that the studies on which the EIR is based are clearly inadequate or unsupported."]; see also *State of California v. Superior Court* (1990) 222 Cal.App.3d 1416, 1419 ["an EIR is

¹² The purpose of the appeals does not appear to be the need for any change in the Project to benefit public safety, but instead to stop the Project at all costs. (See Aloha Adams Letter to Board, June 18, 2021 [asking Board to "uphold these requirements and send Dollar General packing to some other County."].)

presumed adequate [citation,] and the [petitioner] in a CEQA action has the burden of proving otherwise.”.)

As explained above, there is no evidence in the record of any Project-related impacts to traffic and circulation, aesthetics, or air quality. Regarding traffic and circulation specifically, the Final EIR relies on the TIA, performed pursuant to County DOT guidelines. The TIA studied traffic near the Project site and found very little, if any, pedestrian or bicycle traffic. (See Final EIR, p. 3.12-8; *id.* at 21-0733 G, p. 1438 of 1566.) Based on the TIA, the Final EIR concluded that while “[s]ome employees or customers of the Project may elect to walk to other commercial uses in the area,” based on midday studies, “*pedestrian activity between uses in the area is low.*” (Final EIR, p. 3.12-8 (emphasis added).) The Final EIR further concluded that the Project will not substantially increase pedestrian activity. (*Ibid.*)

There is no evidence anywhere in the record that contradicts the findings of the TIA or the Final EIR regarding traffic and circulation. Instead, the only “evidence” in the record that there will be any traffic or circulation impacts appear to be lay opinions not based on any factual foundation in the record. (See, e.g., Public Comments Rec’d 05.12.21 to 05.13.21, pp. 2-4, 6-8; see also Hearing Video, at 04:49:00—04:51:30; *id.*, at 04:59:45—05:01:00.) Similarly, these same public comments appear to be the only source of any concerns regarding aesthetic impacts, air quality impacts, or any other potential environmental impacts arising from the Project.¹³ (See Public Comments Rec’d 05.12.21 to 05.13.21, p.5; Hearing Video, at 05:00:00—05:00:50.) However, “[u]nsubstantiated fears and desires of Project opponents do not constitute substantial evidence.” (*Porterville Citizens for Responsible Hillside Dev. v. City of Porterville* (2007) 157 Cal.App.4th 885, 901.) “[I]n the absence of a specific factual foundation in the record, dire predictions by nonexperts regarding the consequences of a Project do not constitute substantial evidence.” (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417.)

The failure by appellants to provide **any evidence** in support of their claims, let alone any substantial evidence, or otherwise point to gaps in the evidence relied upon in the Final EIR, is fatal to their challenge. (*S. Cty. Citizens for Smart Growth v. Cty. of Nevada* (2013) 221 Cal.App.4th 316, 330.) The appeals filed by Opponents Divide Preservation Society and the Cool Pilot Hill Advisory Committee must therefore be denied.

///

¹³ Notably, many public comments relate to potential business competition as a reason to deny the Project. (See, e.g., Public Comments Rec’d 05.12.21 to 05.13.21, p. 8; Public Comments Rec’d 05.07.21, p. 1; Hearing Video, at 05:00:00—05:00:50; *id.* at 05:01:45—05:02:00.) However, “CEQA is not a fair competition statutory scheme.” (*Waste Management of Alameda County, Inc. v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1235.)

Conclusion

As set forth hereinabove, the Planning Commission's decision to impose the revised conditions was arbitrary, capricious, and in violation of multiple Federal and State laws. Accordingly, Woodcrest respectfully requests that the Board **GRANT** its appeal, thereby reversing the Planning Commission's unlawful decision as to the revised Conditions and upholding the Planning Commission's approval of the design review permit by reinstating the originally recommended conditions 12 and 13 from the staff report dated May 13, 2021, and memorandum dated May 12, 2021.

Woodcrest further respectfully requests that the Board summarily **DENY** the frivolous appeals filed by the Project Opponents, as there is *no evidentiary support* in the Record to support these baseless appeals.

Sincerely,



Sabrina Teller

cc: Wade Wylie, for Woodcrest REV
Steve Powell, for Woodcrest REV
Anthony Arger, Robertson, Johnson, Miller & Williamson
Enclosures

EXHIBIT A

From: [Ken Anderson](#)
To: [Wade Wylie](#)
Subject: FW: DR19-0006 (Cool Dollar General) Comments
Date: Thursday, May 21, 2020 5:02:19 PM

Kenneth D. Anderson, P.E.

