

12/17/2019

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#58



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Item #58 Creekside project

1 message

DATE 12-17-19

Sue Taylor <sue-taylor@comcast.net>

Tue, Dec 17, 2019 at 2:14 PM

Reply-To: Sue Taylor <sue-taylor@comcast.net>

To: John Hidahl <bosone@edcgov.us>, Shiva Frentzen <bostwo@edcgov.us>, Brian Veerkamp <bosthree@edcgov.us>, Lori Parlin <bosfour@edcgov.us>, Sue Novasel <bosfive@edcgov.us>, Clerk of the Board <edc.cob@edcgov.us>

Our comments regarding this item is the file 12-17-19 SOC Comments on the Final EIR. The rest are for historical reference and more information. I will be sending one more file for reference.

Thank you,
Sue Taylor
for Save Our County

9 attachments

1_12-8-2011_ Staff report regarding traffic impact.pdf
375K

1_Stephen Pyburn 2011 Traffic Study_CreeksideLOS-F.pdf
2447K

2_Conflict with CEQA_12-10-11_final.pdf
124K

3_Public Comments including attorney_2-27-12.pdf
913K

4_Sue TGPA Comments from 11-12-15.pdf
437K

5_SOC_Public Comment 01-11-18.pdf
197K

6_SOC_DEIR comments 2-9-18.pdf
218K

7_Creekside 12-17-19 comments.pdf
770K

12-17-19_SOC Comments on the Final EIR.pdf
1481K

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XVI. TRANSPORTATION/TRAFFIC. <i>Would the project:</i>				
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e. Result in inadequate emergency access?			X	
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?			X	X

Discussion: A substantial adverse effect on Traffic would occur if the implementation of the project would:

- Result in an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system;
- Generate traffic volumes which cause violations of adopted level of service standards (project and cumulative); or
- Result in, or worsen, Level of Service "F" traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county as a result of a residential development project of 5 or more units.

a-b. **Traffic Increases, Levels of Service Standards:** Missouri Flat Road and Forni Road are County maintained roadways. The project is located in the El Dorado-Diamond Springs Community Region. The project proposes three new encroachments, one each onto Forni and Missouri Flat Roads and one onto Road 2233 as shown on Sheet S1, provided as Exhibit F-1. The project proposes to share the interior access driveways. Those interior access and circulation roadways have been analyzed by DOT and the Diamond Springs-El Dorado Fire Protection District and found by both to be adequate for interior circulation as conditioned. DOT has determined that this project trips the threshold of the General Plan requiring completion of a Traffic Study.

~~DOT has determined that this project trips the threshold of the General Plan requiring completion of a Traffic Study. A Traffic Study (WO #34) is in process. The traffic study currently includes the construction of the Single Point Urban Interchange (Missouri Flat Interchange Phase 2) which is currently not programmed in our CIP, signal warrants are satisfied at two of the six unsignalized intersections yet un-mitigated, average daily trips and peak hour volumes have not been verified and adequately queuing distances have not been addressed.~~

As required by County policy, a traffic study was prepared to analyze the potential traffic impacts resulting from the project. The Creekside Traffic Impact Analysis dated November 11, 2009, prepared by Stephen Pyburn, PE, TE, for Palos Verdes Properties, provides analysis and conclusions relative to traffic impacts generated by the project. According to the report, the project would cause an increase in traffic on area roadways and intersections. The traffic study concluded that the project would be expected to generate 218 AM and 279 PM peak hour trips, with 2,549 daily trips. (The project was latter modified reducing the project impacts -107 AM and -40 PM trips, with -471 daily trips, however the analysis was not modified.) The proposed project will result in significant impacts under both existing plus proposed project and cumulative plus proposed project conditions. These impacts can be mitigated to meet County General Plan levels of service standards with the incorporation of Condition of Approval number 23, and provide for General Plan consistency.

The traffic study recommended signalization of two intersections. The impacts have been mitigated and meet General Plan consistency requirements, as described below.

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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Significant impacts were found at Missouri Flat Road at Enterprise Drive. The impact at this intersection can be mitigated with the construction of the Diamond Springs Parkway (CIP project # 72334). The Parkway will significantly reduce the traffic volumes at the intersection resulting in LOS C or better. General Plan Policy TC-Xf allows for mitigation of the impacts if the identified improvements are included in the County's Capital Improvement Program ("CIP"). This improvement is included in the ten-year CIP.

Significant impacts were also noted at Forni Road and Golden Center Drive. The Traffic Study suggested that a signal be utilized to mitigate the impacts, however, the distance between Golden Center Drive and Missouri Flat Road (approximately 250 feet) is not a sufficient distance to allow for stacking of the vehicles. The recommended minimum distance is 700 feet. The TIS showed the trigger for the signal recommendation was the back up on Golden Center Drive. The addition of turn lanes at the intersection mitigate the impacts.

The DOT recommended Conditions of Approval for the project as proposed include payment of TIM fees, and annexation into the Community Facilities District No. 2002-01, and the following road improvements:

23-1) Missouri Flat Road Improvements: The applicant shall construct the improvements along the frontage of Missouri Flat Road as follows:

- a) Construct 6-foot sidewalk, curb, and gutter
- b) Provide 4-foot Class 2 Bike Lane
- c) Extend existing center median 60-feet northerly along Missouri Flat Road
- d) Left turn pocket onto County Road 2233

The improvements shall be completed to the satisfaction of the Department of Transportation (DOT) or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Parcel Map.

24-2) Forni Road Improvements: The applicant shall construct the improvements along the frontage of Forni as follows:

- a) Construct 6-foot sidewalk, curb, and gutter
- b) Provide 4-foot Class 2 Bike Lanes
- c) Frontage improvements along school frontage
- d) ~~Crosswalk from the intersection of Golden Foothill Parkway and Forni Road to curb return on eastern side of project~~

The improvements shall be completed to the satisfaction of the Department of Transportation (DOT) or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Parcel Map.

25-3) Intersection Improvements: The applicant shall make the improvements as described in the table below. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to filing of the Parcel Map.

Table 1		
INTERSECTION DESCRIPTION		IMPROVEMENTS
Missouri Flat Road	Mother Lode Drive	Conversion of the southbound right turn lane on Missouri Flat Road to a through-right turn lane, and the addition of a southbound through lane south of Mother Lode Drive.
		Conversion of the dual eastbound right turn lanes from the eastbound US-50 ramps to Missouri Flat Road to a single free right turn lane

"If any county road or state highway fails to meet the [given] standards for peak hour level of service...under existing conditions, and the project will 'significantly worsen' conditions on the road or highway, then the impact shall be considered significant." According to General Plan Policy TC- Xe⁷, 'significantly worsen' is defined as "a 2 percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily, or the addition of 100 or more daily trips, or the addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour."

Impacts and Mitigation

Existing (2009) plus Proposed Project Conditions

Impacts:

Missouri Flat Road at Enterprise Drive: As shown in Table 4, this intersection operates at LOS F during the PM peak-hour without the project, and the project contributes more than 10 peak-hour trips to the intersection during the PM peak-hour. ***This is a significant impact.***

Mitigation

The impact at this intersection can be mitigated with the construction of the Diamond Springs Parkway. The Parkway will significantly reduce the traffic volumes at the intersection resulting LOS C or better, as indicated by the results of the EPAP plus Proposed Project presented in Table 6.

Existing plus Approved Projects plus Proposed Project Conditions

Impacts

There were no impacts created in this scenario.

Mitigation

None required.

Cumulative plus Proposed Project Conditions

Impacts

Forni Road at Golden Center Drive: As shown in Table 8, the addition of the proposed project causes this intersection to change from LOS D to LOS F. ***This is a significant impact.***

Mitigation

The impact at this intersection can be mitigated with the construction of a traffic signal at this intersection. With the signal, the intersection will operate at LOS D during both the AM and PM peak hours. The signal at this intersection should be interconnected and coordinated with the signal at the intersection of Forni Road and Missouri Flat Road. Coordinating the timing of the two signals will be necessary to minimize the vehicle queuing between the two signals. LOS analysis worksheets for the mitigated conditions are included in Appendix E. The mitigation results in this impact being less than significant.

Other Considerations

Peak-Hour Traffic Signal Warrant Evaluation

A planning level assessment of traffic signal warrants was performed for the unsignalized study intersections. This evaluation was performed consistent with the peak-hour warrant methodologies noted in Section 4C of the *California Manual on Uniform Traffic Control Devices (CMUTCD)*,

⁷ El Dorado County General Plan, Transportation and Circulation Element, July 2004.

dated September 26, 2006. A summary of the peak-hour warrant results are presented in Table 9. Analysis sheets are presented in Appendix F.

