

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

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TO: Planning Commission **Agenda of:** June 25, 2009

FROM: Lillian MacLeod, Senior Planner **Item No.:** 11

DATE: June 8, 2009

RE: DR00-0011/76 Gas Station & Circle K Mini Mart

1. The above project was continued from the hearing of May 14, 2009 to allow time for the public to review Figures 2.0-1, -2, -3, and -4 that were inadvertently omitted from the Final EIR under *Comments and Responses to Comments on the Draft EIR* (Section 2.0). The figures were part of the analysis of circulation movements to access and navigate the project site and they are consistent and supportive of the text within the Final EIR. In addition, two minor corrections are being made at this time to the Final EIR which, with the figures, will be incorporated into the document entitled "Corrections to the Final EIR" (Exhibit 1).
2. Page 5.11 of the *Mitigation Monitoring and Reporting Program* (Attachment 4 of the staff report) is revised for consistency with the correction to MM 4.12.6 made under Exhibit 1 Section 2.0.a (Exhibit 2)
3. The CEQA Findings of Fact have been corrected to delete the findings for Impact 4.12.3 on page 45, as they were revised under the Final EIR with the addition of Mitigation Measure 4.12.3. Said revisions to the findings for Impact 4.12.3 are included on page 59 (Exhibit 3).
4. As discussed at the hearing of May 14, building colors have been subsequently changed as shown in Exhibit F (Revised), which is attached to this memorandum.
 - a. Page 10 of the staff report will be revised, as follows:

Colors: The stucco walls of the mini-mart will be painted in ~~Sherwin-Williams "Egret White"~~ Dunn Edward "Weathered Coral". The wainscoting will consist of 6x6 inch ceramic tile in "Sierra Aspen" with contrast trim in "Vermillion Red". The mansard canopy will be painted to match the walls, with contrasting stripes and logo in Sherwin Williams "Circle K Red", or as an alternative, 8x8 inch ceramic tile in "Circle K Red Vinyl".

09-1018.E.1

The gas station columns will be painted in "Oasis White", while the canopy fascia will receive basically the same color treatment ("Oasis White, Red, and Silver") to match the mini-mart canopy (Exhibits F1 and G1)."

b. The following revisions to Condition 1 will address the color modifications above:

"1. The project, as approved, shall allow a 2,976 square foot Circle K mini-mart and 76 fuel station with 6 fueling stations under a proposed 4,000 square foot canopy conforming to Exhibits E, F (Revised), F1, G, G1, and H. The following building colors are to be used:

Circle K Building

Wainscoting = ~~Beige~~ "Sierra Aspen" tile; Contrast trim "Vermillion Red"

Walls = ~~White~~ Dunn Edward "Weathered Coral" paint

Accent = Red paint/tile

Sign = Circle K logo

Canopy

Sides Fascia = "Oasis White" and "Red"

Columns = "Oasis White"

Accent = "Oasis Silver"

Sign = 76 logo"

5. The conditions of approval shall be amended to add the following standard condition:

"40. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold El Dorado County harmless from any legal fees or costs the County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning this permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense."

6. Finally, the public comment letter that was submitted to the Board of Supervisors on November 4, 2008 is attached herein to be included in Exhibit M (Public Comments) of the staff report (Exhibit 4).

Recommendation:

Staff recommends the Planning Commission take the following action:

1. Accept the *Corrections to the Final EIR* in Exhibit 1;
2. Certify that the Final EIR, as based on the findings in Attachment 3 of the staff report and as corrected in Exhibit 3:
 - a. Has been completed in compliance with CEQA;
 - b. Was presented to the Commission and that the Commission reviewed and considered the information contained in the Final EIR prior to approving the project; and
 - c. That it reflects Planning Services' independent judgment and analysis.
3. Adopt the *Mitigation Monitoring and Reporting Program* in Attachment 4 of the staff report, as revised in Exhibit 2; and
4. Approve the design review, DR00-0011, as the required findings can be made as noted in Attachment 2 based on the analysis in the staff report and the modification of the project to include mitigation measures and conditions itemized in Attachment 1, as revised.

CORRECTIONS TO THE FINAL EIR

Upon further review of the 76 Gas Station & Circle K Mini-Mart Final EIR, PMC (EIR consultant) identified the errors in the document. Revisions to the Final EIR correcting these errors are provided below. These corrections do not meet the definition of "new significant information" that would require recirculation of the Draft EIR pursuant to State CEQA Guidelines Section 15088.5. Inclusion of these corrections to the Final EIR would make the Final EIR adequate and complete for certification and use in action on the project.

SECTION 2.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- a. Response to Comment 3-6, the following additional revision is made to clarify the change to Mitigation Measure MM 4.12.6 in the Final EIR between pages 2.0-39 and 3.0-7 (shown in shaded revision marks):

MM 4.12.6 Prior to issuance of certificate of occupancy, the project applicant shall modify the right only lane along the US 50 Eastbound off-ramp at Mother Lode Drive to a through lane as well as provide a deceleration lane for turning into the project site from Mother Lode Drive. This will require addition of a through lane on the departure leg of Mother Lode Drive (eastbound) as well as a right-turn deceleration lane into the project site; ~~this~~ these improvements can be dropped after the project driveway. The project should complete this improvement.

- b. After page 2.0-120, **Figures 2.0-1, 2.0-2, 2.0-3 and 2.0-4** are added to the Final EIR.