KD Anderson & Associates, Inc.

3853 Taylor Road, Suite G
Loomis, CA 95650
916-660-1555 (office)
916-764-5478 (cell)

From: Dave Spiegelberg <dave.spiegelberg@edcgov.us>
Sent: Thursday, May 21, 2020 12:15 PM
To: Tia Raamot <tia.raamot@edcgov.us>
Cc: Ken Anderson <KAnderson@kdanderson.com>; Natalie Porter <natalie.porter@edcgov.us>
Subject: Re: DR19-0006 (Cool Dollar General) Comments

Evan - I hope this will guide you through the comments

-

Hydraulics -

The addition of Type E Dike along SR-49 will change the existing drainage patterns. A spread and depth analysis should be completed to confirm no objectionable backwater based on a 25-year storm event, per HDM Table 831.3. All work proposed and performed within the State's highway right of way must be in accordance with Caltrans' standards and require a Caltrans encroachment permit prior to commencing construction.

Caltrans would enforce these requirements through the encroachment permit process, at Implementation of the project.

The development of this site will increase impervious surface area through the construction of driveways, parking lots, buildings, etc. with a corresponding increase in surface water runoff. This project will decrease surface water detention, retention and infiltration. No net increase to 100-year storm event peak discharge may be realized within the State's highway right of way and/or Caltrans drainage facilities as a result of the project. Any cumulative impacts to Caltrans drainage facilities arising from effects of development on surface water runoff discharge from the 100-year storm event should be minimized through project drainage mitigation measures.

Caltrans would enforce these requirements through the encroachment permit process, at Implementation of the project. In addition, the proposed design includes on-site detention and the final design must comply with the County's Stormwater Ordinance, and the State

Water Board General Permit for Small Municipalities.

Traffic Operations - Highway Operations

- *The proposed Class II bike lane on the east side of State Route 49 is strongly recommended. This will provide great connectivity from the bike path along State Route 193 south of the proposed project. Please indicate the plan to accommodate pedestrians.*

The project has been conditioned to either pay their fair share or construct the Class II bike path along their project frontage. The adjacent parcel to the south is anticipated to develop in the next few years. The southerly parcel has a larger frontage obligation than the Cool General Retail project. Therefore, it is anticipated that the Cool General Retail project will enter into a deferred frontage agreement with the County, and pay their fair share of the Bike Lane cost to the County. When the property to the south develops, County will condition that developer to construct the entire bike lane from SR193 to Northside Drive.

The southeast corner of the intersection of State Route 49 and Northside Drive will need to meet intersection improvements, which includes curb/dike and a radius for delivery trucks to make the turn.

This would be enforced with the Caltrans Encroachment Permit.

Indicate what type/size delivery trucks (STAA?) and provide a truck turning template to show that the trucks can safely make the turns.

This comment should be addressed by the Project Engineer or Project Traffic Engineer. All comments were forwarded to the Applicant's Traffic Engineer. We are awaiting a response.

There are future plans to improve the intersection of State Route 49 and State Route 193, possibly with a signal or roundabout. Fair share fees should be collected to contribute to the intersection improvements. Indicate if El Dorado County has a mechanism to collect funds to contribute to future projects.

The County has no project in the Capital Improvement Program or TIM Fee Program for the Intersection of SR193 and SR49. If Caltrans desires County Participation in an otherwise State Highway Project, DOT would welcome an opportunity to discuss this intersection with Caltrans, and potentially consider funding a

portion of the project through the State Highway TIM Fee Program. The County has no other mechanism to support "Fair-Share" payment to a State project.

Past reviews of this project had mentioned curb, gutter, and sidewalk on the south side of Northside Road. There is no mention of them in this iteration. Please indicate the plan for Northside Road, and why the curb, gutter, and sidewalk were removed.

Northside Drive is to be widened to a minimum width of 24 feet, along the project frontage. This is required as Condition of Approval #14, and the developer will construct any necessary widening coincidental to the site grading. Encroachment of the work into Caltrans R/W is unlikely, except for Traffic Control during construction operations. Urban Streetscape, such as curb, gutter, and sidewalk, is not consistent with the character of the area, and were therefore, removed from the proposed project.

Dave W. Spiegelberg, P.E.

