

STAFF MEMO-ATTACHMENT 5

RESPONSE TO COMMENT LETTER (CITIZENS FOR SENSIBLE DEVELOPMENT)

Citizens for Sustainable Development Letter – Dated 1/11/18

Response 1

This comment, which is characterized by the commenter as not part of its “formal” CEQA comments, is noted and will be presented to decision makers prior to project approval. To the extent that the comment may be read to assert that the proposed project’s impact on the environment cannot be mitigated to a less than significant level, please note that the EIR provided analysis and supporting evidence to demonstrate that the proposed project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level. Also see Master Responses 2 and 3 for a discussion with respect to the site-specific nature of the proposed entitlements and revisions to County planning documents, and the EIR’s evaluation of related environmental impacts. Any other residential project proposed in the County that is seeking similar entitlements would still need approval from the County on a case-by-case basis. Finally, to the extent that the comment is asserting that public comments have not been received by the County in compliance with CEQA’s requirements, the comment is incorrect. The County provided all required notice and provided opportunity for public comment on the Notice of EIR Preparation, the Draft EIR, and Final EIR, and all public comments received by the County have been made a part of the administrative record and provided to decision makers prior to any action being taken regarding certification of the EIR or approval of the proposed project.

Response 2

The commenter is correct in stating that the proposed project would be inconsistent with the El Dorado Hills Specific Plan (EDHSP) as currently in effect. For this reason the applicant is requesting an amendment to the EDHSP as part of the project, to allow multi-family residential development. This amendment would render the project consistent with the EDHSP. As discussed in Master Response 2, the Draft EIR evaluated and disclosed the environmental effects of the requested entitlement and provided analysis and supporting evidence to demonstrate that the proposed project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level.

Response 3

The commenter is correct in stating that the proposed project could be viewed as inconsistent with the County’s General Plan as currently in effect. For this reason the applicant is requesting an amendment to the General Plan to allow a density of up to 47 units per acre on the project site. Please note that the proposed density would apply only to the project site and not to any other parcel in the County. The new density standard is contained in the “Site Specific Policy Section” of the General Plan, the Objective of which states that “site specific policies are given to provide additional, specific direction for the development of land where circumstances apply to areas of special interest.” See General Plan, Objective 2.2.6. The project would add Policy 2.2.6.6 as one such site-specific policy, applicable only to the Project

site, because, as the new Policy states, “the development and implementation of extensive commercial, residential and office development provides a unique opportunity to serve the needs of residential uses sited within a short enough distance to allow biking, walking and other alternative modes of transportation to avail themselves of goods and services.” For this reason, the Policy designates the project site as “Urban Infill Residential Area” and deems it to be “appropriate for dense infill development.” As discussed in Master Responses 2 and 3, the Draft EIR evaluated and disclosed the environmental effects of the change in density at this site and provided analysis and supporting evidence to demonstrate that the proposed project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level.

The comment also misinterprets portions of the section “Using the Plan” found at the end of the introduction of the County’s General Plan, to the extent that the comment is asserting that generally-applicable density limits found in the General Plan cannot be altered. This is not true. The general plan is a “living” document that changes with changing local conditions and community priorities and can be amended up to four times a year according to state law (California Govt. Code § 65358[b]), to include changes in density. Moreover, as discussed above, the General Plan includes a “Site Specific Policy Section” to provide for variations from generally applicable land use regulations, where appropriate at a particular location. With the proposed amendments to the General Plan, the proposed project would be consistent with the General Plan. In addition, with the proposed amendments to the EDHSP, zoning code, and Town Center East (TCE) development plan, those documents will also be consistent with the County’s General Plan

Response 4

General Plan Policy 2.1.1.3 only applies to projects that combine commercial and residential uses. While the proposed project would place residential uses within an existing commercial area and thus create a horizontal mixed-use environment within the broader TCE area, this policy does not apply to the proposed project, as the proposed project consists of residential uses only: no commercial uses will be constructed at the project site.

However, even if General Plan Policy 2.1.1.3 did apply to the proposed project, as discussed above, the requested change in zoning to 47 units per acre would not result in significant environmental impacts that cannot be mitigated to a less than significant level. With respect to the provision in General Plan Policy 2.1.1.3 regarding adequate infrastructure, the commenter is incorrect in implying that there is not adequate infrastructure in the TCE area to serve the proposed project and existing development. A discussion of water and wastewater infrastructure is provided in Section 4.9, Utilities, of the Draft EIR. The proposed project would not require an upgrade or extension to the existing off-site water

infrastructure system in the area. In addition, while portions of the trunk sewer line located in El Dorado Hills Boulevard may not have adequate capacity to handle project flows, an upgrade to the line is included in the EID's 2014-2018 Capital Improvement Plan, and the proposed project would pay fees towards the planned improvements as required by Mitigation Measure UTL-4.