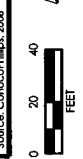
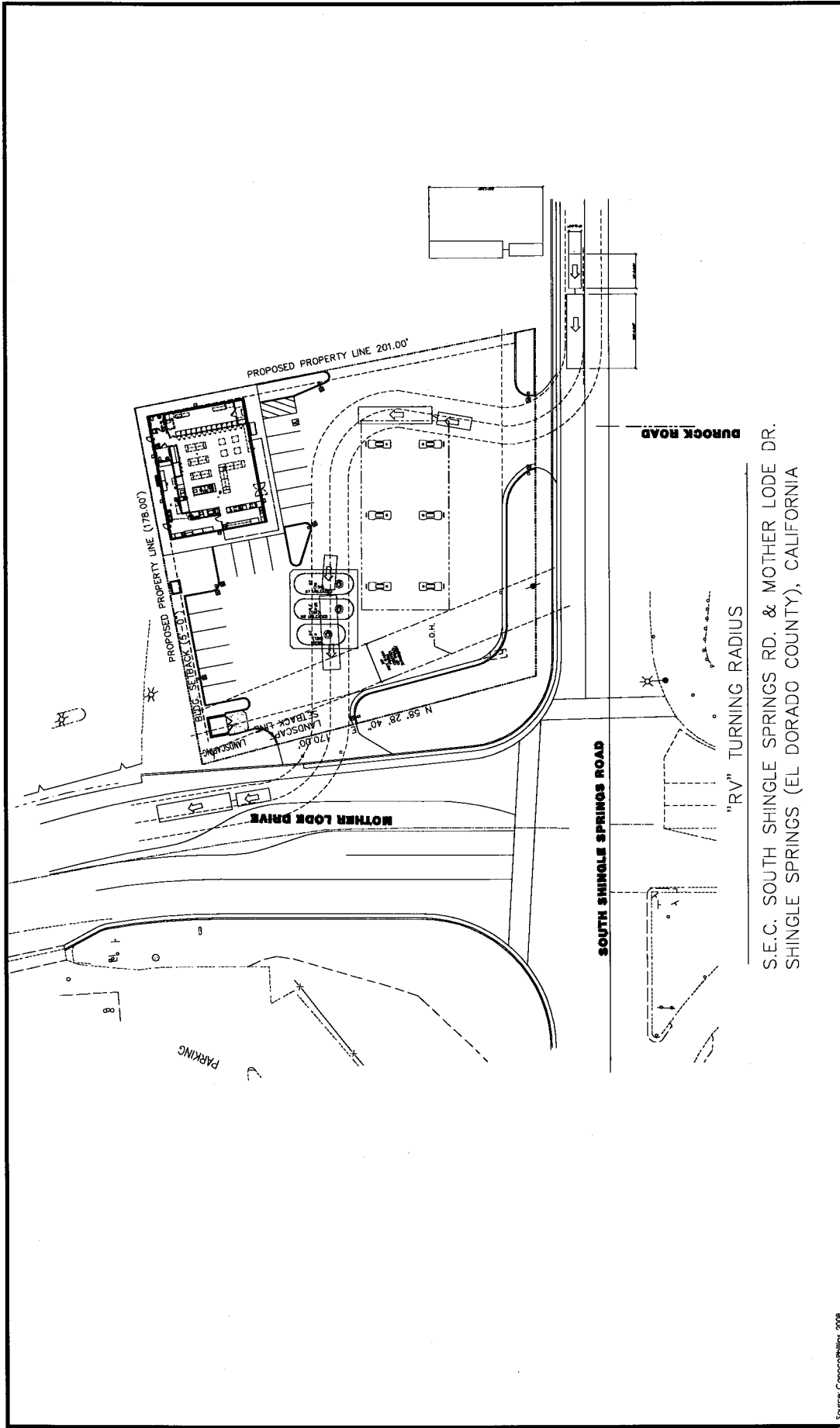
SECTION 3.0 ERRATA

- a. The following edit is made to page 3.0-6 given that edits were made to this section of the Draft EIR and were noted on Final EIR pages 3.0-4 and -5:

~~"4.11 PUBLIC SERVICES AND UTILITIES~~

No changes were made to Section 4.11."

FIGURES 2.0-1, 2.0-2, 2.0-3 and 2.0-4 to follow:

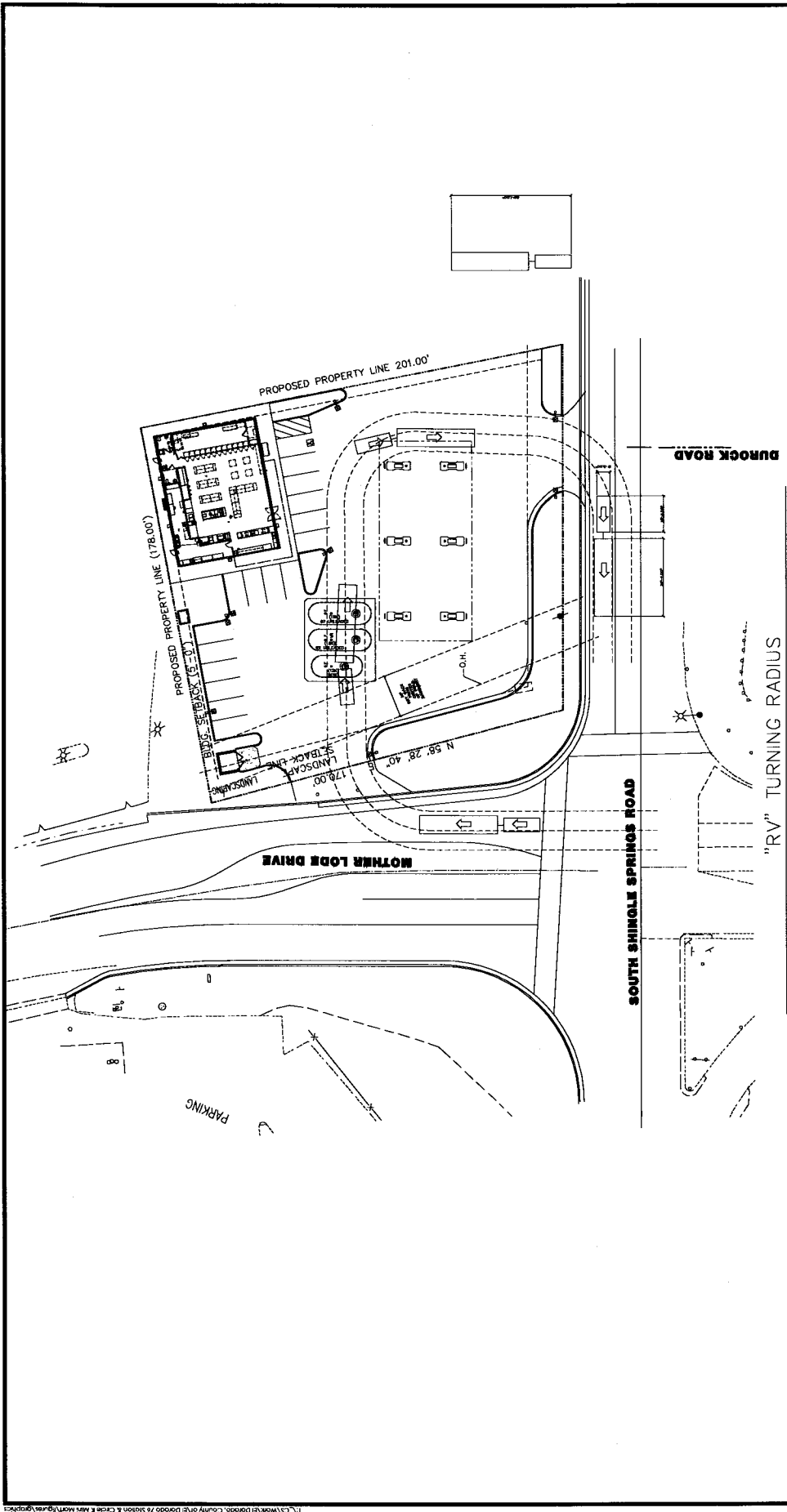


Source: ConceptPlan, 2008

"RV" TURNING RADIUS

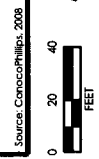
S.E.C. SOUTH SHINGLE SPRINGS RD. & MOTHER LODGE DR.
SHINGLE SPRINGS (EL DORADO COUNTY), CALIFORNIA

