



El Dorado County Office of Education

April 2, 2012

Vicki L. Barber, Ed.D.
Superintendent

Jeremy Meyers
Deputy Superintendent

Robbie Montalbano
Associate Superintendent

County Board of Education

*Debbie Akin
Matt Boyer
John Lane
Gene Rasmussen
Heidi Weiland*

Leonard Grado
Grado Equities VII, LLC
4330 Golden Center Drive #D
Placerville, CA 95667

Re: Creekside Plaza Project
Planned Development #PD10-0005

Dear Leonard:

On March 1, 2012, a meeting was held at our office to discuss the above project. Those in attendance were Tim Smith, Mother Lode Union School District Superintendent, Kathy Daniels, Director of Facilities for EDCOE, yourself and myself.

We reviewed the concerns of the Mother Lode School District which included traffic issues and retaining wall concerns. We continue to have discussions with you regarding the project and appreciate your ongoing willingness to work collaboratively in addressing the safety of El Dorado County students.

As was stated at the meeting, the El Dorado County Office of Education (EDCOE) and the Mother Lode Union School District (MLUSD) support this project. We do want to point out that neither EDCOE nor MLUSD are associated with a group that has identified themselves as Friends of Herbert Green.

Sincerely,

Vicki L. Barber, Ed.D.
County Superintendent of Schools

VLB:jkm

530-622-7130
FAX 530-621-2543

e-mail: info@edcoe.org
website: www.edcoe.org

6767 Green Valley Road
Placerville, CA 95667-8984

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December 10, 2011

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2012 APR -3 PM 4:20

Planning Commission
County of El Dorado
Building C Hearing Room
2850 Fairlane Court
Placerville, CA 95667

Re Comments on Mitigated Negative Declaration (MND) for the Creekside Plaza (Project), Rezone Z10-0009/Planned Development PD10-0005/Parcel Map, P10-0012 Creekside Plaza

Dear Commissioners,

The California Environmental Quality Act (CEQA) is intended to alert the public and its responsible officials to the environmental changes a project will bring. The use of CEQA is also intended to demonstrate to an apprehensive citizenry that the agency responsible for review has analyzed and considered the ecological implications of the proposed project. Because the Mitigated Negative Declaration must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The environmental report process protects not only the environment but also informed self-government. The lead agency owes a mandatory, procedural duty to use its best efforts to find out and disclose all it reasonably can. Omission of relevant information from an environmental report that precludes informed public participation or decision making constitutes a failure to proceed in the manner required by law.

At the October 13, 2011 Planning Commission meeting my comments addressed the following concerns:

- Current traffic is already horrendous in this area.

According to the Draft Traffic Impact Analysis prepared for this project it was determined that at Forni Road and Golden Center Drive, as shown on Table 8 of the report, the addition of the proposed project causes this intersection to change from LOS D to LOS F. According to the report, *"This is a significant impact"*. The Mitigation for this impact was to install a traffic signal at the intersection of Forni and Golden Center Drive. With this mitigation the impact would be reduced to less than significant. Due to the inability to stack traffic at the short distance between the new signal and the signal at Missouri Flat, this mitigation was disregarded and no mitigation has been brought forward to reduce the traffic impact. **Therefore Transportation/Traffic remains a significant impact.**

Also DOT has required the applicant to make improvements to Forni Road and Golden Center Parkway incorporating several turn lanes pockets and lanes. These have not been shown on the applicants plans and if these requirements were shown they would alter the project. Not having an actual depiction of the project is misleading to public review.

- The El Dorado County Transportation Commission is in the middle of a \$250,000 project, looking at the transportation issues for the Missouri Flat Corridor. This project should be placed on hold until this project can be completed.
- At the heart of CEQA is the statutory requirement that a “project description” being both complete and completely accurate, and that the project description not be changed over the course of or in different parts of the environmental analysis represented by the MND. Guideline 15124 requires, among other requirements, that a project description needs to set forth project objectives, which in the present case, are wholly lacking insofar as its environmental results, that will occur at projected build-out.

On page 3 of the Environmental Checklist/Discussion of Impacts the Introduction of the project discusses the impacts resulting from the “proposed park project. The project would allow the construction of an aquatic center, classroom/recreational building, paths, amphitheater, and pedestrian bridge in an existing park.” Then on page 6 under Aesthetics, c. Visual Character there is a discussion regarding “the aquatic center area is proposed for an area of the parcel that is currently asphalted.” Apparently a boiler plate was used for the discussion of impacts and it is in question if the actual project was studied for Aesthetics. This is a violation of CEQA’s requirement for an accurate project description and analysis.

- 22% of the development has over 30% slopes which violates requirements in the General Plan.
- The project allows zero setback from wetlands, which violates requirements in the General Plan.
- This project will create LOS F which violates Measure Y.
- This project will require 46,738 cubic yards of fill to be brought in to cover the creek.