Table 9: Traffic Signal Warrant Results

Intersection	Warrant Satisfied					
	Existing	Existing plus PP	EPAP	EPAP plus PP	Cumulative	Cumulative plus PP
4 Missouri Flat Road at Road 2233	No	No	No	No	No	No
5 Missouri Flat Road at South Site Driveway	No	No	No	No	No	No
8 Missouri Flat Road at China Garden Road	Yes	Yes	Yes	Yes	Yes	Yes
9 Missouri Flat Road at Industrial Drive	No	No	No	No	No	No
10 Missouri Flat Road at Enterprise Drive	Yes	Yes	Yes	Yes	Yes	Yes
13 Forni Road at Golden Center Drive	No	No	No	No	No	No

EPAP = Existing plus Approve Projects; PP=Proposed Project
 PP= Proposed Project

As shown in Table 9, traffic signal warrants are satisfied at two of the six unsignalized intersections, either with- or without the proposed project.

Intersection Queuing Evaluation

As required by a representative of the county, vehicle queuing for movements at intersections where queue spillback may occur was evaluated. The traffic impact analysis software was used to estimate the 95th percentile vehicle queues at critical movements at six (6) study intersections. The estimated vehicle queue lengths were then compared to the actual storage areas available, or the storage lengths expected to be available with future improvements. Results of the queuing evaluation are presented in Table 10. The tables include the vehicle queues assuming the mitigation measures identified in the "Impacts and Mitigation" section above are implemented. Analysis sheets that include the anticipated vehicle queues are presented in Appendix G.

At the intersections of Missouri Flat Road at the Eastbound US-50 off-ramp, and Missouri Flat Road at Mother Lode Drive, the very close intersection spacing contributes to vehicle queues exceeding the available storage length. This condition is expected to occur with or without the proposed project.

Preliminary Traffic Safety Evaluation

The site plan for the proposed project was reviewed for general access and on-site circulation. According to the site plan, primary access to the site will be provided via two driveways on Missouri Flat Road and one driveway on Forni Road. As such, the proposed project site has adequate access from the adjacent roadways to accommodate site traffic. In addition, on-site circulation improvements are expected to be adequate for the development.

Bicycle and Pedestrian Facilities Evaluation

Placement of bikeways in El Dorado County are guided by the *El Dorado County Bicycle Transportation Plan*. The *Plan* specifies that proposed projects are required to include "pedestrian/bicycle paths connecting to adjacent commercial, research and development, or industrial projects and any schools, parks, or other public facilities."



MOTHER LODGE UNION *School District*

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Tim Smith, Superintendent
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EL DORADO COUNTY

February 23, 2012

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

Re Creekside Plaza (Project), Rezone Z10-0009/Planned Development PD10-0005/Parcel Map, P10-0002
Creekside Plaza

Dear Supervisors,

I am writing this letter regarding the Creekside Plaza Project (CPP) on behalf of the Mother Lode Union School District (MLUSD). Since learning of the CPP, the MLUSD has had concerns relative to student safety and traffic congestion, both of which will be impacted as a result of the proposed development. I am requesting the Board of Supervisors consider the MLUSD concerns and requests before taking action to approve the CPP. I want to start by stating that the MLUSD is not opposed to development, and that in fact is supportive of development. The District recognizes the positive effects developments have on schools and the community in general, thus we are not suggesting or advocating the termination of the CPP.

The MLUSD began to consider the impact of the project in the spring of 2011 when we met with Tom Dougherty, Project Planner. Since then, we have attended meetings and public hearings held by the El Dorado County Planning Commission to communicate the MLUSD concerns regarding student safety and traffic congestion related to the CPP.

The following are the primary concerns of the MLUSD:

1. Risk of students being injured and traffic accidents due to increased traffic and congestion related to the CPP.
2. A left hand turn lane into the CPP on Forni Road with two vehicle stacking capacity, which will not mitigate traffic congestion related to the development.
3. A lack of specificity on the improvements to the school frontage on Forni Road, as stated in the mitigation plan.
4. A thirty foot retaining wall behind the development, without a specific plan to mitigate potential safety hazards related to the wall.

The MLUSD is requesting the following to address the above mentioned concerns:

1. Utilize the 50 foot right-of-way on Forni Road to assist in the mitigation of the traffic congestion related to the CPP.
2. Clearly state what improvements will be made to the school frontage on Forni Road. The MLUSD proposes a side walk and a right hand turn lane into the school parking lot on Forni Road.
3. Include a barrier fence on the retaining wall behind the CPP.

I have personally witnessed the daily traffic congestion, near accidents, and several accidents involving vehicles on Forni Road for years. We are fortunate that no students have been injured as a result of accidents, to date. The traffic related to the school site has been significantly impacted by the multitude of surrounding developments on Missouri Flat and Golden Center Drive. Adding additional traffic to Forni Road without utilizing the County right-of-way to mitigate the problem is not a good decision for the MLUSD or the community. It is the opinion of the MLUSD that any development with an entrance on Forni Road will require the 50 foot right-of-way to mitigate traffic to an already congested roadway.

Due to the potentially significant impacts to the students and stakeholders of the MLUSD, I am requesting the Board of Supervisors table the CPP development plan until the above concerns have been addressed.

Respectfully,

Tim Smith

Tim Smith
Superintendent
Mother Lode Union School District

MARSHA A. BURCH
ATTORNEY AT LAW

LATE DISTRIBUTION

Date 8:17 pm, Feb 27, 2012

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February 27, 2012

Via electronic mail
edc.cob@edcgov.us

El Dorado County Board of Supervisors
Suzanne Allen de Sanchez, Clerk
330 Fairlane Court
Placerville, CA 95667

Re: Mitigated Negative Declaration for the Creekside Plaza Project
Rezone Z10-0009/Planned Development PD10-0005/Parcel Map,
P10-0012 Creekside Plaza
State Clearinghouse # 2011092017

Dear Supervisors:

We appreciate the opportunity to provide the following comments on behalf of Friends of the Herbert Green Middle School Neighborhood ("Friends") regarding the above-reference project. These comments are intended to supplement comments submitted previously by other concerned citizens and agencies.

As explained below, the Initial Study and Mitigated Negative Declaration (referred to together herein as "MND") for the Project does not comply with the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*) in certain essential respects. An Environmental Impact Report ("EIR") must be prepared for the Project.

An overarching concern in this case is the fact that the MND ignores potentially significant adverse impacts with little justification and almost no documentation. After review of the MND, we firmly believe that the environmental review has been truncated by avoiding full disclosure of the Project's impacts, and also relying upon future regulatory action to fully "mitigate" impacts, with little or no analysis.

It is especially surprising that the MND does not include traffic as a potentially significant effect on the environment. (MND, p. 3.) Information in the record, including the traffic analyses done for the Project show that the Project will indeed have

significant impacts, and the County pretends that this is not an issue, relying heavily on impact fees that may or may not ever result in the necessary improvements being constructed. This fatal flaw in the MND is set forth in the traffic section of this letter.

The Project also deviates from various General Plan ("GP") policies, and County staff is recommending that these deviations be allowed, based upon conclusory analyses. The Project will violate the prohibition of development on slopes greater than 30% and will also violate the 50-foot wetland setback requirements, and these deviations alone are evidence that the Project may have a significant environmental impact. The County may be able to satisfy itself with respect to the criteria used to determine whether a waiver should be granted, but this does not satisfy CEQA.

There are several areas of impact where substantial evidence in the record supports a fair argument that the Project may have a significant environmental impact and that a full EIR is required.

In a recent development in the administrative process, the applicant is now seeking a reasonable use determination in order to avoid mitigating impacts to oak woodlands. This issue is discussed in some detail below. In summary, if the County determines that mitigation for impacts to the oak canopy is infeasible, it may only do so after preparation of an EIR and a finding of overriding considerations. This simply drives home the fact that this Project may not be approved with a MND.

I. Standard for use of a Negative Declaration

The standard in reviewing an agency's decision not to prepare an EIR for a project is subject to the "fair argument test" and is *not* reviewed under the substantial evidence test that governs review of agency determinations under Public Resources Code sections 21168 and 21168.5. The "substantial evidence test" that generally applies to review of an agency's compliance with CEQA provides that if any substantial evidence in the record supports the agency's determination, then the determination will remain undisturbed.

In stark contrast, an agency's decision to omit the preparation of an EIR will not stand if *any* substantial evidence in the record would support a fair argument that the Project *may* have a significant effect on the environment. (*No Oil, Inc. v. city of Los Angeles* (1974) 13 Cal.3d 68, 75; *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000-1003; Pub. Resources Code § 21151.)