Figure 2.0-1
RV Turn Radius Entering From South Shingle Springs Road
PMC

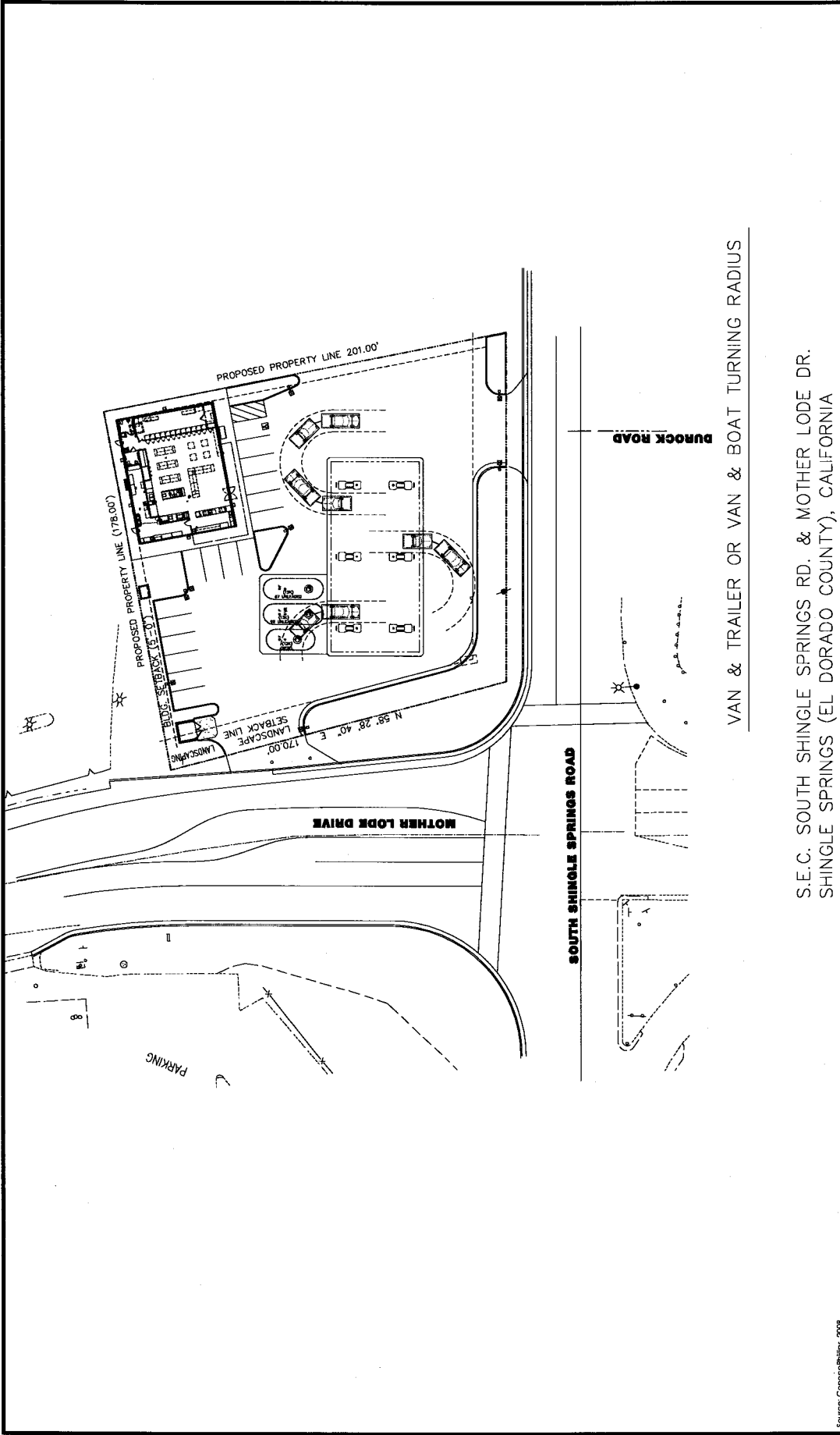


"RV" TURNING RADIUS
 S.E.C. SOUTH SHINGLE SPRINGS RD. & MOTHER LODE DR.
 SHINGLE SPRINGS (EL DORADO COUNTY), CALIFORNIA

Figure 2.0-2
 RV Turn Radius Entering From Mother Lode Drive
PMC



Source: ConocoPhillips, 2008



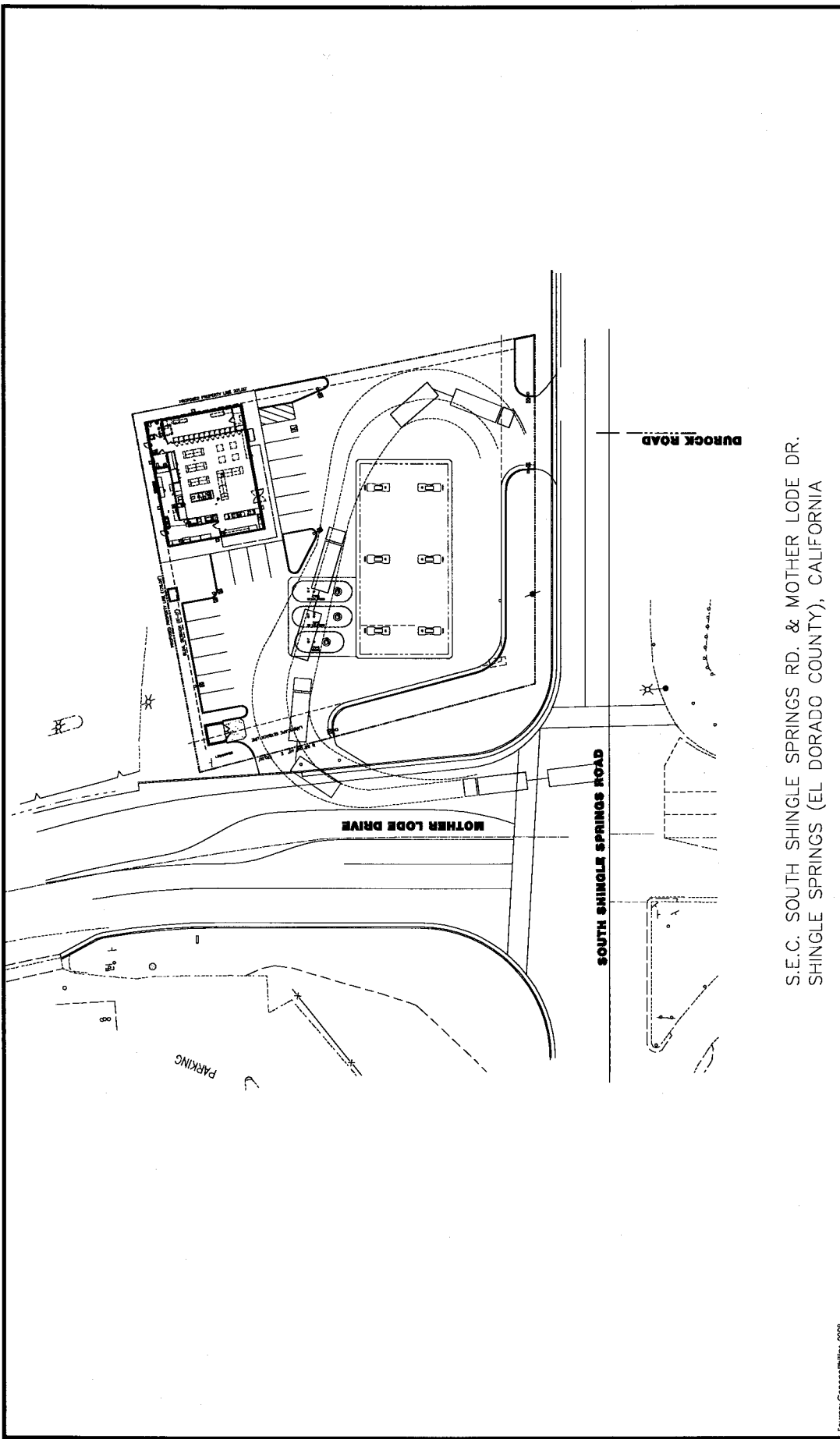
S.E.C. SOUTH SHINGLE SPRINGS RD. & MOTHER LODGE DR.
 SHINGLE SPRINGS (EL DORADO COUNTY), CALIFORNIA

VAN & TRAILER OR VAN & BOAT TURNING RADIUS

Figure 2.0-3
 RV Turn Radius Around Fueling Island
PMC



Source: ConceptPlan, 2008



S.E.C. SOUTH SHINGLE SPRINGS RD. & MOTHER LODE DR.
SHINGLE SPRINGS (EL DORADO COUNTY), CALIFORNIA

Figure 2.0-4
Fuel Tanker Turn Radius
PMC

Source: ConceptMapz, 2008

MITIGATION MONITORING AND REPORTING PROGRAM

Proposed Mitigation	Monitoring Responsibility	Timing	Verification (Date and Initials)
<p>right only lane along the US 50 Eastbound off-ramp at Mother Lode Drive to a through lane as well as provide a deceleration lane for turning into the project site from Mother Lode Lode Drive. This will require addition of a through lane on the departure leg of Mother Lode Drive (eastbound) and a right-turn deceleration lane into the project site; this these improvements can be dropped after the project driveway. The project should complete this improvement.</p> <p>Note: Under a coordinated signal system, improvement to one intersection can affect the other intersections in the system as the improvement at one intersection can alter the timing at another intersection; this can result in an improvement in the level of service at the second intersection. This is the case at this intersection.</p>	<p>Transportation.</p>	<p>issuance of certificate of occupancy.</p>	

CEQA FINDINGS OF FACT CORRECTIONS

- Page 45, the following correction is made given that findings are already made for this impact on page 59 of the CEQA Findings of Fact document:

IMPACT 4.12.3: Potential Design Hazards

~~**Impact Identified in DEIR**—Impact 4.12.3: Implementation of the Circle K Mini Mart/76 Gas Station project would require construction of driveway access within close proximity of the South Shingle Road/Mother Lode Drive intersection, which may produce circulation hazards. However, the project design is not expected to result in a significant increase in traffic hazards.~~