This equates to 28.9 acre feet of dirt. This is a massive amount of dirt to be moved and the environmental review should include the impact being created by removing this amount of dirt from inside a 10 mile radius of this project. Another issue created is that the foundations of the proposed buildings must be on native soil or compacted/engineered fill. The existing fill is not clean soil. It will have to both be removed and replaced or the foundations of the proposed structures will need to reach native soil.

- From the aerial map it appears that the Oak Canopy is more than the stated 13%.
- There was not time to comments on the applicant’s letter requesting removal of conditions due to the late submittal.

This falls in the realm of omission of relevant information from an environmental report that precludes informed public participation or decision making, constituting a failure to proceed in the manner required by law.

- This is an oversized urban project in a rural environment. It is not a good fit for the community.
- More study needs to go into the traffic impacts, especially in regards to school safety.

Last minute engineering by unqualified laymen should not be used to push this project forward.

- There has not been enough mitigation measures put into place to deal with the severe impacts of this project to reduce it to a ruling requiring only a Mitigated Negative Declaration.
- Cross-lot drainage should not be allowed since it very likely this developer will split the lots after development.
- Travelers will be coming from off the freeway, turning onto Forni Road to enter the fast food restaurant. They will not understand how to navigate the school flow therefore increasing the danger to children.
- This project has over extended its coverage for development, leaving no room for necessary mitigation measures.

The developer stated that he has the right to the “Highest best use” of the property. I’m not sure where that right is published but the developer does have the right to develop his property. When the current General Plan was adopted it was known that not all land designations created would be compatible with the zoning. This parcel is presently zoned residential. The existing zoning is more compatible with the nature of the land and with adjacent residential zoning. It also creates a natural buffer and transition between the existing commercial and residential zoning. The highest and best use might be to develop residential parcels with an office component. General Plan Policy 2.2.5.7 allows the County to determine compatibility on parcels that are discretionary such as this one.

- \$188,000 in Tim fees may not be enough to mitigation the traffic situation due to the size of this project.
- Sewer and water impacts have been conditioned based on future conditions.
- This will not be a financial benefit to the county since the sales tax will go to fund past and future road improvements on Missouri Flat Road due to the Missouri Flat Financing Plan.
- The applicant is the same developer of Golden Center which is a nightmare for traffic flows due to McDonalds and no loading zone provided.
- The applicant should be required to hold to the 15’ standard for light height due to the close proximity to residential parcels.
- With the close proximity of the parking lot to the creek, pollution will be flowing into the creek below which distributes into Weber Creek. Mitigation has not been provided for this impact.
- There is also a safety issue with a 27’ retaining wall and only a 4’ fence to protect the public, and particularly children from falling over the bank. This could become a hazardous attractive nuisance.
- I would ask that this Mitigated Negative Declaration be rejected and the project be rejected until a properly written environmental impact document can be composed that will comply with CEQA and the El Dorado County General Plan.

After the Planning Commission meeting on 10-13-11, I visited the project site. I was standing on the road as parents started to arrive to pick up their children around 2:05 p.m. The traffic became very congested and cars were driving on the wrong side of the road to get around the traffic. At the same time cars were trying to get through this traffic from Golden Circle onto Forni Road. Around 2:15 p.m. the school children started to flood onto this mangled mess of cars in order to cross Golden Circle Drive to meet parents waiting in the nearby

parking lot. I was shocked by the potential danger these children have been subject to by these poorly planned development projects. It was obvious to me that adding a retail/restaurant to this mix would only add to this dangerous traffic/pedestrian situation. I have been surprised by the lack of concern by county staff, the Community Advisory Committee and Planning Commission in blaming the school for the situation, rather than requiring the developers that have created the increased impact to mitigate the problem. This enforces the fact that Transportation/Traffic remains a significant impact.

The majority of these comments made on 10/13/11 have not been addressed.

Other issues that have not been addressed:

The Environmental Checklist regarding Mining Resources states, *“Review of the mapped areas of the County indicates that this site does not contain any mineral resources of know local or statewide economic value. No impacts would be anticipated to occur”*. *“For the Mineral Resources category, the project would not be anticipated to exceed the identified thresholds of significance.”* Yet the description of the property states that, *“According to the soils map, portions of the area were placer mined at one time and tailing piles are present along the creek.”* More research should be explored, due to the evidence of existing tailings and the fact that this area is historically rich in mining resources, in order to determine true significance to loss of a mining resource. This could be a potently significant impact.