There is substantial evidence to support a fair argument that each of the Project impacts discussed below *may* be significant. A full EIR should be prepared for other reasons as well. The cumulative impacts of the Project are significant. Where a project's impacts are cumulatively considerable, adoption of a mitigated negative declaration is inappropriate unless the evidence in the record demonstrates that the mitigation measures will reduce all impacts to a level of insignificance. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 391.) In this case it does not. Finally, the Initial Study simply does not contain enough information to fulfill its purpose as an informational document.

II. The Project Description is Insufficient

“An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” (*County of Inyo v. County of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) A complete project description is necessary to ensure that all of the project’s environmental impacts are considered. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450.)

The MND does not provide a complete, consistent project description sufficient to support environmental analysis.

The Project description in the MND describes the surrounding land uses, and omits any mention of the Herbert Green Middle School (“School”). (MND, p. 4.) The Staff Report lists the “Project Issues” and there is no mention of the School, nor any reference to the traffic congestion and safety issues resulting from heavy traffic during times of the day when students are coming to and leaving the School. (December 8, 2011 Revised Staff Report, p. 5.) The maps and diagrams associated with the Project do not include the School. The environmental analysis avoids the issue of the School directly across the road from the Project, and does so because the traffic and safety impacts around the School will be tremendous, and there is no way for the County to justify its decision to certify the MND when a full EIR is so obviously required.

During a public Board meeting on May 10, 2010, Supervisor Jack Sweeney addressed the terrible traffic problems in front of the School, and made an argument that children should be walking to school to alleviate the problem. The fact is, children will not be walking to school, and this may be due in part to the obvious danger to pedestrians in the area. We request that the relevant portion of the tape and/or transcript of the May 10, 2010, meeting be included in the record of proceedings for the Project. (Public Res. Code § 21167.6(e).)

III. The Direct Impacts of the Project are Not Adequately Addressed

The MND does not adequately address the Project’s potential significant impacts, attempting to avoid the analysis by pointing to various regulatory programs, or by simply ignoring the facts.

A. Air Quality

The MND concludes that the Project’s air quality impacts will be less than significant. The MND offers two bases for this conclusion: (1) so long as all of the air quality regulations are followed, impacts will be insignificant; and (2) the 2004 General Plan EIR (“GP EIR”) considered air quality impacts and “mitigation in the form of General Plan policies have been developed to mitigate impacts to less than significant levels.” (MND, p. 11.)

1. MND is inappropriately “tiered” from the 2004 GP EIR

Where a lead agency intends to rely on an earlier environmental document for its analysis of a project’s impact, the Initial Study, at the very least, should summarize,

with supporting citations, the specific relevant conclusions of the existing documents. Only then can the public determine whether the agency's reliance on extant data is in fact proper. (See *Emmington v. Solano County Redevelopment Agency* (1987) 195 Cal.App.3rd 491, 501-503.)

Public Resources Code section 21068.5 defines "tiering" as:

[T]he coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific **environmental impact reports** which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are *capable of being mitigated*, or (b) were *not analyzed as significant effects on the environment in the prior environmental impact report*. (Emphasis added.)

The 2004 GP EIR was adopted with a statement of overriding considerations because there were multiple areas of impact found to be significant and unavoidable, including impacts to air quality. Where a programmatic or master EIR is approved with a statement of overriding considerations, a lead agency **may not** tier from that document with a negative declaration or a mitigated negative declaration. (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 124-125.)

Accordingly, the County's attempt to tier a mitigated negative declaration from an EIR that was approved with a statement of overriding considerations is a violation of CEQA.

2. Impact analyses and mitigation measures are insufficient

The El Dorado County Air Quality Management District ("AQMD") CEQA Guide¹ covers the issue of cumulative impacts, and a Project that proposes to change zoning to a use that will increase pollutant emissions is considered by the AQMD to have a significant impact. (AQMD CEQA Guide, Chapt. 8, p. 2.) The AQMD recently commented on the proposed Tilden Park Project and described this aspect of their CEQA Guide. (We request that all of the comment letters submitted to the County on the Tilden Park project be included in the record of proceedings for this Project, including the September 3, 2010, letter from the AQMD. These comment letters are relevant to this Project because it will also involve a zoning change and the issues raised are similar [Pub. Res. Code § 21167.6(e)(10)].)

The County claims that if the Project is held to various AQMD requirements, then the impacts will be mitigated to a level of insignificance. (MND, pp. 10-12.) There is no evidence whatsoever to support this conclusion. And, "[i]f there is a disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and prepare an EIR." (CEQA Guidelines § 15064(g).) The experts at the AQMD have developed standards that conclude that the Project will have a significant impact, and the MND does not

1 http://www.edcgov.us/Government/AirQualityManagement/Guide_to_Air_Quality_Assessment.aspx

even discuss those standards.

Despite the potentially significant impacts, the MND concludes that if future development in the Project area is held to compliance with requirements of the AQMD, then any air quality impacts will have been reduced to a level of insignificance. (MND, p. 12.) There is no evidence that the County went through any of the analyses required by the AQMD in order to make this finding.

It bears noting here that the County did not do any modeling or develop any data with respect to the pollution emissions that the Project will generate. The El Dorado County AQMD CEQA Guide describes the level of analysis necessary with respect to various types of emissions. With respect to ROG and NO_x, the AQMD indicates that if the Project can demonstrate consistency with the AQAP for ROG and NO_x emissions, the Project may be categorized as not having a cumulative air quality impact with respect to ozone. This requires being able to say that the Project does not require a change in the existing land use designation and projected emissions. That is a statement that *cannot* be made with respect to the Project.

For other pollutants, including CO, PM₁₀, SO₂, NO₂ and TACs, there is no applicable air quality plan containing growth elements. (AQMD CEQA Guide, Chapter 8, p. 2.) For CO, if there exists the possibility of CO "hotspots" caused by the proposed project in conjunction with other nearby projects, "for example, modeling will ordinarily be required if the proposed project and one or more other large projects jointly change traffic density levels to service level E or lower on the same roadway links..." (*Id.* at 2.) The Project *does* lower the level of service to E at area intersections. (December 8, 2011, Revised Staff Report, p. 12.) There was no modeling done for the Project. There is simply not enough analysis of this impact to support the conclusion that it has been mitigated to a level of insignificance.

For PM₁₀, SO₂ and NO₂, the Mountain Counties are in non-attainment for state standards. The impacts of PM₁₀ emissions can be significant cumulatively even where the project-specific emissions are not. The AQMD requires, at a minimum, dispersion modeling in order to determine whether a project will result in significant emissions of these constituents. (AQMD CEQA Guide, Chapter 8, p. 3.) There is no evidence of any dispersion modeling or other data collected for the Project.

The AQMD describes in detail what is required for an adequate CEQA analysis of air quality impacts. (AQMD CEQA Guide, Chapter 8, pp. 3-6.) The adequate cumulative impacts analysis begins as follows:

1. Either one of the following two elements:
 - a. A list of past, present, and reasonably anticipated future projects producing related or cumulative impacts, including those projects outside the control of the agency, or
 - b. A summary of projections contained in an adopted general plan or related planning document that is designed to evaluate regional or area-wide conditions;
2. A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that

information is available; and

3. An analysis of the cumulative impacts of the relevant projects. (AQMD CEQA Guide, Chapter 8, p. 4.)

The County did not even begin to meet these requirements for the air quality cumulative impacts analysis. The MND simply acknowledges that this is a potentially significant impact, but fails to follow through by concluding that compliance with standard regulations will mitigate the impacts to a less than significant level.

The conclusion is not based on substantial evidence, and also defers the development and adoption of mitigation measures to the future. The deferral of analysis and development of mitigation measures for air quality impacts is a violation of CEQA, as the MND does not meet the standards for any exception to the rule. In *Gentry v. City of Murrieta* the court of appeal explained that CEQA's normal requirement that mitigation be adopted prior to project approval may be met if an agency prepares a draft EIR that (1) analyzes the "whole" of the project; (2) identifies and discloses with particularity the project's potentially significant impacts; (3) establishes measurable performance standards that will clearly reduce all of the identified impacts to less-than-significant levels; and (4) describes a range of particularized mitigation measures that, when taken in combination, are able to meet the specified performance standards. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395, comparing and contrasting *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011 with *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.) The *Gentry* court further explained that promises by a lead agency to implement future recommendations that other agencies might make after project approval is not sufficient to find that a proposed project's potentially significant effects have been mitigated to less-than-significant levels. (*Id.*)

The MND's air quality section is insufficient under all applicable legal authority.