With respect to transportation infrastructure, the traffic analysis prepared for the proposed project found that traffic from the project would negatively affect one County-owned intersection (El Dorado Hills Boulevard/Saratoga Way/Park Drive) under near-term cumulative (2027) conditions. To address this impact, mitigation is proposed that would require the proposed project to pay into the County's Traffic Impact Mitigation (TIM) fee program to pay for the project's fair share cost of the improvement at the affected intersection, and this impact would be reduced to a less than significant level. Please note that an analysis under near-term cumulative (2027) conditions is no longer required for non-residential development or non-single family residential subdivisions, and the impact on this intersection is therefore not considered a significant environmental impact under CEQA requiring mitigation. However, the project applicant has voluntarily agreed to implement the previously-identified mitigation. In addition, the traffic analysis prepared for the proposed project found that traffic from the project would negatively affect one private intersection (Town Center Boulevard/Post Street) under both near-term cumulative (2027) and long-term cumulative (2035) conditions. As the intersection is privately owned, it is not subject to the County's thresholds of significance and no determination of the significance of the project's impact at this location is included in the Draft EIR. However, the project applicant and the owner of the right-of-way (ROW) of the Town Center Boulevard/Post Street intersection have voluntarily agreed to mitigate this impact below the County's threshold of significance applicable to County-owned facilities, with the installation of a traffic signal prior to occupancy of the proposed project.

Finally, Section 130.40.180 of the El Dorado County Code also does not apply to the proposed project as it regulates mixed-use development. As the County states in its Findings, "the project is not a mixed-use development within its boundaries. However, as part of the TCE area, the project could achieve and promote the benefits of a mixed-use development."

Response 5

See Response 10 below.

Response 6

See Responses 2 and 3, above. The proposed project would be consistent with the County's General Plan, the EDHSP, and the TCE development plan with the approval of the requested entitlements. The requested entitlements and proposed project will be considered by decision makers at the same hearing.

There is no requirement that the requested entitlements be approved prior to the hearing to consider the proposed project.

Response 7

Planning staff and the project applicant have considered the comments of El Dorado Hills Area Planning Advisory Committee (APAC) and the public. Moreover, in response to APAC's comments, the project applicant has voluntarily agreed to install a traffic signal at the intersection of Town Center Boulevard/Post Street at the time of project construction, instead of installing the signal when intersection operations reach LOS F and applicable traffic signal warrants are satisfied (as previously agreed to by the applicant, per the original version of Mitigation Measure C-TRANS-2).

Response 8

The current development standards located in the TCE development plan only cover the development of commercial uses in the TCE area. As a result, it was necessary for the proposed project to include design guidelines and development standards that cover the development of high density residential uses on the project site. As discussed under Policy 2.1.2 of the new guidelines and standards, the architecture of the buildings "should be consistent and compatible with the context of the existing community and neighborhood. The buildings should be compatible with the existing buildings within both Town Center East and Town Center West. Elements of the buildings should incorporate the use of high quality materials and create buildings that are similar in quality to the existing Town Center developments." For this reason, it is incorrect to conclude that the proposed project has not been designed to match and complement the existing architectural theme and features in the TCE area.

The new document includes both design guidelines and development standards. Therefore, it is incorrect to state that the document only includes design guidelines. The design guidelines cover such aspects as architectural character, site planning, architectural design and materials, lighting, and landscaping while the development standards cover such aspects as permitted uses, maximum height, minimum setbacks, provision of common open space, green building standards, signage, screening, water conservation, and planting. Guidelines are generally open to interpretation and are meant to encourage innovation while standards are objectively measureable and required. However, both are fully enforceable, as the proposed project would undergo design review where the project's design will be compared against the guidelines and standards.

Response 9

As discussed above in Response 6, there is no legal requirement that the requested entitlements be approved prior to the hearing to consider the proposed project.

Response 10

The alleged discrepancies between the General Plan and EDHSP that are noted in this comment are unrelated to the proposed project and the project EIR. As discussed in Section 4.8, Land Use, of the Draft EIR, with the approval of the requested amendments to the General Plan and EDHSP, the proposed project would be consistent with the land use designations for the project site contained in both the General Plan and in the EDHSP. In addition, the proposed project would be consistent with applicable policies listed in the land use and housing elements of the General Plan. As discussed above, the EIR provided analysis and supporting evidence to demonstrate that the proposed project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level, including impacts from project traffic on the existing and future roadway network in the TCE area.

Response 11

The commenter is incorrect in stating that there is little to any information provided to decision makers with respect to the consistency of the proposed project with applicable land use plans. Section 4.8, Land Use, of the Draft EIR, provides a discussion of the consistency of the proposed project with the County's General Plan, EDHSP, zoning code, and TCE development plan. As discussed in Section 4.8, the proposed project would not conflict with applicable land use plans with approval of the requested entitlements.