~~**Significance Identified in DEIR**—Less Than Significant~~

~~**Mitigation Measures Identified in DEIR**—None Required~~

FINDINGS OF FACT

~~Based upon the analysis presented in Section 4.0 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with potential design hazards is less than significant because there are no specific design features that would result in undue accident patterns, as long as existing applicable County roadway standards are applied to the improved intersection and driveway accesses. On site circulation in the Short Term Future scenario is expected to consist generally of most traffic utilizing the South Shingle Road access for both inbound and outbound movements. This would necessitate maintaining a clear zone on both sides of the fueling positions so that vehicles can make 180-degree turns to either enter the fueling position locations or to turn to exit to South Shingle Road. In the Future with the South Shingle Road access right in, right out only, it is expected that the circulation pattern will change with most inbound traffic entering via Mother Lode Drive and exiting to South Shingle Road. This would produce a generally clockwise circulation pattern. Traffic entering the site from Mother Lode Drive would have to make a u-turn at either the South Shingle Road/Mother Lode Drive intersection (if allowable) or at the South Shingle Road/Durock Road Intersection, relocated about 350 feet south of the existing South Shingle Road/Durock Road intersection location. *Reference:* Draft EIR page 4.12-28.~~

- Page 59, the following correction is made to the findings associated with Impact 4.12.3:

IMPACT 4.12.3

Impact Identified in DEIR – Impact 4.12.3: Implementation of the Circle K Mini Mart/76 Gas Station project would require construction of driveway access within close proximity of the South Shingle Road/Mother Lode Drive intersection, which may produce circulation hazards.

Significance Identified in DFEIR – Potentially Significant

Mitigation Measure Identified in DFEIR –

MM 4.12.3 Prior to the issuance of building permits, the applicant will provide to the County a cross-sectional view of the South Shingle Road driveway identifying the roadway/driveway intersection as well as the adjacent slope and provide analysis as to this slope's potential to obstruct the view of a site-exiting driver. Any landscaping, signage or any other objects that could obstruct the sight distance shall be prohibited to the satisfaction of the County.

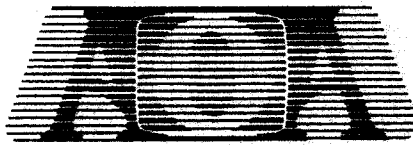
Timing/Implementation: Prior to issuance of building permits

Enforcement/Monitoring: El Dorado County Department of Transportation

Significance Identified in FEIR After Mitigation – Less Than Significant

FINDINGS OF FACT

Based upon the analysis presented in Section 3.0 of the Final EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with project potential to result in circulation hazards from access to South Shingle Road are reduced to a less than significant level with implementation of mitigation measure MM 4.12.3. This mitigation measure would ensure any potential sight distance obstructions associated with the project design for vehicles exiting the site onto South Shingle Road are prohibited. Reference: Final EIR pages 2.0-38 through -40 and May 2009 Corrections to the Final EIR.



22
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EL DORADO COUNTY

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Dr. Dale Smith, H.H.D., General Manager

2008 NOV -4 PM 12: 24

11/4/2008 6:23 AM

TO: The Board of Supervisors, El Dorado County, At the hearing on Project DR00 11 A very important letter from FSSI, Inc., Expert Witness, Daniel T. Smith, delivered to the BOS offices at the earliest possible time this date.

Mr. Dan T. Smith wrote: "The FEIR now labels my above-referenced letters of comment on the DEIR as Letters 1 and 3. In general, the FEIR responses to the substantive issues raised in those comment letters are factually incorrect and/or evasive."

This statement in the second paragraph of the above captioned letter sets the tone for these very important expert witness comments. The full letter is attached.

AOA/FSSI has stressed several times as does Mr. Smith in this letter that El Dorado County has rushed this project to the BOS Hearing without giving proper notice or allowing sufficient time for the public to respond. It therefore, cannot complain about our valiant efforts to get this material into the hands of the Board at the very last moment.

Here are very important highlights from this letter, some of which will be entered into the record at the hearing, the balance and the full Dan Smith letter introduced into the record by this letter transmission filed today.

Dan Smith Letter Page 2: "This response is fundamentally wrong on two counts. The response implies the County must grant waivers to the driveway separation standard regardless of what the traffic characteristics of the proposed land use are. This interpretation of waiver to a traffic safety related standard ignores the County's obligation to act reasonably to protect public safety in granting such a waiver."

Dan Smith Letter Page 2: "The subject interchange improvement project is an El Dorado County sponsored initiative. Caltrans involvement is solely one of oversight and design approval. If Caltrans does not approve a design exception to its standards in the matter of the project's proposed Mother Lode driveway, *it is El Dorado County that will have to pay to reacquire the access rights.*"

Dan Smith Letter Page 3: "... the County plans to initiate the formal Project Study Report and Environmental Analysis for the freeway interchange improvement project wherein it will have to recon with the non-conformity of this project's proposed Mother Lode driveway to Caltrans standards, the County will not be acting reasonably and responsibly. Instead, it will be shooting itself in the foot.

EXHIBIT 4

09-1018.E.13

1 of 2

Dan Smith Letter Page 3: “The response on this matter should have been made through a recirculated DEIR that would have allowed the public a full 45 day review period.”

Dan Smith Letter Page 4: “. . . with the proposed deceleration/right turn lane having to be less than 50 feet long, many cars will not have fully transitioned into the deceleration lane before they reach the driveway. Hence, the proposed mitigation measure will not be effective in preventing the project driveway’s impact of causing high-speed-differential collisions.”

Dan Smith Letter Page 4: “The FEIR response is that enforcement or waiver of standards is some kind of abstract independent action of the County that is not a subject for the process of the environmental review of the project. This response is pure nonsense.”

Dan Smith Letter Page 5: “If queue storage on lanes in the project area that do not directly serve the project obstruct access and egress to lanes that do serve the project, the lanes that do serve the project would be impaired and the addition of project traffic would compound the problem.”

Dan Smith Letter Page 5: “However, it remains undeniable that if the queues projected in the DEIR for this location do materialize, there will be operational problems.”

Dan Smith Letter Page 6: “**Comment and Response 3-12** - The response does not deny that this blocking problem would exist. Instead, it claims that motorists would react to such conditions by exiting onto Mother Lode and make a U-turn at Sunset Lane in order to return to the freeway. There are two significant problems with the response.”