B. Biological Resources

The MND concludes that the Project's impacts to biological resources will be less than significant with mitigation measures, and does so in the face of the fact that the Project will destroy 300 feet of stream channel and will be excused from the required 50-foot setbacks, in addition to developing on a greater than 30% slope and removing oak woodlands.

The evidence in the record is clear; the Project will have significant impacts to wetlands and oak woodland. These potentially significant impacts require the preparation of an EIR.

1. Impacts to wetlands

Despite the County's attempt to bury its head in the sand, there is substantial evidence showing that the Project may have significant impacts on biological resources. The MND acknowledges that the Project will "affect the bed, bank, and channel of a stream, including the adjacent riparian habitat. The project as proposed will affect 0.5 acre of riparian habitat, including nearly 300 linear feet of stream channel. This impact

is considered significant.” (MND, p. 14.) The “mitigation” for these impacts is compliance with a “permit” to be issued from the California Department of Fish and Game (“CDFG”). (*Id.*) It is illegal to rely upon conditions that may or may not be imposed by another agency to support a conclusion that an impact will be insignificant. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395.)

The potentially significant impacts to wetlands and riparian habitat trigger the requirement for a full EIR. The threshold for requiring an EIR is extremely low because to end the environmental inquiry at this point precludes evaluating alternatives to the Project that could avoid some or all of the impacts. Additionally, relying on another agency to enforce terms of a permit or agreement is improper.

Similarly, the MND acknowledges that the Project will impact wetlands, and concludes the impact will be insignificant by claiming “[t]he area of Corps jurisdiction is much less than the area covered by Department of Fish and Game Jurisdiction. Consequently, the mitigation measures for impacts to streams and riparian impacts would compensate for impacts to waters of the United States.” (MND, p. 16.) The MND goes on to suggest mitigation requiring the “Applicant to *strive to avoid* adverse [sic] and minimize impacts to waters of the United States, and to achieve a goal of no net loss of wetlands functions and values.” (*Id.*, emphasis added.) This “mitigation measure” is unenforceable and improperly defers development of an actual measure for mitigation, not to mention having no performance criteria.

The MND continues on the path of attempting to foist development and enforcement of mitigation measures onto other agencies by claiming that the California Regional Water Quality Control Board (“RWQCB”) will handle any issues of water quality impacts. (MND, p. 16.)

The evidence in the record shows that the Project will have tremendous impacts to the stream, wetlands and riparian habitat, and yet analysis of these impacts, as well as development of mitigation measures, is deferred to the future and assumed to be the responsibility of other agencies. Additionally, the Project will include waivers of the 50-foot setback requirement as well as a waiver of the prohibition on development on slopes greater than 30% (and possibly oak woodland mitigation). These waivers effectively gut the GP requirements that would go some distance toward mitigating impacts to wetlands as well as water quality. This approach fails to fulfill the requirements of CEQA and an EIR must be prepared in order to fully evaluate the impacts to biological resources and consider alternatives and mitigation measures.

2. Impacts to oak canopy

With respect to oak canopy, the Project was found to require removal of more than 10% of the oak canopy on site, and so Option B of Policy 7.4.4.4 was determined to be the method of mitigation. The Third District Court of Appeal recently struck down Option B as violating CEQA, and so the MND now makes the impossible switch to Option A, claiming that despite the removal of more than half of the oak canopy, the Project proponent will be able to retain 90% of the oak canopy. (MND, p. 18.)

There is no analysis of how the Project proponent will achieve this, which is astonishing in light of the fact that the development takes up nearly all of the area on the site.

There is nothing in the analysis or discussion in the MND or the staff reports that would support a conclusion that it is feasible for 90% of the oak canopy to be retained on the site. The impact will go unmitigated, and so it will not be possible to certify the MND.

C. Greenhouse Gas Emissions

Based upon a finding that the greenhouse gases generated by the project would be small relative to the global emissions, the MND concludes that the Project's impacts would be less than significant. (MND, p. 23.) This conclusory analysis falls short of CEQA's requirements.

The MND discusses interim guidance on the issue of evaluating climate change impacts, issued in 2008 by the Office of Planning and Research. This area of the law has evolved since 2008, and the MND does not comply. The CEQA Guidelines (effective on March 18, 2010) clarified how greenhouse gas ("GHG") emissions should be analyzed and mitigated under CEQA. These Guideline requirements are *not optional*. The adopted changes to the CEQA Guidelines include the following:

- A lead agency should make a good-faith effort to calculate or estimate the amount of GHG emissions resulting from a project. Although a lead agency retains discretion to determine the model or methodology used for such analysis, the lead agency is required to support its decision to employ a particular model or methodology with substantial evidence (14 CCR § 15064.4(a));
- The following factors should be considered when assessing the potential significant impacts from GHG emissions on the environment: (i) the extent to which the project may increase or reduce GHG emissions as compared to the existing environmental setting; (ii) whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; and (iii) the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions (14 CCR § 15064.4(b));
- When adopting thresholds of significance, a lead agency may adopt thresholds previously adopted or recommended by other public agencies or recommended by experts, provided the decision to adopt such thresholds is supported by substantial evidence (14 CCR § 15064.7(c));
- Lead agencies must consider feasible means, supported by substantial evidence and subject to monitoring and reporting, of mitigating the significant effects of GHG emissions related to a project (14 CCR § 15126.4(c));
- If an Environmental Impact Report is required, then the EIR should evaluate any potentially significant impacts of locating development in areas susceptible to hazardous conditions such as floodplains, coastlines and wildfire risk areas, in addition to considering any significant environmental effects the project might cause by bringing development and people into the area affected (14 CCR § 15126.2(a)); and Appendix G (the sample form with questions a lead agency

should consider in its Initial Study) has been modified to include analysis related to whether the project will generate GHG emissions and whether the project would conflict with any applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

The County has not evaluated any of the areas required under CEQA. None of the Project's emissions have been quantified, and none of the required analysis has been done. At this time, the County has the opportunity and the obligation to evaluate the GHG emission impacts of the Project and develop and adopt feasible mitigation measures for the entire Project area.

D. Land Use Planning

In the section on Land Use Planning, the MND notes that a Project would have a significant impact if it would "[r]esult in a use substantially incompatible with the existing surrounding land uses." (MND, p. 27.) The MND discusses the GP land use designations of the Project site, oddly ignoring all surrounding land uses. There is, again, no mention of the School.

The School is an existing use and several comment letters have been, and will be, submitted regarding the extremely dangerous conditions for students and others around the School. During the January 26, 2012, Planning Commission hearing, Commissioner Pratt opined that the traffic and safety problem is the School's problem, and that the School should mitigate any impacts "on site." Not only does this position completely violate the letter and spirit of CEQA, it is a shocking statement by a public official.

The County has apparently decided to whistle past the graveyard and pretend that this risk to children and their families and teachers is not an issue. It is an issue; it is a traffic issue, a safety issue and a land use incompatibility issue, and it does not even appear in discussion in the MND. A full EIR is required because of the traffic, safety and incompatibility issues that will be created by the Project.

E. Traffic and Circulation

The MND finds that the Project will **not** have a significant impact on traffic, then oddly goes on to discuss how the impacts will be reduced to a level of insignificance through mitigation measures, including the payment of traffic mitigation fees.

The School is ignored, and subsection (d) of this section of the MND includes a conclusion that the Project will not result in any substantial increase in hazards. (MND, p. 33.) Substantial evidence in the record reveals that the Project will increase hazards to motorists and pedestrians as a result of uses that will be incompatible with the adjacent School.

Additionally, the proposed mitigation measures are inadequate. The MND notes that the "traffic study recommended signalization of two intersections." Strangely concluding, "[t]he impacts have been mitigated and meet General Plan consistency requirements." (MND, p. 33.)

Significant impacts at the Missouri Flat Road/Enterprise Drive intersection will, according to the MND, be mitigated to a level of insignificance by the construction of the Diamond Springs Parkway (CIP project # 72334.) (MND, p. 34.) Unfortunately, the Parkway is "included in the ten-year CIP."

Thus, the "mitigation" will occur if and when the County Capital Improvements Program ("CIP") has sufficient funds to build the Parkway. Payment of mitigation fees to go toward capital improvement programs is an acceptable form of mitigation, but it must be shown that the improvements will actually be completed and mitigate the impacts if the County wishes to make a conclusion of less than significant impact. (See *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173; and *Napa Citizens for Honest Government v. Board of Supervisors* (2001) 91 Cal.App.4th 342.) The County may not make a finding of insignificant impacts with respect to the Missouri Flat Road/Enterprise Drive intersection.

