

File Number: DR00-0011A(2)
Date Received: 7/9/2009

Receipt No.: 25926
Amount: \$100.⁰⁰

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APPEAL FORM

(For more information, see Section 17.22.220 of the Zoning Ordinance)

RECEIVED
PLANNING DEPARTMENT

Appeals must be submitted to the Planning Department with appropriate appeal fee. Please see fee schedule or contact the Planning Department for appeal fee information.

APPELLANT Friends of Shingle Springs Interchange, Inc.
ADDRESS 4068 Mother Lode Drive Shingle Springs, California 95682
DAYTIME TELEPHONE 530-672-2909

A letter from the Appellant authorizing the Agent to act in his/her behalf must be submitted with this appeal.


AGENT Dr. V. Dale Smith - Alfa Omega Associates
ADDRESS 3410 Sunshine Way, Auburn, CA 95602-9284
DAYTIME TELEPHONE 530-888-1523

APPEAL BEING MADE TO: Board of Supervisors Planning Commission

ACTION BEING APPEALED (Please specify the action being appealed, i.e., approval of an application, denial of an application, conditions of approval, etc., and specific reasons for appeal. If appealing conditions of approval, please attach copy of conditions and specify appeal.)

Planning Commission Approval of Design Review project DR0011 - Union 76
Service Station/Circle K Mini-Mart and certification of the EIR therefore.
Objections and Grounds attached as Exhibit A.

DATE OF ACTION BEING APPEALED June 25, 2009 Planning Commission Action


V. Dale Smith for FSSI, Inc.
Signature

July 9, 2009
Date

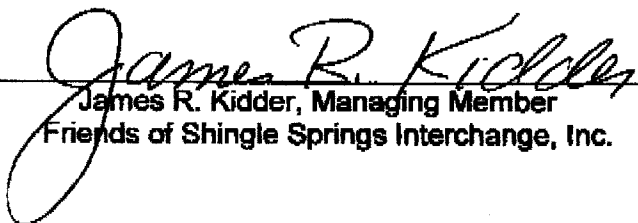
Friends of Shingle Springs Interchange, Inc.**4068 Mother Lode Drive****Shingle Springs, California 95682****530-672-2909**

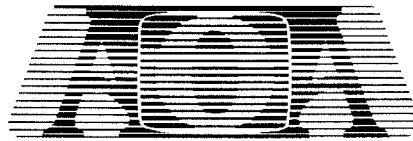
July 9, 2009

TO: El Dorado County Planning Department

Ref: Appeal Filed this date on the DR0011 - Union 76 Service Station Circle K Mini-mart project proposed for the southeast corner of the intersection of South Shingle Springs Road and Mother Lode Boulevard in El Dorado County.

This letter is in compliance with the requirement expressly imposed by the instructions in the El Dorado County appeal form. It is hereby confirmed that Alfa Omega Associate's Dale Smith, as well as John Gabrielli of the Gabrielli Law Office, are duly authorized to act on the behalf of the ***Friends of Shingle Springs Interchange, Inc.*** in this El Dorado County matter.


James R. Kidder, Managing Member
Friends of Shingle Springs Interchange, Inc.



Alfa Omega Associates

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Specializing in Land-Use, Environmental & Historic Preservation Issues
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Dr. Dale Smith, H.H.D., General Manager

July 9, 2009

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

Honorable Supervisors,

Specificity¹ of the *Friends of Shingle Springs Interchange, Inc. (FSSI) Appeal* of actions of the El Dorado County Planning Commission at the Public Hearing of June 25, 2009 in the approval of Design Review Project DR0011 - Union 76 Service Station/Circle K Mini-Mart and Certification of the Environmental Impact Report.

GROUND, OBJECTIONS & SPECIFIC REASONS FOR BOS APPEAL²

I. CEQA violations.

A. Inaccurate, incomplete & otherwise inadequate project description.

1. Failure to properly describe the environmental setting, particularly the existing level of congestion at project site.
2. No mention of nearby Indian Casino even though County sued over the magnitude of the environmental effects.

B. Omitted or inadequate cumulative impacts analyses, particularly traffic & circulation impacts from rapid growth in area.

Rapid enough to require major improvements to freeway interchange.

¹ The quality or condition of being specific. Explicitly set forth; Special, distinctive, or unique: specific qualities and attributes. (*Dictionary.com*)

² Needless to say, FSSI reserves the right to supplement or modify this list after the administrative record has been prepared, certified and circulated. In addition, by this reference FSSI fully incorporates all issues previously raised in these proceedings, which are all part of the project's administrative record, as if that material were restated here. This is particularly true for AOA's 06-15-09 letter, at pp. 3-6.

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- C. No good faith & full/reasonable disclosure of information concerning the project.
 - 1. Essential CEQA requirement.
 - 2. Not good faith to hardly even mention driveway safety in project documentation, including DEIR.