Dan Smith Letter Page 6: “While locally-based customers would be aware of this, the freeway-oriented location of the project will result in many customers being unfamiliar with traffic conditions and the layout of the local street network. Hence, the response does not adequately address the problem.”

Dan Smith Letter Page 7: “. . . because maneuvering impairments are so prevalent, traffic will stack up into the project driveways where it would exacerbate the operational and safety problems that are already a concern because the driveways are at seriously substandard distances from the nearest intersection.”

Dan Smith Letter Page 7: “. . . the FEIR response cites FEIR exhibits **Figures 2.0-1 2.0-2 and 2.0-3**. However, these critical pieces of evidence are nowhere to be seen in the FEIR as circulated. Because of the missing Figures 2.0-1 2.0-2 and 2.0-3, the FEIR is deficient as an information document and cannot be certified.”

And there are many more like this and of course all the details and supporting evidence are cited by the FSSI, Inc. Expert Witness Dan T. Smith, Smith & Smith Engineering & Management in the following separate document.



SMITH ENGINEERING & MANAGEMENT

*rec'd by BOS 11/4/08
@ 12:24pm*

November 4, 2008

Ms. Lillian MacLeod, Senior Planner
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

Subject: **SCH No. 2002042112**

Dear Ms. MacLeod:

I am a registered civil and traffic engineer engaged by the Friends Of Shingle Springs for purposes of providing them with professional assistance in their review the 76 Gas Station and Circle K Mini-Mart Final Environmental Impact Report SCH No. 2002042112 (hereinafter "the FEIR"). I previously provided comments on the Draft Environmental Impact Report (hereinafter "the DEIR") in letters dated January 10, 2006 and January 25, 2006. My qualifications to perform this review are thoroughly documented in my letter of January 25, 2006.

The FEIR now labels my above-referenced letters of comment on the DEIR as Letters 1 and 3. In general, the FEIR responses to the substantive issues raised in those comment letters are factually incorrect and/or evasive. My detailed comments on the FEIR follow.

Comment and Response 3-2

Comment and Response 3-2 concern the fact that the County must accept a very substantial non-conformity to its' driveway separation standards contained in El Dorado County Standard 109 in order to approve the project. The response notes that the County Engineer has the discretion to permit exceptions to the standard, a point that has never been at issue. The response goes on to state that the site does not have enough frontage to possibly meet the standard, also an agreed-upon fact. Finally, the response asserts that since the driveway separation standard cannot be met on this parcel, the County is obligated to grant a relaxation of the standard in order to permit access to the site (also citing Response 1-2 that says the same thing).

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09-1018.E.15

This response is fundamentally wrong on two counts.

- It implies the County must grant waivers to the driveway separation standard to allow access from *both* the South Shingle frontage and the Mother Lode frontages. In fact, the County's obligation to allow some access to the parcel would be met by permitting access to the parcel from one frontage – whichever one is considered least detrimental to traffic operations and safety. Evidence presented in our prior comments and revisited subsequently herein indicate that the less detrimental access would be that from South Shingle, not Mother Lode.
- The response implies the County must grant waivers to the driveway separation standard regardless of what the traffic characteristics of the proposed land use are. This interpretation of waiver to a traffic safety related standard ignores the County's obligation to act reasonably to protect public safety in granting such a waiver. While it might be reasonable to grant a waiver to permit a low traffic intensity use on this site, a combination of gas station and convenience market is an extremely high traffic intensity use, probably the maximum traffic intensity use that could possibly fit on the site. In fact, the proposed use is the traffic equivalent of having a 15 to 25 story office building (depending on whether peak hour or daily traffic is considered) with a footprint the same size as the combination of fueling canopy and convenience market. There is no evidence the County has ever considered what traffic intensity of use on the site might be the maximum reasonable for a waiver of the driveway separation standards to be granted.

Comment and Response 3-4

Our comment now labeled 3-4 in the FEIR noted that the proposed project driveway to Mother Lode is also in violation of Caltrans standards for driveway location and that this violation would need to be addressed in the reconstruction of the U.S. 50 - Ponderosa Interchange that the County now contemplates and that the project itself counts on as a long range traffic mitigation. The FEIR response states that the subject development project would be constructed before the interchange improvement and that if Caltrans wants the interchange area to conform to design standards, Caltrans will have to acquire the access rights needed to do so.

This response is incorrect. The subject interchange improvement project is an El Dorado County sponsored initiative. Caltrans involvement is solely one of oversight and design approval. If Caltrans does not approve a design exception to its standards in the matter of the project's proposed Mother Lode driveway, *it is El Dorado County that will have to pay to reacquire the access rights*. Hence, if it waives standards to permit two driveways to the project site when its obligation to provide access to the site could be met by allowing only one non-conforming driveway, if it fails to consider the extreme traffic intensity of the proposed use and

linking the waiver of traffic safety-based driveway standards to construction of a non-traffic-intense use, if it fails to account for the fact that in the next year the County plans to initiate the formal Project Study Report and Environmental Analysis for the freeway interchange improvement project wherein it will have to recon with the non-conformity of this project's proposed Mother Lode driveway to Caltrans standards, the County will not be acting reasonably and responsibly. Instead, it will be shooting itself in the foot.

Comment and Response 3-5

This comment pointed out that the DEIR was inadequate as in information document because it failed to disclose the fact of the substantive issue discussed in 3-4 above, that the project's proposed Mother Lode driveway does not conform to Caltrans standards and the fact that would be an issue in the design and approval of the County's proposed interchange improvement. The FEIR refers to Responses 1-2, 3-2, and 3-4, implying that they correct the informational deficiency of the DEIR. This response by reference is not correct or responsive to the issue in Comment 3-5 for two reasons.

- As noted in previous sections herein, Responses 1-2, 3-2 and 3-4 are not adequate and factually correct.
- The undisclosed fact that the County's proposed action with respect to the project's Mother Lode driveway compromised the conformity, safety and increased costs of the proposed improvements to the U.S. 50 - Ponderosa Interchange is a substantial defect in the DEIR and a substantial concern for the public. When the issue is responded-to only in the context of a FEIR, the brief time period available for public review and comment on an FEIR deprives the public of adequate time to consider, understand and comment on the issues involved. The response on this matter should have been made through a recirculated DEIR that would have allowed the public a full 45 day review period.