The MND goes on to say that significant impacts were also noted at Forni Road/Golden Center Drive, and that the traffic study suggested signalization. (MND, p. 34.) Then, without any discussion, the MND concludes that signalization is infeasible and so some additional turn lanes will "mitigate the impacts." There is no evidence to support this claim, not to mention the fact that a finding of infeasibility may only be made in the context of a statement of overriding considerations, which may only be adopted after preparation of a full EIR.

The payment of fees and future annexation into a community services district will not reduce the significant impacts to a level of insignificance before Project construction. The tremendous impacts to traffic are either completely ignored, or "mitigated" through illegal means. A full EIR must be prepared with a complete analysis of traffic impacts.

F. Mandatory findings of significance

There are two mandatory findings of significance that must be made for the Project. The Project may indeed substantially reduce the habitat of a fish or wildlife species. The MND acknowledges that the Project will destroy 300 linear feet of stream, and then makes the assumption that other agencies will require mitigation for the impacts. There is no evidence that the CDFG, the Army Corps of Engineers or the RWQCB will step in and ensure that the impacts are mitigated to a level of insignificance. Those agencies will enforce their policies and requirements, but there is no reason to believe that the impacts will be mitigated to the level assumed by the County.

The second mandatory finding relates to cumulative impacts. The County failed to do an adequate analysis to be able to make a determination regarding cumulative impacts. Section 15130(b)(1) of the CEQA Guidelines provides two options for considering potentially significant cumulative adverse impacts. This analysis can be based on either: (1) A list of past, present and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control

of the agency; or (2) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

The County did not perform the required analysis under either of the options, and so the MND contains an insufficient review of the Project's cumulative impacts.

IV. Conclusion

Because of the issues raised above, we believe that the MND fails to meet the requirements of the California Environmental Quality Act and the Project is inconsistent with the General Plan and its approval will violate the planning laws. For these reasons, we believe the document should be withdrawn and a revised environmental document, a full EIR, should be prepared.

Very truly yours,

// Marsha A. Burch //

Marsha A. Burch
Attorney

cc: Friends of the Herbert Green Middle School Neighborhood



EDC COB <edc.cob@edcgov.us>

Creekside strip mall

1 message

renee hargrove <writeon@internet49.com>

Tue, Feb 28, 2012 at 8:06 AM

To: edc.cob@edcgov.us

With regard to the proposed Creekside strip mall, I continue to question why El Dorado County needs more retail space when there are so many vacancies. Plus, if there are favored developers who do not pay the appropriate fees, is that not taking revenue out of County coffers when it could be spent on road maintenance, **economic** development, job creation/security (after all, there are employees who are furloughed because of lack of funding) and other much-needed services?

It seems counter-productive to favor developers when citizens are struggling with employment. I sincerely doubt that new strip malls are going to employ any more citizens than using existing ones. For instance, why not "encourage" the absentee owners of the strip mall on Broadway, anchored by The Dollar Tree and Grocery Outlet, to repair that property and rent it out? I am aware that there was a revitalization plan for that area...why was that stymied?

If more strip malls and unchecked development ensues, it seems that traffic will increase, more roadways will be built and everyone will be going around in circles to nowhere. Has anyone noticed the increased vehicular speed and running of red lights everywhere? Another case in point is the safety of the children at Herbert Green School and pedestrians everywhere. Along with that goes distracted drivers who are texting, talking on their cell phones and checking their GPS while driving. Are they going to be looking out for the children as they hurry from one strip mall to another? Doubtful.

I am here to vote for revitalization and smart, planned use of existing retail and commercial space and properties. Our county is beginning to look bedraggled with darkened commercial/retail buildings, unkempt grounds, bankrupt businesses who failed because of decreased revenue from shoppers, and more. Not to mention, I personally do not want El Dorado County to look like Folsom where there are a million food places and the same retail recipe around the big box stores. Why not preserve charm and the unique qualities that exist here? What about honoring heritage and inventiveness? I am against cookie-cutter development.

Thank you for your attention. Renee' Hargrove. Placerville

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY
8:42 am, Feb 28, 2012

25
LATE DISTRIBUTION

Date 8:43 am, Feb 28, 2012

February 27, 2012

Re: Creekside Plaza #12-0224

Hearing Date: February 28, 2012, 2:00PM

Dear Board of Supervisors:

I am writing to you with concerns regarding the Creekside Plaza development. I am a parent of a student attending Herbert Green Middle School and have concerns about the development's negative impact on the safety of Herbert Green's students and on the traffic conditions around the school as well as at the Forni Road/ Missouri Flat intersection particularly during peak school drop-off and pick-up times.

I understand from viewing several documents included in the planning file, that the developer of this project does not need to widen Forni Road at the project site, does not need to provide a turn lane/middle lane on Forni Rd. for the increased amount of traffic that the project will attract, and they do not need to provide a designated crosswalk for the students and community members accessing the development and/or the school.

I would encourage the decision-makers of this project to visit the school area during peak drop-off and pick-up times as it would provide them a clearer understanding of the traffic and safety concerns which surround this project if it is allowed to go forward as proposed and as recommended by the county's planners.

If more parents and the general public knew and understood the ramifications of this proposed plan, I am sure there would be more public outcry for the Board of Supervisors to take a common sense approach when approving design and making recommendations for commercial developments in and around school zones. I believe most parents and community members have the belief that because Herbert Green Middle School is in close proximity to this development project, our elected officials have most certainly kept the protection and safety of our school-aged community members a priority. I am hoping for our whole community's sake that we are not wrong.

As I do not agree that the project (as designed) has adequately addressed the safety and traffic concerns in and around the school area, I am respectfully requesting that the Board of Supervisors review, address, and resolve the traffic and safety concerns as expressed by the Herbert Green Middle School community and the community as a whole, before they give their final approval of the Creekside Plaza development project.

Sincerely,

Danielle Peterson
5030 Treemont Drive
Diamond Springs, CA 95619
530-344-1926

In reviewing a few parcels to determine the County's decision in rezoning parcels, I decided to look at 2 projects that I, in past years, had assisted community members in reviewing.

The first one was Creekside Plaza. This approval of this project was challenged because of major issues with transportation, biological resources, and overall health, safety and incompatibility with surrounding uses. To develop this project the owner was going to have to bring in 28.9 acre feet of dirt and pile it over the existing creek, which feeds into Weber Creek.

The biggest harm was the impact this project would have on the Herbert Green Middle School (HGMS) children. Attached is a letter of concern from the Superintendent of HGMS and other letters and documents related to that project.

One of the parcels was going to be left as a hole below at least a 30 foot high exposed retaining wall creating a public hazard with no mitigation for safety. Also since the applicant had no way to mitigate the already over congested traffic on Forni Road, he just left out the transportation mitigation. The Board of Supervisors ended up rescinding the approval of the rezone. Now it is being rezoned as the developer wanted with this ZOU. This violates #6 of the mapping notes in the "Proposed Mapping Criteria for Analysis May 25, 2012" which states:

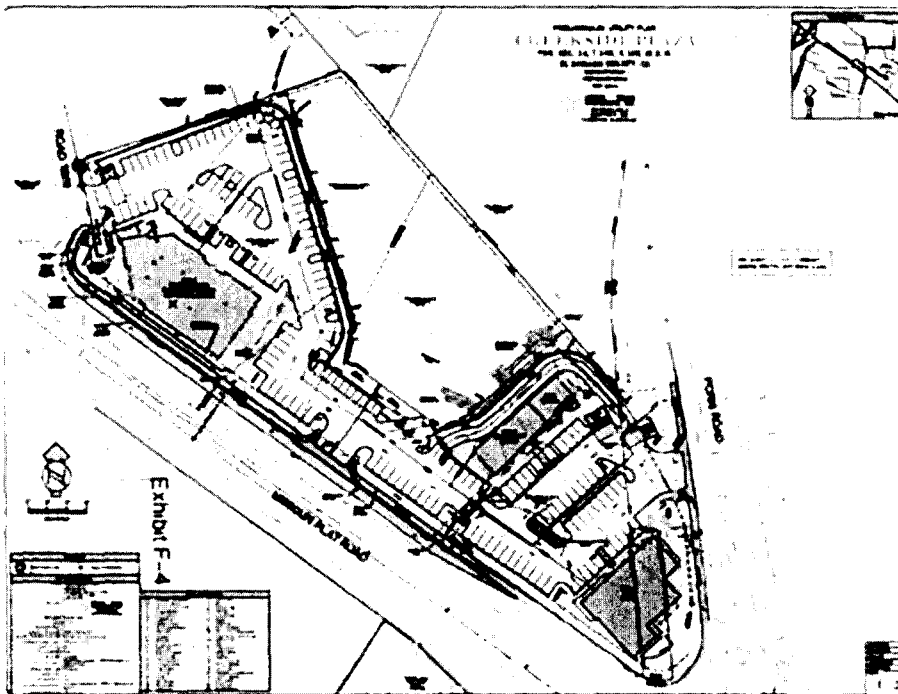
6. Generally, retain existing zone designations where lands is subject to contract (TPZ, WAC) or has been the subject of a previous rezone application.