Senior Civil Engineer

County of El Dorado

Community Development

Department of Transportation, Development Section

2850 Fairlane Court

Placerville, CA 95667

530-621-6077 / 530-957-3521 (cell) / 530-295-2655 (fax)

dave.spiegelberg@edcgov.us

On Thu, May 21, 2020 at 9:42 AM Tia Raamot <tia.raamot@edcgov.us> wrote:

Ken,

This just came in this morning. Caltrans is looking for an autoturn showing trucks for Dollar General.

Tia Raamot

Transportation Planner

El Dorado County

Department of Transportation

Transportation Planning

2850 Fairlane Court

Placerville, CA 95667

(530) 621-5918

eFax 530-698-8019

tia.raamot@edcgov.us

----- Forwarded message -----

From: **Evan Mattes** <evan.mattes@edcgov.us>

Date: Thu, May 21, 2020 at 8:56 AM

Subject: Fwd: DR19-0006 (Cool Dollar General) Comments

To: Natalie Porter <natalie.porter@edcgov.us>, Dave Spiegelberg <dave.spiegelberg@edcgov.us>, Tia Raamot <tia.raamot@edcgov.us>, Brian Grattidge <bgrattidge@dudek.com>, Rommel Pabalinas <rommel.pabalinas@edcgov.us>

Hey all,

I just got this comment from Caltrans regarding the Cool General Retail project. Dave and Natalie, I think that we will need to coordinate for a response memo.

----- Forwarded message -----

From: **Dosanjh, David@DOT** <David.Dosanjh@dot.ca.gov>

Date: Wed, May 20, 2020 at 4:24 PM

Subject: DR19-0006 (Cool Dollar General) Comments

To: planning@edcgov.us <planning@edcgov.us>, evan.mattes@edcgov.us <evan.mattes@edcgov.us>

Dear Evan Mattes,

Please find attached the California Department of Transportations' comments on the Proposed MND and Initial Study documents for DR19-0006 (Cool Dollar General).

David Dosanjh

Transportation Planner

California Department of Transportation, District 3

[703 B Street Marysville, CA 95901](http://703%20B%20Street%20Marysville,%20CA%2095901)

Office: (530) 634-7606

Email: david.dosanjh@dot.ca.gov

www.dot.ca.gov/d3/

--

Evan Mattes

Senior Planner

County of El Dorado

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Office: (530) 621-5994 Fax: (530) 642-0508

evan.mattes@edcgov.com

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EXHIBIT B



Transportation Concept Report

State Route 49

District 3

October 2017



Disclaimer: The information and data contained in this document are for planning purposes only and should not be relied upon for final design of any project. Any information in this Transportation Concept Report (TCR) is subject to modification as conditions change and new information is obtained. Although planning information is dynamic and continually changing, the District 3 Office of System Planning Analysis, Modeling and Forecasting makes every effort to ensure the accuracy and timeliness of the information contained in the TCR. The information in the TCR does not constitute a standard, specification, or regulation, nor is it intended to address design policies and procedures.

California Department of Transportation

Provide a safe, sustainable, integrated and efficient transportation system to

Approvals:

Marlon Flournoy

For **Marlon Flournoy**
District 3 Deputy Director
Planning, Local Assistance, and
Sustainability

10-6-17

Date

Amarjeet S. Benipal

Amarjeet Benipal
District 3 Director
Date
10-6-17

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ENVIRONMENTAL CONSIDERATIONS

[SAFETEA-LU Section 6001](#) and [MAP-21](#) requires environmental considerations in the development of long-range transportation plans. To comply, environmental issues within the corridor are considered by describing the existing environmental setting, consulting with resource agencies, considering possible corridor development constraints, and discussing potential avoidance, minimization, and mitigation. Including environmental considerations will help streamline project initiation and delivery, aid decision makers, and inform stakeholders.