Response 12

It is the County's interpretation that General Plan Policies TC-Xa(1) and TC-Xa(3) only apply to publicly-owned highways, arterial roads and their intersections, as the County has no jurisdiction over private roadways and their intersections and thus cannot mandate improvements to these privately-owned facilities. As discussed in Section 4.8, Transportation and Traffic, of the Draft EIR, one intersection—the private intersection of Town Center Boulevard/Post Street—would operate at an unacceptable level of service (LOS F) under long-term cumulative (2035) conditions prior to the addition of project traffic, and the addition of project traffic would worsen LOS F conditions at this intersection. Regardless of the County's interpretation of TC-Xa(1) and TC-Xa(3) as not applying to private facilities, the project applicant and the owner of the right-of-way (ROW) of the Town Center Boulevard/Post Street intersection have voluntarily agreed to mitigate this impact below the County's threshold of significance applicable to County-owned facilities with the installation of a signal. In addition, the project applicant has also voluntarily agreed to install that traffic signal at the time of project construction, before conditions reach LOS F, instead of installing the signal when intersection operations reach LOS F and applicable traffic signal warrants are satisfied (as formerly required by Mitigation Measure C-TRANS-2). For these reasons, the proposed project satisfies the requirements found in General Plan Policies TC-Xa(1) and TC-Xa(3).

Response 13

The commenter's interpretation of *Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809 is incorrect. According to that court ruling, alleged inefficiencies in the flow of cars on the private property where the project (car wash/coffee shop) would be located – as opposed to the flow on public streets – are not cognizable traffic impacts for CEQA purposes. In relevant part, the court in *Walters* stated: “Appellants also cite no authority suggesting that parking issues or the movement of cars on the property may be considered “traffic” as defined by CEQA. The Guidelines and case law clarify that traffic impacts for CEQA purposes relate to the flow of vehicles in public spaces. . . . The movement of cars on the property affects only those persons on the property, not the general public.” The commenter's interpretation of *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 782 is also incorrect. While the general public is permitted to access the TCE area, the area is still under private control and thus is not a “public” area. Regardless, the commenter's concerns about cognizable CEQA impacts at the intersection of Town Center Boulevard/Post Street are now moot, as the project applicant has voluntarily agreed to install a traffic signal at the intersection of Town Center Boulevard/Post Street at the time of project construction.

Response 14

It is not the policy of the County to exercise its eminent domain powers to take property from one private owner—in this case the owner of the TCE development, which owns the intersection of Town Center Boulevard/Post Street, to benefit another property owner—in this case, the project applicant. Consistent with state and federal constitutional law, the County may only take private property for a public use. Again, the commenter's concerns about the intersection of Town Center Boulevard/Post Street are moot, as the project applicant has voluntarily agreed to install a traffic signal at the intersection of Town Center Boulevard/Post Street at the time of project construction.

Response 15

As discussed in Response 5-4 of the Final EIR, there are approximately 3,325 acres of land designated for commercial land use in El Dorado County, not counting commercial land uses within Specific Plan areas and incorporated cities in the County. At 4.56 acres in size, the loss of the site for potential retail and commercial uses does not represent a substantial decrease in the potential for development of such uses. With respect to the County's jobs-to-housing balance, while the project would increase the imbalance slightly, it would increase the rental housing stock and satisfy the need for rental housing in this part of the county (see Master Response 4, of the Final EIR, for a complete discussion of this issue). Finally, as discussed in Response 8 above, Policy 2.1.2 of the new design guidelines and standards would require that the design of the proposed project be consistent and compatible with the context of the existing

neighborhood and buildings. As a result, it is incorrect to state that the project would not be compatible with the existing architectural style of existing structures in the TCE area.

Response 16

As discussed in Response 5-4 of the Final EIR, CEQA requires an evaluation of a project's consistency with applicable plans and policies that were adopted by the jurisdiction for the purpose of avoiding or mitigating an environmental effect. The Economic Element of the County General Plan does not contain policies for mitigating environmental effects of development. Therefore any inconsistency of the proposed project with the Economic Element or its objectives is outside the purview of CEQA and no such analysis is required. As discussed in Section 4.5, Land Use and Planning, of the Draft EIR, the proposed project complies with applicable goals and policies of the County's General Plan that were adopted for the purpose of avoiding or mitigating an environmental effect.

The commenter disputes the County Staff's interpretation of how selected objectives and policies listed in the Economic Development element of the County General Plan apply to the proposed project, which were provided for informational purposes only, as the objectives and policies lay outside the purview of CEQA. The determination whether the proposed project is consistent with these objectives and policies ultimately rests with the decision makers who have authority to approve the project.

Response 17

This comment is noted and will be presented to decision makers prior to project approval.