By automatically converting the zoning on these parcels from R1A to Community Commercial, the County is giving the property owner by right privileges to negatively impact the surrounding properties and Herbert Green Middle School. The County is not providing the original petitioners appeal hearings for land owner's with grievances against the rezones of these parcels. This project also required the County to give as a gift, 50 feet of road right-of-way in order to make the parcel buildable. Is the County also going to give the property owner that gift?

The project was on 3 parcels and was approved for rezone from R1A to C, Friends of the Herbert Green Middle School Neighborhood filed a lawsuit soon after the County rescinded the Commercial zoning. Now the ZOU proposes to rezone it automatically back to Commercial.

TGPA/ZOU Comment 11-10-15

- Z10-0009/PD10-0005/P10-0012**Creekside Plaza submitted by GRADO EQUITIES VII, LLC to request the following:
- (a) Fee for a Conditional Use Permit (CUP) General Commercial and Development (CG-PD) and Conditional Use Permit (CUP-PD);
 - (b) Fee for a Final Plat for a three-lane road, including a drainage easement, a water easement;
 - (c) Fee for the Final Map to create three parcels, including a drainage easement;
 - (d) Fee for a Conditional Use Permit for a retail development and a fee for a site plan for a center project;
 - (e) Fee for a Conditional Use Permit for a retail development and a fee for a site plan for a center project;
 - (f) Fee for a Conditional Use Permit for a retail development and a fee for a site plan for a center project;

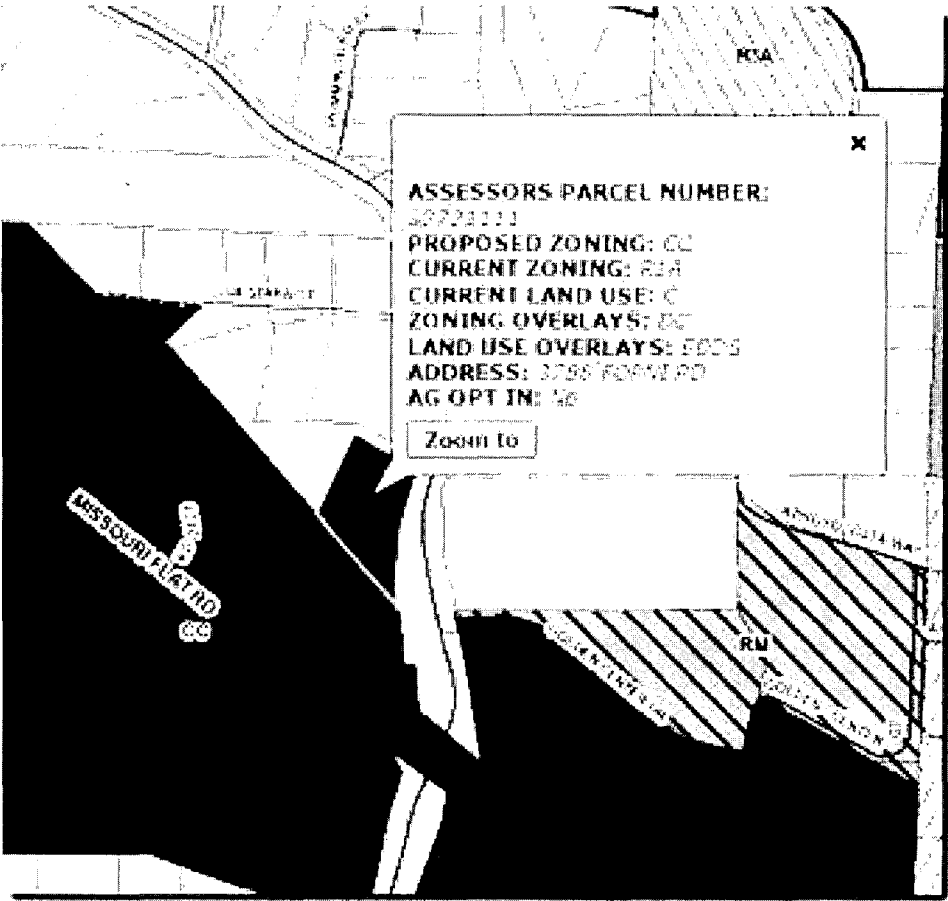
[illegible]

Board of Supervisors **Minutes** **October 16, 2012**

45. 12-0224 Hearing to consider rescinding all actions the Board took on April 3, 2012 on Creekside Plaza (Rezone Z10-0009/Planned Development PD10-0005/Parcel Map P10-0012), on property identified by APNs 327-211-14, 327-211-16, and 327-211-25, consisting of 4.1 acres, in the Placerville area, submitted by Grado Equities VII, LLC; and Development Services and County Counsel recommending the Board take the following actions without prejudice:
- 1) Adopt Resolution **149-2012** rescinding actions taken by the Board on April 3, 2012, agenda item 19, approving Creekside Plaza project (Rezone Z10-0009/Planned Development PD10-0005/Parcel Map P10-0012); and
 - 2) Consider the Introduction (First Reading) of Ordinance **4985** rescinding Ordinance 4977 rezoning APNs 327-211-14, 327-211-16, and 327-211-25 from One-Acre Residential (R1A) to General Commercial-Planned Development (CG-PD) and Open Space-Planned Development (OS-PD). (Supervisory District 3) (Refer, 4/3/12, Item 19) (Est. Time 20 Min.)

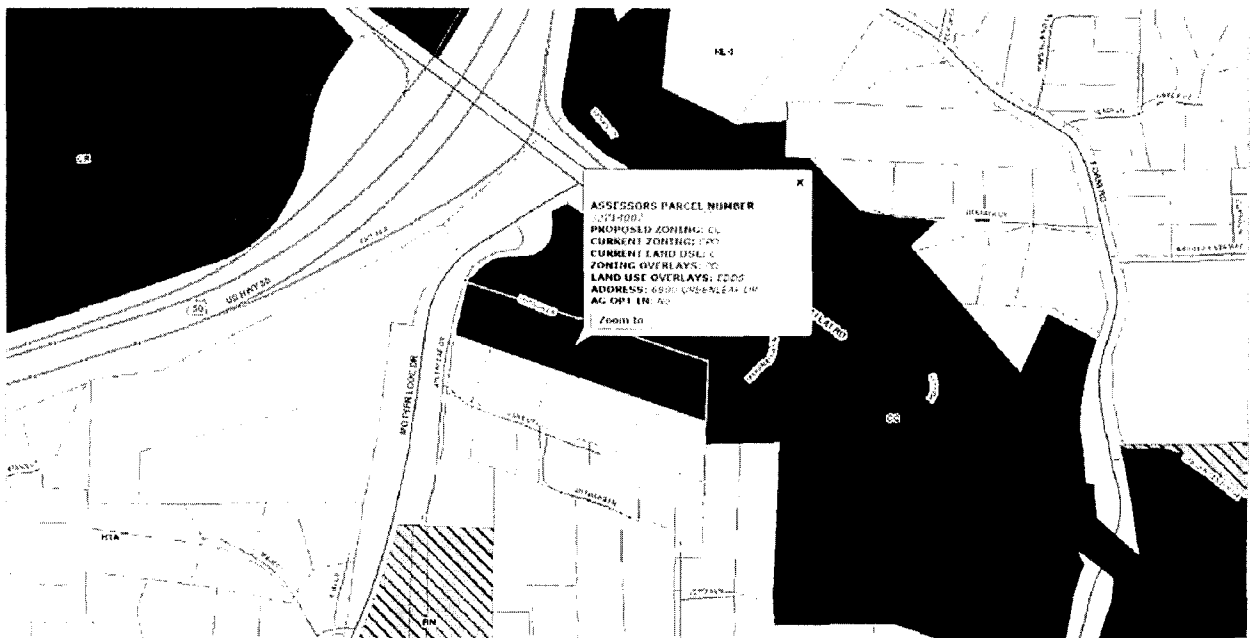
A motion was made by Supervisor Sweeney, seconded by Supervisor Santiago, as follows:

- 1) Adopt Resolution 149-2012; and
- 2) Approve the Introduction of Ordinance 4985 rescinding Ordinance 4977, waived reading and read by title only; and
- 3) Set adoption (Second Reading) of said Ordinance for Tuesday, October 23,



My second example is Parcel #327-140-07. In 2010 it was rezoned from R1A to Commercial, Professional Office (CPO) and the land use was changed from Medium Density Residential to Commercial. There was quite a debate on this between the neighbors, adjacent property owners and the Planning Commission. The project was originally denied but was allowed to come back to the Planning Commission and after much debate was rezoned to CPO. CPO was chosen so that the property owners could develop their property as a commercial venture and also create minimal impact to the adjacent residential property owners.