Wildlife crossings are areas of concentrated animal movement intercepted by roadways. In most cases, effects are seen because animals are inadvertently hit by drivers as they attempt to cross the road surface, leading to mortality of animals (“road-kill”) and safety concerns to the motoring public. In other cases, animals choose to avoid crossing, and the roads present barriers to animal movement, dividing a formerly single population into two or more isolated population segments, causing a range of negative effects. These effects may be less apparent, but are no less significant. Further, environmental regulations compel transportation professionals to reduce or eliminate effects on special status species and habitats. Wildlife crossing considerations are reflected in the California Comprehensive Wildlife Conservation Strategy (California Department of Fish & Game, 2006), which lists wildlife habitat fragmentation as one of the biggest threats to the state’s wildlife and suggests as a solution that “Wildlife considerations need to be incorporated early in the transportation planning process”. (Source: “Wildlife Crossings Guidance Manual, Caltrans, March 2009”)

As a component of the Department’s environmental stewardship commitments, the fish passage at many thousands of state highway crossings of rivers and streams has long been of concern to Departmental staff. For most fish species, migration for the purposes of spawning, rearing of young or for finding suitable habitat is essential to survival. With the 1973 passage of the federal Endangered Species Act, and the recent passage of California Senate Bill 857 which amends California Fish and Game Code to incorporate specific provisions regarding Caltrans’ progress in removing barriers to fish passage, that stewardship commitment also carries a regulatory context whereby the Department must provide for the unimpeded passage of various aquatic species or potentially face litigation and/or penalties for non-compliance. (Source: <http://www.dot.ca.gov/hq/oppd/fishPassage/Chapter%201%20Fwd%20&%20Intro.pdf>)

In coordination with the California Department of Fish and Wildlife (CDFW), the California Department of Transportation (Caltrans) continues to assess the Passage Assessment Database (PAD) for quality assurance review (QA/QC) of state highway locations. The purpose of the QA/QC is to improve and refine data for existing and new locations, which will help to inform future assessment needs, help to determine staff and funding needs to develop and deliver fish passage remediation projects, and help to inform project priorities for recovery decisions. Completed locations have gone through the QA/QC process as well.

Caltrans and CDFW coordinate to determine the combined priority list of fish passage barriers on the state highway system. Once barrier locations have been assessed and identified, priorities are assigned, based on the relative habitat value at each location. The habitat value of each location is defined by the presence (or historic presence) and diversity of anadromous species, suitable upstream habitat quality and quantity and the localized knowledge of expert fisheries and hydraulic professionals. (Source: Caltrans, 2015 Fish Passage Annual Report to the Legislature)

<http://environment.fhwa.dot.gov/integ/related.asp>

<http://www.fhwa.dot.gov/map21/>

BICYCLE, PEDESTRIAN, TRANSIT FACILITIES, RIDESHARE, PARK AND RIDE

Bicycle, pedestrian, and transit facility considerations have been incorporated into the TCR per [Title 23 CFR Part 450.208](#) and [Deputy Directive \(DD\) 64-R2](#): *Complete Streets-Integrating the Transportation System*. DD-64-R2 states “Caltrans views all transportation improvements as opportunities to improve safety, access, and mobility for all travelers in California and recognizes bicycle, pedestrian, and transit modes as integral elements of transportation systems.”

California has set a target to triple bicycling and double walking by 2020 by improving these options for all Californians. Better bicycle and pedestrian facilities that safely connect people with where they need to go will also promote healthy and active lifestyles and improve the environment by reducing automobile use and greenhouse gas emissions. Policies

that stem from this plan will guide Caltrans' decisions about future bicycle and pedestrian investments in safe facilities and programs that encourage walking and bicycling.

The first-ever [California State Bicycle and Pedestrian Plan](#) was recently completed, which is a visionary and comprehensive policy plan to support active modes of transportation and to increase safe bicycling and walking in California. The plan will guide the State in developing an integrated, multi-modal transportation network for all users, including: bicycle and pedestrian accommodation on the State Highway System where appropriate; connections to intercity rail and public transportation; and support for local government efforts to develop safe active transportation networks.

Bicycling constitutes an active transportation alternative to automobile use that can help reduce congestion and improve corridor performance. Bicycle facilities, particularly on parallel roads, are important in improving the attractiveness and use of bicycling. These bicycle facilities are located on both local parallel roads and on dedicated pathways.

Caltrans District 3 recently completed the "Caltrans District 3 Complete Streets Plan" that addresses the specific implementation of complete streets elements into the SHS within the District. A complete street is a transportation facility that is planned, designed, operated, and maintained to provide safe mobility for all users, including bicyclists, pedestrians, transit riders, and motorists appropriate to the function and context of the facility. Information regarding the addition of complete streets elements in the specific route or corridor will be included in each applicable TCR. Caltrans will implement the Plan in coordination with local and regional agencies.