The Environmental Checklist regarding Hydrology and Water Quality Resources states, *“No significant hydrological impacts are expected with the development of the project either directly or indirectly”*. *For this Hydrology category, impacts would be anticipated to be less than significant.”* The project is being placed directly on and against the creek. With the proposed project and commercial development there will be an enormous amount of increased impermeable surfaces collecting pollutants related to commercial and road uses which runoff will greatly alter the quantity and quality of the adjacent creek. By merely paying a fee to Fish and Game and dedicating an undevelopable piece of land to Army Corp of Engineers is inadequate in addressing the cumulative effect to hydrology and water quality. Not addressing lot development and runoff is **a potentially significant impact** to the Hydrology and Water Quality in the area above ground, to the creek, to existing residents, structures and properties downstream and surrounding this development.

General Plan Policy 2.2.5.7 states, *“Where a zoning district applied to given land is consistent with the General Plan land use designation, the County reserves the right to deny development plans providing for permitted uses where adequate findings for approval (including adequate public facilities and services) cannot be made.”* The County has the right to deny this zone change based upon the following issues:

- Slopes over 30%
- Wetlands without the required 50 foot setbacks
- No buffers between the existing residential and new commercial parcels
- Inadequate infrastructure for the size of development
- Parking requirements not meet

- Over surplus of existing commercial parcels and buildings in the county at this time
- Right-of-way needs to be used for the safety concerns of Herbert Green

Policy 2.2.5.7 states, “Where approval of this General Plan has created inconsistencies with existing zoning, lower intensity zoning, in accordance with Table 2-4, may remain in effect until such time as adequate infrastructure is available to accommodate a higher density/intensity land use.”

The following measures were to be completed one to three years after the adoption of the General Plan and have yet to have been completed in this area:

Measure LU-D: Revise the Zoning Ordinance to ensure that all uses permitted by right in a zoning district are compatible. Allow potentially incompatible uses subject to a discretionary review process with performance standards designed to ensure appropriate separation of incompatible uses. Include in the Zoning Ordinance a requirement that any project located adjacent to an existing sensitive land use shall be required to avoid impacts on the existing use. (Policy 2.2.5.21)

Measure LU-F: Create and adopt Community Design Review standards and guidelines and identify new Community Design Review Districts. This would include working with community groups to develop standards. (Policies 2.4.2.2, 2.4.1.2, and 2.4.1.4)

Measure LU-H: Develop and implement a program that addresses preservation of community separation, as outlined in Policy 2.5.1.3. The program shall address provisions for a parcel analysis and parcel consolidation/transfer of development rights.

GP Policy 7.3.3.4 requires a 50 foot setback from intermittent streams and wetlands. Allowing a reduction to zero sets a future precedent undermining the intent of the El Dorado County General Plan. **This is a significant impact** not only to this project but also in considering the cumulative effect of future projects.

GP Objective 2.1.1 in regards to Community Regions is to provide opportunities that allow the continued population growth and economic expansion **while preserving the character and extent of existing rural centers and urban communities, emphasizing both the natural setting and built design elements which contribute to the quality of life and economic health of the County.** This project is not in keeping with this objective.

California planning law and policy 2.2.5.2 requires this Project to conform to the enumerated County General Plan policies, and clearly this project as drafted does not.

Mitigation Measures neither Adequate nor Related to the Impact

As part of the CEQA process, CEQA allows a lead agency, such as the County in this case, to make a determination that even though a Project will engender adverse environmental consequences, the lead agency can still determine that consequences are “less than significant” if the lead agency imposes conditions on the

project that will reduce those impacts to a nonexistent or miniscule status. Such conditions are referred to as "mitigations".

However, a lead agency may not determine that a particular environmental impact—for example, the Project's impact on water quality---has been reduced to a level of insignificance -- by imposing a condition that itself has yet to be developed, is not a simple cut and dried formula that everyone can look at and determine that the mitigation will work, and where the mitigation itself involves discretionary judgments as to how it will be developed or constructed. These types of "mitigations" are "future mitigations" and are not permitted under CEQA. *Sundstrom v. County of Mendocino* (1988), 202 Cal. App. 3d 296.

They are not permitted for two reasons. First, the environmental review process is hidden from the public and CEQA is a public participation process first and foremost. Secondly, a future mitigation to be imposed later in the Project's processing, unless it refers to an exact standard---such as for example a pipe size for a domestic leach field contained in a publicly available manual covering such matters—represents a development of a discretionarily approved mitigation which may or may not be adequate. Since it is developed in private neither the public nor the scientific or technical consultants who might review the mitigation on behalf of the public, ever get to see the proposed mitigation or challenge its adequacy.

On page 4 of the Environmental Checklist/Discussion of Impacts, under Evaluation of Environmental Impacts #3, it states, "Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is a fair argument that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

Due to the potentially significant impacts to several environmental factors I would ask that this Mitigated Negative Declaration be rejected and the project be rejected until a properly written environmental impact report can be composed that will comply with CEQA and the El Dorado County General Plan.

Respectfully,



Sue Taylor

El Dorado County Resident