Here is the same parcel on the LUPPU map:



With the ZOU this parcel is now being rezoned to Commercial, Community (CC). CC allows much more than CPO. The original CPO was “intended to provide for an environment which will be in harmony with adjacent existing and proposed developments and shall provide a transition or buffer zone between residential and more intensive land uses”. Later in the same year the Board of Supervisors added Mixed Use to CPO requiring a planned development.

The new definition of CPO allows, hotels, motels, high intensity of residential and other more impacting uses than the existing CPO. If this is not contrary enough to the expected allowed zoning of this parcel with CC the allowed uses are even more impacting, from retail to hotels, hospitals and body shops.

Mixed use was adopted without design standards using a negative mitigated declaration. The new policy for Mixed Use allows zero lot line setbacks, reduction of

required open space and reduced parking standards. A mixed use project can span over multiple parcels, commercial only has to be 30% of the project and high density residential of 20 units per acre will be allowed on top of the allowed commercial. There was no mitigation for the loss of allotted commercial land when this was adopted. It seems contrary to balance of jobs to housing. Since Mixed Use will be allowed on Commercial with very vague guidelines and the possibility of zero line setbacks, the impact that this new unanalyzed zoning change on this parcel will have on the surrounding neighbors will be severe. Again the County is not providing the original petitioners appeal hearings for land owner's with grievances against the rezone of this parcel.

There is no reason for this parcel to be rezoned in the TGPA/ZOU. Specifically, the Proposed Mapping Criteria for Analysis of May 25, 2012 states:

3. Where zoning is consistent with the General Plan Land Use Designation, retain the existing zoning.

The zoning of this parcel IS consistent with the General Plan Land Use Designation, therefore its existing zoning must be retained.

It is interesting to note that the Applicant's agent on this project was Kathye Russell. Kathye Russell has also been involved with LUPPU since it's inception.

When this project was at the Planning Commission Kathy commented that she wanted to see this parcel be allowed to accommodate Mixed Use. This narrow parcel sets high above the Casa Robles Parking lot. The surrounding parcels are developed residential parcels in which many have also been rezoned to CC with this ZOU, I'm sure without their knowledge.

The more that we have looked into this "project" the more we have found suspicious conflicts of interest. Given how poorly this process has been handled, as a member of this Board I would be very careful in approving anything in this "project" given the possibility of one of you benefitting personally and creating your own conflict of interest.

Yours Truly,

Sue Taylor
Camino Resident

January 11, 2018

Mel Pabalinas, Associate Planner
County of El Dorado Development Services Division
2850 Fairlane Court
Placerville, CA 95667
via email: Mel.Pabalinas@edcgov.us

Subject: Comments on El Dorado Hills Apartments

Dear Mel,

Below are several of the many issues concerning this project.

Measure E:

The Final EIR states that Measure E applies to this project, specifically the December 2017 version updated with Judge Stracener's decision. Policies especially pertinent to this project are:

- TC-Xa1: Traffic from residential development projects of 5 or more units cannot result in, or worsen, Level of Service F (gridlock, stop-and-go) traffic congestion during weekday peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the County.
- TC-Xa2: The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at Level of Service F without first getting the voters' approval.
- TC-Xa7: Before giving approval of any kind to a residential development project of five or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

The FEIR states on page 2.0-14 that the intersection of El Dorado Hills Boulevard/Saratoga Way/Park Drive would operate at LOS F prior to the addition of project traffic, and that project traffic would worsen intersection operations (by adding more than 10 peak hour trips), resulting in a potentially significant impact at this location. The FEIR further states that this intersection can be improved when the Saratoga Way Extension Phase 2 project is completed. TC-Xa7 requires that the project complies with TC-Xa1 through TC-Xa6 before giving approval. Since this project does not comply with TC-Xa1, the project must be denied.

The FEIR goes on to state that data for 5 intersections changed when it was learned that two new projects are planned in the area: John Adams Academy and Montano De El Dorado Phase II. With the addition of the two projects, the LOS suspiciously improved. How is that possible?

2.0 Revisions to the Draft EIR

Table 4.8-15
Long-Term Cumulative Conditions – Study Intersection LOS Summary

Intersection	Intersection Control	Peak Hour	Cumulative No Project Conditions		Cumulative Plus Project Conditions	
			Avg Delay ¹	LOS ²	Avg Delay ¹	LOS ²
1. El Dorado Hills Boulevard/Park Drive/Saratoga Way	Signal	AM PM	37.36 48.27	D D	37.15 50.51	D D
2. El Dorado Hills Boulevard/U.S. 50 WB Ramps	Signal	AM PM	34.33 45.23	C D	47 49.40	D D
3. Latrobe Road/U.S. 50 EB Ramps	Signal	AM PM	34.14 22.23	C- C	34.26 45.23	D- D
4. Latrobe Road/Town Center Boulevard	Signal	AM PM	36.27 44.20	D- E	45.23 49.42	D- E
5. Latrobe Road/White Rock Road	Signal	AM PM	60.21 34.47	D D	67.15 50.23	D E
6. White Rock Road/Windfield Way	Signal	AM PM	12 35	B D	12 36	B D
7. White Rock Road/Port Street	Signal	AM PM	15 17	B B	15 18	B B
8. White Rock Road/Vine Street/Valley View Drive	Signal	AM PM	20 29	B C	19 31	B C
9. Town Center Boulevard/Post Street ³	ATWSC	AM PM	13 73	B F	14 82	B F
10. Silva Valley Parkway/U.S. 50 WB Ramps	Signal	AM PM	10 20	A C	10 20	A C
11. Silva Valley Parkway/U.S. 50 EB Ramps	Signal	AM PM	5 11	A B	5 11	A B

Source: Fehr & Peers, 2017.

Notes: ATWSC = all-way stop control.

¹The Town Center Boulevard/Post Street intersection is private (i.e., not a County facility).

²The average delay is measured in seconds per vehicle. For signalized and ATWSC intersections, the delay shown is the average control delay for the overall intersection. For side-street stop controlled intersections, the LOS and control delay for the worst movement is shown. Intersection LOS and delay is calculated based on the procedures and methodology contained in the HCM 2010 (TRB, 2010). Intersections 6-11 were analyzed by Synchro 9. Intersections 1-5 were analyzed by SunTraffic.

TGPA/ZOU lawsuit:

There are nexus points between El Dorado Hills Apartments and pending lawsuits - This project relies on [allegedly] flawed aspects of the General Plan as it was amended in 2015 under the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU). Should the County approve El Dorado Hills Apartments before the resolution of the pending TGPA/ZOU suit, they are committing county resources to yet another potential lawsuit as well as jeopardizing the project's approval.

Note too, that the General Plan update under the TGPA/ZOU began in 2010. It was publicly noticed. Many project applicants actively participated in the project and were well aware of proposed changes, including the applicant for El Dorado Hills Apartments. Many applicants delayed their projects in order to take advantage of the new Travel Demand Model, which this project does.

Nexus point-

The Travel Demand Model used in the El Dorado Hills Apartments traffic analysis is alleged under the TGPA/ZOU lawsuit to exacerbate inconsistencies between development potential of the Land Use Element and level of service requirements of the General Plan's Circulation Element (See RCU v. El Dorado, PC 20160024, filed Jan. 13, 2016, El Dorado County Superior Court, Dept. 9, p. 26-27, para.63.)

Inconsistencies between Caltrans and DOT determination of LOS

Projects cannot be properly mitigated and Measure E cannot be fully implemented until the inconsistencies between Caltrans and DOT determination of LOS is resolved.

As explained at the August 30, 2016 Board meeting, the County staff is misusing the Highway Capacity Manual by excluding speed and density of traffic when determining LOS. The Highway Capacity Manual (HCM) clearly states that the Highway Capacity Software (HCS) will not work accurately when the highway conditions are oversaturated. When traffic is backed up with both lanes of Highway 50 creeping along at 11 mph, it is clear that the capacity of the highway cannot accommodate the number of cars that are trying to use it. Caltrans uses speed and density to calculate LOS and therefore acknowledges that Highway 50 is at LOS F. DOT does not include speed and density in their calculation and therefore deny that Highway 50 is at LOS F.