Comment and Response 3-6

Our comment now labeled 3-6 in the FEIR response documents that driveway separation standards such as the previously cited El Dorado and Caltrans driveway separation standards are based on scientific traffic research studies. The FEIR response does not dispute this point.

The FEIR response summarizes the traffic research findings in a manner that implies that in causing slower traffic speeds on the road segment containing the project's Mother Lode driveway, the project would improve traffic safety. This is the exact opposite of the situation. By slowing traffic near a closely placed driveway, the presence of that driveway increases the speed differential between slowed vehicles and

vehicles emerging from the off-ramp at near-freeway speeds when the off-ramp has the green signal indication. This increases the potential for high-speed-differential collisions that result in injuries and serious property damage. The FEIR response does ultimately admit that the project's Mother Lode driveway would increase the potential for speed differential collisions. In response, it proposes a mitigation measure (MM 4.12.6) that requires provision of a deceleration/right turn lane on the eastbound approach of Mother Lode. Unfortunately, Exhibit E to the County's staff report for the scheduled November 4 hearing on the project reveals that the project's driveway to/from Mother Lode is less than 50 feet from the curb return of the intersection of Mother Lode with South Shingle and the freeway ramps. Therefore, the proposed deceleration lane will be less than 50 feet in length. Caltrans Highway Design Manual Topic 206.2(2) indicates that normal transition length for right turn deceleration lanes is 120 feet but that for low design speeds, shorter lengths are permissible. However, the implication of is that with the proposed deceleration/right turn lane having to be less than 50 feet long, many cars will not have fully transitioned into the deceleration lane before they reach the driveway. Hence, the proposed mitigation measure will not be effective in preventing the project driveway's impact of causing high-speed-differential collisions.

Comment and Response 3-7

This comment indicated that the cited traffic safety research provided compelling evidence that there is a fundamental traffic safety basis for the El Dorado County and Caltrans driveway separation standards and that there would likely be serious adverse safety consequences for the public if the standards were waived to permit the proposed project. The FEIR response is that enforcement or waiver of standards is some kind of abstract independent action of the County that is not a subject for the process of the environmental review of the project. This response is pure nonsense. The project could not take place without such a waiver. The waiver of driveway standards by the County is an action that is integral with the review and approval of the project. The response is incorrect and inadequate.

Comment and Response 3-8

This comment noted that the queue length projections contained in the capacity calculations sheets that were included in the DEIR indicate that excessive queue lengths on some movements of road sections in the project area. The implication is that such queues could result in operational/safety problems on road segments and at intersections used by project traffic and lower actual level-of-service conditions at the intersections than indicated in the DEIR's theoretical calculations. The DEIR response states that "*those turn lanes that would serve the project were determined to have adequate storage capacity*".

Ms. Lillian MacLeod
November 3, 2008
Page 5

This response, in focusing solely on the theoretical condition of lanes directly used by project traffic, evades the critical issue. If queue storage on lanes in the project area that do not directly serve the project obstruct access and egress to lanes that do serve the project, the lanes that do serve the project would be impaired and the addition of project traffic would compound the problem. This is the significant consideration that the FEIR response and the original analysis in the DEIR fail to address.

Comment and Response 3-9

This comment concerned a specific instance where queued traffic on lanes used by other traffic could obstruct lanes that would be used by project traffic. Contrary to the statement in FEIR Response 3-9, our comment did not recommend against installing the signal at the intersection of South Shingle and Durock that has subsequently been installed. The implication of the comment was and is that the consequences from queue backups as projected in the DEIR from a South Shingle – Durock signal on the operation of the South Shingle – Mother Lode – eastbound freeway ramps intersection made it appear that such a signal could create worse problems than those it solved. If the queues projected in the DEIR have not yet materialized, that is fortuitous. However, it remains undeniable that if the queues projected in the DEIR for this location do materialize, there will be operational problems.

Comment and Response 3-10

This comment concerned potential operational difficulties associated with queuing that would potentially affect the project's direct access from southbound South Shingle until such time as the Durock Road intersection is relocated southward as part of the interchange improvement project.

The response notes the existence of the project's other proposed access from Mother Lode, a point that is irrelevant since that Mother Lode access was considered in the DEIR traffic projections for the access from South Shingle that led to the comment. The response's observation that the problem would only exist until the interchange improvements are completed is a point that is already acknowledged.

Comment and Response 3-11

Response 3-11 misconstrues the original comment on the DEIR. The comment began with a conditional statement ("If queues in the left turn lane from southbound South Shingle to the project's access drive were projected to exceed storage capacity..."). We note that the queue analysis computation sheets appended to the DEIR failed to include any headings that would allow identification of which sheets corresponded to particular analysis scenarios, a condition that, in Comment 1-1 on January 10, 2006, we requested be rectified in an expedited manner before the period for comment on the

Ms. Lillian MacLeod
November 3, 2008
Page 6

DEIR had expired on January 27, 2006. In fact, the County never complied with this request until issuance of the FEIR in September, 2008. Hence, the conditional nature of the comment.

The County's failure to provide appropriately identified traffic calculation sheets during the period of DEIR review should be cause for circulating the current document in draft status rather than as an FEIR.

Comment and Response 3-12

This comment concerned the potential for traffic queues on northbound South Shingle blocking exit from the project's South Shingle driveway, especially for those needing to make a left turn at the intersection with Mother Lode in order to get back to the freeway eastbound.

The response does not deny that this blocking problem would exist. Instead, it claims that motorists would react to such conditions by exiting onto Mother Lode and make a U-turn at Sunset Lane in order to return to the freeway. There are two significant problems with the response. First, traffic that entered from the Mother Lode access and is moving clockwise through the service bays is unlikely to attempt to do a reverse maneuver to exit back to Mother Lode, especially given the constrained maneuvering room around the fueling positions of the layout proposed. Second, the maneuver suggested depends on pre-knowledge of traffic conditions and the layout of the local street network. While locally-based customers would be aware of this, the freeway-oriented location of the project will result in many customers being unfamiliar with traffic conditions and the layout of the local street network. Hence, the response does not adequately address the problem.