As owner/operator, Caltrans has primary responsibility for the SHS. In an era of reduced funding, environmental concerns and public health, capacity increasing projects are no longer the focus of improvements. Instead, we are focusing more on demand reduction strategies that include multi-modal opportunities. Projects that can incorporate components that encourage enhanced regional and local transit services, bicycle and pedestrian facility improvements and more robust ridesharing options are becoming the priority. Increased collaboration with local partner transportation agencies leads to improvements that fulfill the visions of local communities and are more sustainable. In addition, more funding opportunities are available when partners are engaged and have a vested interest.

<http://www.fhwa.dot.gov/hep/23cfr450.htm#sec.450.208>

http://www.dot.ca.gov/hq/tpp/offices/ocp/complete_streets_files/dd_64_r1_signed.pdf

<http://www.cabikepedplan.org/>



SEGMENT 7 (ED PM 15.685/38.233)

Segment 7 is 22.55 miles of 2-lane conventional highway. This narrow winding segment has minimal shoulders for emergency stops. From the City of Placerville, the segment travels through the small historic community of Coloma that is home to Marshall Gold Discovery State Historic Park. The community site where gold was discovered in 1848 is bisected by SR 49. The park is a popular location for school field trips as well as summer activities. Coloma draws over 300,000 annual visitors to the state park and to raft the South Fork of the American River, the most popular whitewater river in California. The State Historic Park and El Dorado County want to install traffic calming elements to improve pedestrian and bicycle safety. The segment continues north over the South Fork of the American River and travels parallel to SR 193.

At the beginning of this segment there is significant residential development, which is close to the highway. There are also pockets of low-density development located along arterial roads with large farms and ranches located in less accessible areas. Between Cool and Auburn, SR 49 offers a variety of recreational opportunities for half a million visitors each year. Residents, business and property owners in Cool have expressed concerns for traffic circulation and want to improve safety and connectivity issues within the commercial area. A mixed-used development along SR 49 south of and adjacent to SR 193 is currently being proposed. The project includes 206,950 square feet of retail, commercial, light industrial and office space. Transportation projects include bridge restoration, a right turn lane, passing lanes, and roadway rehabilitation to improve the route segment. Land uses along the segment consist of residential, recreational, agricultural, commercial and forest.

The segment is currently operating at LOS E.

TABLE 14 SEGMENT 7 ROUTE DESIGNATIONS AND CHARACTERISTICS

Freeway & Expressway	National Highway System	Strategic Highway Network	Scenic Highway	Interregional Road System	High Emphasis	Focus Route	Federal Functional Classification	Goods Movement Route	Truck Designation	Bicycle and Pedestrian Access
No	No	No	No (Eligible for Scenic Route)	Yes	No	No	3 Other Principal Arterial, 4 Minor Arterial	No	CA Legal Advisory KPRA 30	Highway Open-Shoulder

TABLE 15 SEGMENT 7 PROJECT LIST

Project Number	Description	PM	Location	Lead Agency	Source	Purpose	Total Cost Estimate* (x \$1,000)	Proposed Completion Year	Project Category
1	Construct Class II Bike Lanes	ED 49 22.865/ 34.466	SR 49 Gold Hill Road to Cool	EDCTC	2015 EDCTC RTP	Operational Improvements	TBD	2026	Conceptual
2	Construct Pedestrian safety improvements and traffic calming elements	ED 49 23.01/ 23.261	SR 49 through Marshall Gold Discovery State Historic Parks in Coloma	EDCTC/County of El Dorado/ State Parks/ Caltrans	Complete Street Plans	Safety and Operational Improvements	TBD	TBD	Conceptual
3	Replace bridge/bridge seismic restoration	ED 49 23.6/24.5	SR 49 near Coloma at South Fork American River Bridge #25-0021	Caltrans	2014 SHOPP; 2014 STIP	Bridge Rehabilitation and Operational Improvements	\$20,817	2019	Programmed
4	Construct SB Right Turn Lane	ED 49 33.459	SR 49 at Cave Valley Road	Caltrans	SHOPP Minor B	Operation and Safety	\$200	2017	Planned
5	Construct Pedestrian safety improvements and traffic calming elements	ED 49 34.466	SR 49 in the Town of Cool	EDCTC/County of El Dorado/ State Parks/ Caltrans	Study document by Portland State University-March 2017	Safety and Operational Improvements	TBD	TBD	Conceptual
6	Roadway Rehab	ED 49 34.466/38.2	In El Dorado and Placer Counties from Jct SR 193 in Cool to Borland Ave in Auburn	Caltrans	10-year SHOPP	System Preservation	\$19,000	2022	Planned
7	Passing Lanes	ED 49 34.47/38.23	SR 193 to Northern ED County Line	El Dorado County	RTP/MTP	Operational Improvement	\$3,482	2021-2036	Planned