Response 18

As discussed above in Response 12, the project applicant has voluntarily agreed to install a traffic signal at the time of project construction. Although considered "voluntary" because it is not required by CEQA, the conditions of approval proposed for the project will require that the project applicant implement this mitigation prior to occupancy of the project. For this reason, the mitigation will not occur at an "unknown time," or only be a "possible" mitigation measure.

Response 19

The 2014 Corridor System Management Plan (CSMP)/Transportation Concept Report (TCR) for US 50 indicated that the westbound segment of El Dorado Hills Boulevard/Latrobe Road to the County line is currently operating at LOS F. The commenter replicated the analysis that was conducted in 2014 for the 2014 CSMP)/TCR for U.S. 50 using an updated version of Highway Capacity Software (HCS 2010), which also concluded that the westbound segment is currently operating at LOS F. In October 2016, the El Dorado County Community Development Agency received a letter from the California Department of Transportation (Caltrans) titled *US Highway 50 (US 50) Traffic Volumes and Level of Service (LOS) Meetings*

Summary, October 11, 2016. The letter summarizes the outcome of several meetings between Caltrans and the County to discuss analysis inputs and methodology related to planning-level analysis of westbound US 50 between El Dorado Hills Boulevard/Latrobe Road and the County line. As discussed in the October 2016 letter, Caltrans provided the County with peak hour traffic volumes that were taken in Spring 2015. The county then used those inputs to provide an update LOS analysis which showed that the current LOS on the westbound segment is LOS E. As discussed in the letter, Caltrans accepted and agreed with the results of the County's updated LOS analysis.

Response 20

As discussed in Response 5-15 of the Final EIR, the Water Supply Evaluation (see Appendix 4.9 of the Draft EIR) that was prepared for the proposed project indicated that water demand associated with the proposed project would be served by existing El Dorado Irrigation District (EID) supplies under normal, single-dry, and multiple dry years, and the development of the proposed project would not result in the need for new or expanded water supply entitlements. A surplus of supply is projected for all years under Normal Year, Single Dry Year, and Multiple Dry Year conditions. The lowest projected surplus of 9,581 acre-feet per year occurs in 2040 during the third year of a Multiple Dry Year period. The projected surplus in 2040 during the third year of a Multiple Dry Year period would be reduced to 2,706 acre-feet per year if two future water supply projects - water under the El Dorado-Sacramento Municipal Utility District (SMUD) Cooperation Agreement and a water entitlement derived from El Dorado County Water Agency Fazio water supply - were not included, but a surplus of supply would still exist based on the currently available supply sources. For these reasons, there would be no need to utilize water reserved for agricultural uses. Therefore, an analysis of the impact to agricultural water needs is not necessary at this time.

Response 21

See Response 3 above. This comment is noted and will be presented to decision makers prior to project approval.

Response 22

As discussed in Response 8 above, it was necessary for the proposed project to include design guidelines and development standards since the existing development standards did not provide standards for residential uses. As a result, variations in setback and height were required between the existing and new standards to permit a high density residential use on the site. However, the Draft EIR evaluated and disclosed the environmental effects of the proposed project, including the new design guidelines and development standards, and provided analysis and supporting evidence to demonstrate that the

proposed project would not result in any significant environmental impacts that cannot be mitigated to a less than significant level.

With respect to the differences between the existing and new standards cited by the commenter, please note that the proposed project's zero setback along Town Center Boulevard would be permitted under both the existing and new standards. In addition, the comparison the commenter makes with respect to the creek setback is misleading. The existing standards state that buildings in this portion of the TCE area shall be set back at least 75 feet from the central line of the creek and not the creek corridor. The lake to the west of the project site is approximately 75 feet from the site boundary. With the new standards in place, the project would be required to be 30 feet from the creek corridor or 105 feet from the lake. Next, it should be noted that the maximum height of the residential buildings would be 60 feet while structures as chimneys, spires, elevators, mechanical and stair housings may exceed the maximum height by 12 feet or up to 72 feet. No floor of the building would be permitted in reach 75 feet in height. Finally, please note that the setback and height examples provided by the commenter are listed as standards in the new design guidelines and development standards for the proposed project. As a result, the new setback and height standards would be strictly enforced.

Response 23

This comment is noted.

Response 24

The commenter is correct that Alternative 2, which would develop the project site with commercial uses allowed under the EDHSP and zoning, would be consistent with goals and objectives listed in the County's General Plan. However, it should be noted that this alternative would result in a greater number of vehicle trips than the proposed project and thus would result in greater traffic impacts as well more air and greenhouse gas emissions and noise. The commenter is also correct that the commercial uses under this alternative could provide pedestrian, bicycle, transit, open space and outdoor uses. However, the remainder of the proposed project's objectives would not be met under this alternative.