Comment and Response 3-13

This comment addressed the same lack of appropriate identification on traffic computation sheets touched on above in the discussion of Response 3-10. Response 3-12 observes that appropriately identified traffic computation sheets are now provided in the FEIR. However, this response does not address the issue that this critical data with appropriate identification should have been circulated with the report in Draft status. Circulation as part of an FEIR deprives the public of the full 45 day review period it deserves to comment on this important information.

Comment and Response 3-14

This comment cited instances where the traffic calculation sheets in the DEIR provide clear evidence where excessive queues would obstruct operations at upstream intersections.

The response acknowledges the future existence of major blockages by downstream queues, but claims the DEIR traffic analysis demonstrates that permissible LOS E conditions would not be exceeded. However, this response ignores a fundamental point: frequent queue blockages of upstream intersections can cause operational and safety problems that are significant, even if intersection LOS E conditions (conditions that tolerate everything up to complete functional breakdown of the intersection) are not exceeded.

Comments and Responses 3-15 through 3-23

Our comments now labeled Comments 3-15 through 3-23 in the FEIR response concerned the ability of various vehicles and vehicle combinations that would frequent the project site to maneuver to and from various positions on the project site. The essential point in the comments is that the tight layout of the project site makes it difficult or impossible for drivers to maneuver to or from many positions on the project site, and because maneuvering impairments are so prevalent, traffic will stack up into the project driveways where it would exacerbate the operational and safety problems that are already a concern because the driveways are at seriously substandard distances from the nearest intersection.

The response, citing use of an updated site plan and a different source of turning templates (ones that we acknowledge are also authoritative) than those relied on in the comments, claims that the site is fully navigable by the most critical vehicle combination to visit the site. In attempting to demonstrate its conclusion, the FEIR response cites FEIR exhibits **Figures 2.0-1 2.0-2 and 2.0-3**. However, these critical pieces of evidence are nowhere to be seen in the FEIR as circulated. Because of the missing Figures 2.0-1 2.0-2 and 2.0-3, the FEIR is deficient as an information document and cannot be certified.

The absence of missing Figures 2.0-1, 2.0-2 and 2.0-3 makes it impossible to fully evaluate the response. However, we note that in many instances the response a) admits the constraint we identify but claim the constraint is commonplace at some gas stations, b) admits the constraint but claims it can be overcome by undesirable multi-part maneuvers, or c) admits the constraints exist but claims that drivers will overcome it by using an easier to access or egress fueling position. In one instance, the response indicates that the constraint can be overcome by the obviously hazardous maneuver of backing into the driveway. In another instance, the response indicates that the constraint can be overcome by making a tortuous U-turn across the south portion of the site to exit via the driveway of entry – a maneuver that would freeze most maneuvers on or entering the southern portion of the site while it was being completed. While the response in some way speaks to every constraint identified in the comments, it does not address the cumulative condition that emerges from these constraints. That

Ms. Lillian MacLeod
November 3, 2008
Page 8

condition is one of so many maneuvering constraints existing that at moments of peak usage, there will be frequent times when on-site traffic queues into or blocks the driveways. As noted above, this condition exacerbates the operational and safety deficiencies that exist because the driveways would be a far substandard distance from the South Shingle-Mother Lode – eastbound freeway ramps intersection.

The sequences of responses on this topic go on to state at more than one point that the ability of drivers to maneuver various vehicle types to various fueling positions on-site is not a matter subject to CEQA review. However, as we have noted, the pattern of maneuvering difficulties on this site are so extensive as to have likely effect traffic operations and safety on the public streets at the interfaces with the project's driveways. Where this potential effect exists, the consequences of on-site layout certainly are an issue subject to CEQA review.

Comment and Response 3-24

This comment noted that the lack of even approximately-to-scale conceptual drawings of the more complex mitigations deprives the public of the ability to reasonably understand and comment on the mitigation measures being proposed, rendering the DEIR inadequate as an information document.

The FEIR replies by admitting that it has not provided even conceptual illustrations of proposed roadway mitigations but claims its narrative descriptions are sufficient. The FEIR also provides no illustration of its new traffic mitigation proposal – a deceleration lane leading to the project's Mother Lode driveway. This reply is inadequate and unresponsive and the FEIR remains inadequate as an information document.

Comment and Response 3-25

This response reasonably clarifies the nature of the internal connection between the project site and the Family Chevrolet site as a mutual convenience service access not intended for public use. Thank you.

Comment and Response 3-26

This comment expressed concern that the assumed trip generation reduction for "internal capture" is inappropriate since the trip generation rate for the land use category of the combined service station – convenience market already accounts for the internal capture that takes place between these combined uses. The FEIR response, which cites trip reduction statistics allowable by other sources, does not respond to the issue involved in the comment – that the trip generation rate for the combined usage category relied upon in the DEIR traffic analysis has already taken into account 'internal capture' so that the 5 percent internal capture discount of project trip

Ms. Lillian MacLeod
November 3, 2008
Page 9

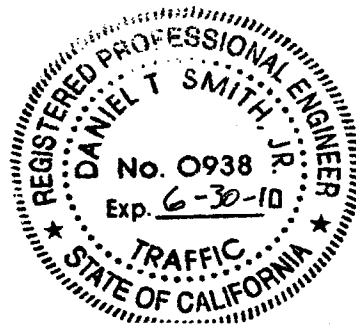
generation taken in the analysis is a double discount. Because the FEIR now shows that even with mitigation, some of the intersections near the project would remain relatively high in the LOS E range (that is, close to unacceptable conditions), the inappropriate discount of project trips could lead to an erroneous conclusion as to whether the project's traffic impacts are adequately mitigated or not.

Conclusion

This concludes our current comments on the FEIR. Based on the information described above, we do not believe the FEIR is adequate for certification.

Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith, Jr., P.E.
President