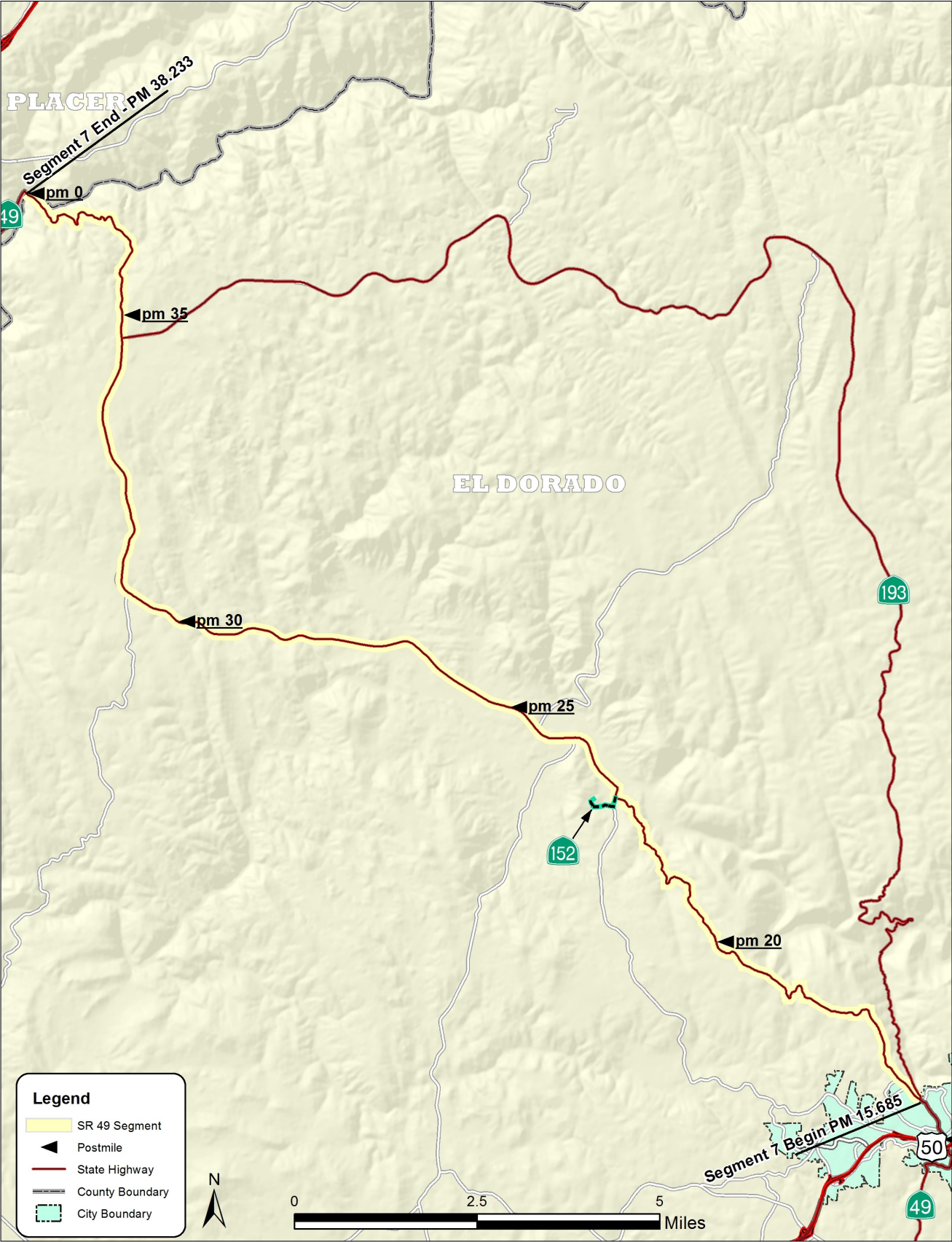


Figure 8 Segment 7 Map : Junction/SR 193 to El Dorado/Placer County (PM ED_15.685/38.233)