Even after issue raised by FSSI, relied on traffic studies/reports that barely dealt with it.
 - 3. Failing to apply CEQA's foremost interpretive principle construing statutory/regulatory language to maximize environmental protection.
 - 4. Interpreting statutory/regulatory language in a narrow and overly strict method.
- D. Thwarted & caused actual prejudice to right of public participation.
 - 1. Confusing, inaccurate, drawn out process caused interested members of the public not to participate.
 - 2. No informed or meaningful opportunity to participate.
- E. Improper handling of mitigation measures & alternatives, including but not limited to:
 - 1. The deferral of mitigation measure analysis to the future without adopting performance standards.
 - 2. Not providing estimates of mitigation costs, as well as funding estimates and related info on the effectiveness of actual or potential mitigation measures or alternatives.
 - 3. Thus precluding, among other consequences, a proper & meaningful alternatives analysis.
 - 4. The refusal to consider specific measures presented by the public, coupled with the failure to determine the measures proposed will be effective or feasible.
 - 5. Relying on data and information shown to be inaccurate, incomplete and misleading, thus causing or contributing to actual prejudice to CEQA's staunch right of informed and meaningful public participation.

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6. Not determining or disclosing that relocation of Durock Road is mere uncommitted and unfunded concept and not a viable mitigation measure.
 7. Using/adopting flawed existing traffic data base; inaccurate and unsupported traffic assumptions; omission of cumulative impacts analysis; and an inadequate basis for adequate decisionmaking.
 8. Inadequately addressing analytical flaws in studies & reports regarding, *inter alia*, school traffic & attracted passers-by.
 9. Not properly bringing responsible agency Caltrans into the case/project until long after the DEIR's comment/response period ran out.
 10. Circulating erroneous and misleading information on the County's web page (*e.g.*, project exempt under CEQA), and refusing to correct those errors, amounting to actual prejudice.
 11. Adopting or implementing inconsistent, inaccurate, inapplicable and misleading information, such as turning count and base traffic data on conditions in project area.
 12. Engaging in misleading discussions including in regard to the queue of vehicles northbound on South Shingle extending back to the intersection with Mother Lode.
- F. Improper handling of DEIR comments & responses.
- Failure to properly consider and respond to comments, particularly in regard to mitigation measures & alternatives.
- G. Caused or contributed to unanalyzed impacts on human health & safety (*see* CEQA Guidelines § 15065)
- Lowering of safety standards triggers CEQA review that was never performed -- this is also grounds for recirculation.
- H. Failure to recirculate in light of new & significant changes after DEIR public comment & response period expired, including:
1. Caltrans material submitted to bolster contention that County driveway standards were properly complied with.

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New "engineering drawings" showing, *inter alia*,
changes in driveway measurement leading to
changes in minimum distance away from intersection.

2. No information on brand new applicant's financial ability to perform mitigation measures and conditions of approval.
3. New applicant's revisions to site plan to purportedly comply with driveway safety standards, as well documents & information to correct FEIR.
4. County's receipt of specific proposal for improvement of Ponderosa/South Shingle interchange, which is highly relevant to present project.

II. Planning & Zoning Law Violations

- A. Inconsistency with driveway and other traffic & circulation standards and sources.
- B. Inconsistency with County General Plan & County Code provisions, particularly those espousing environmental/human health & safety protection (*e.g.*, GP Policy 6.9).

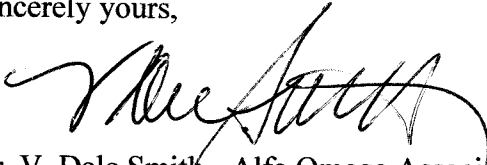
III. Violations involving driveway safety standards.

- A. *De facto* waiver of driveway safety standards.
 1. Waiver without specifying legal authority.
 2. No specific findings by Planning Director as required by reg.
 3. Example - existing high level of congestion in project area.
 4. Unreasonably exercising discretion to waive or dilute driveway safety standards; or having no discretion to do so as an abuse of the police power.
- B. Other specific flaws, including but certainly not limited to:
 1. Selective, arbitrary & unlawful interpretation & application of driveway safety standards & other statute/reg.

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2. Ignoring queue issues.³
3. Using traffic studies that don't even mention, much less analyze, the actual or potential violation of driveway stds.
4. No analysis of consequences of left turn alterations on Mother Lode.
5. Not analyzing the consequences of left turn lane

Sincerely yours,



Dr. V. Dale Smith - Alfa Omega Associates
Appeal Grounds, objections, reasons acting on the behalf of:
Friends of Shingle Springs Interchange, Inc.

³ As explained in detail by FSSI's traffic expert, whose letters & reports are part of the administrative record.