Table 13 from the Caltrans Transportation Concept Report and Corridor System Management Plan shows that segments 8 and 9, which are the two segments inside the County line in El Dorado Hills, are both at LOS F while the Concept LOS is E.

Seg. #	County	Post Miles	Distance (Miles)	Average Annual Daily Traffic			Level of Service (LOS)				Vehicle Miles Traveled (VMT)			Delay	
				Base Year (BY)*	No Build (Horizon Year (HY))*	Build (HY)	B Y	No Build (HY)	Build (HY)	Concept LOS	BY	No Build (HY)	Build (HY)	Daily Vehicle Hours of Delay	Daily Person Hours of Delay
1	YOL	0.00/3.16	3.16	176,000	206,000	210,000	E	F	F	E	337,274	394,000	402,000	228	310
2	SAC	0.00/L2.48(R0.00)	2.48	246,000	279,000	300,000	F	F	F	E	452,373	513,000	552,000	1,697	2,309
3		R0.00/R5.34	5.34	206,000	249,000	265,000	F	F	F	E	959,231	1,158,000	1,235,000	1,708	2,323
4		R5.34/R10.92	5.58	171,000	226,000	234,000	F	F	F	E	660,436	873,000	905,000	509	692
5		R10.92/12.50	1.56	141,000	196,000	204,000	E	F	F	E	194,349	271,000	281,000	204	278
6		12.50/17.01	4.51	117,000	160,000	161,000	F	F	F	E	630,648	862,000	866,000	565	768
7		17.01/23.14	6.13	91,000	113,000	132,000	F	F	F	E	521,760	645,000	759,000	158	215
8		0.00/0.86	0.86	91,000	100,000	110,000	F	F	F	E	81,060	89,000	98,000	53	80
9	ELD	0.86/R3.23	2.37	70,000	94,000	105,000	E	F	F	E	127,860	171,000	191,000	10	13
10		R3.23/6.57	3.34	61,000	86,000	84,000	D	F	D	E	207,994	295,000	286,000	51	70
11		6.57/R8.56	1.99	61,000	73,000	77,000	D	E	D	E	170,099	203,000	216,000	15	20
12		R8.56/R15.06	6.5	52,000	67,000	71,000	C	D	C	E	307,233	396,000	420,000	16	21
13		R15.06/17.25	2.19	49,500	59,000	67,000	D	D	E	E	129,242	153,000	176,000	6	9
14		17.25/18.11	0.86	52,000	59,000	58,000	C	C	C	D	37,604	43,000	42,000	132	179

Absence of Comment by Caltrans:

The County has not received comments from Caltrans since the NOP was submitted, therefore it is difficult to determine if the issues brought up by Caltrans were addressed by the Applicant. Given the controversy regarding the traffic levels surrounding the El Dorado Hills Interchange and Highway 50 at the County line, obtaining these comments are critical for the decision makers prior to moving forward.

Banning Ranch Court Ruling – must review process of other agencies:

While its specific context is limited, the lessons learned and guidance gleaned from the Supreme Court's decision are certainly valuable ones for lead agencies and developers navigating the land use and environmental review processes in California.

The Court wrote:

CEQA sets out a fundamental policy requiring local agencies to "integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively." (§ 21003, subd. (a).) The CEQA guidelines similarly specify that "[t]o the extent possible, the EIR process should be combined with the existing planning, review, and project approval process used by each public agency." (Guidelines, § 15080.)

Since Caltrans did not submit comments on the EIR as it promised to do in its NOP comment, the County could not and did not integrate Caltrans' project approval process into the FEIR.

On these grounds, the FEIR should not be certified and sent back to staff to get comments from Caltrans on this project.

Respectfully,

Sue Taylor
Save Our County

February 9, 2018

Mel Pabalinas, Associate Planner
County of El Dorado Development Services Division
2850 Fairlane Court
Placerville, CA 95667
via email: Mei.Pabalinas@edcgov.us

Subject: Comments on The Creekside Plaza project

Dear Mel,
Below are several of the many issues concerning this project:

Measure E:

Measure E applies to this project, specifically the December 2017 version updated with Judge Stracener's decision. Policies especially pertinent to this project are:

TC-Xa2: The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at Level of Service F without first getting the voters' approval.

The DEIR states that there will be an issue of LOS F at Enterprise and Missouri Flat. The developer is expecting this intersection to be mitigated by the County due to the construction of the Sheriff's safety facility. There is nothing in the approvals of the Sheriff's safety facility that would require the County to provide a signal which is what would be needed to improve the LOS F at this intersection. Also it was reported that this project will cause LOS F on Forni Road by the entrance to the new driveway into the property. There is already a stacking problem in this vicinity. Cars coming on to Forni are forced to drive on the wrong side of the road in order to avoid the congestion. Both of these conditions must to be addressed per Measure E prior to approving this project.

TGPA/ZOU lawsuit:

There are nexus points between the Creekside project and pending lawsuits- This project relies on [allegedly] flawed aspects of the General Plan as it was amended in 2015 under the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU). Should the County approve the Creekside Plaza project before the resolution of the pending TGPA/ZOU suit, they are committing county resources to yet another potential lawsuit as well as jeopardizing the project's approval.

Note too, that the General Plan update under the TGPA/ZOU began in 2010. It was publicly noticed. Many project applicants actively participated in the project and were well aware of proposed changes, including the applicant for the Creekside Plaza project.

Many applicants delayed their projects in order to take advantage of the new Travel Demand Model, which this project does. With the TGPA/ZOU this project was given a zoning change which could be overturned with the lawsuit.

There is also an Oak Woodlands lawsuit that could change the ability to eliminate the amount of oak trees planned for removal on this property.

Inconsistencies between Caltrans and DOT determination of LOS

Projects cannot be properly mitigated and Measure E cannot be fully implemented until the inconsistencies between Caltrans and DOT determination of LOS is resolved.

As explained at the August 30, 2016 Board meeting, the County staff is misusing the Highway Capacity Manual by excluding speed and density of traffic when determining LOS. The Highway Capacity Manual (HCM) clearly states that the Highway Capacity Software (HCS) will not work accurately when the highway conditions are oversaturated. When traffic is backed up with both lanes of Highway 50 creeping along at 11 mph, it is clear that the capacity of the highway cannot accommodate the number of cars that are trying to use it. Caltrans uses speed and density to calculate LOS and therefore acknowledges that Highway 50 is at LOS F. DOT does not include speed and density in their calculation and therefore deny that Highway 50 is at LOS F.

The County is well aware of the capacity issue at the Missouri Flat Interchange, yet continue to acknowledge the need to improve the interchange prior to approving new projects when the area has already been oversaturated. The project as proposed must be denied until capacity is addressed on Highway 50 at the Missouri Flat Interchange.

Other Issues

- 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 E.
- 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.

- 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.
- 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.
- 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.
- 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.
- 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 potentially 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.
- No buffers between the existing residential and new commercial parcels
- Inadequate infrastructure for the size of development
- Parking requirements not meet, poor location of RV parking
- Right-of-way needs to be used for the safety concerns of Herbert Green

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-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 these grounds, the DEIR should not be certified.

Respectfully,
Sue Taylor
Save Our County

December 17, 2019

El Dorado County Board of Supervisors
330 Fairlane
Placerville, CA 95667

Re: Creekside

This letter was submitted in regards to the Piedmont Oaks project in 2017 in which the County never adequately addressed. Many of the conditions that were of concern for Piedmont also apply to Creekside since they are within a common Transportation Corridor. Of particular current concern regarding Creekside is Measure E traffic requirements being ignored, the number of allowed development in the MC&FP has over extended the 750,000 allowed square footage within the district, the Oak Woodlands policies currently under litigation, and mitigation being determined at a future date.

The drive-thru should not be allowed at this location. It will bring all kinds of traffic, including travelers off of the freeway to this location. The project should also be reduced in size in order to more adequately fit within the property without taking away the County's right of way. At a time when the County is actively acquiring right of way throughout the Missouri Flat area why on earth would the county abandon this one?

Please require the project applicant to redesign this project to more adequately fit within the property without so much impact to traffic, Herbert Green School, the Oak Woodland, the community and health and safety.

Thank you,
Sue Taylor
Save Our County

March 9, 2017

Mel Pabalinas, Associate Planner
County of El Dorado Development Services Division
2850 Fairlane Court
Placerville, CA 95667
via email: Mel.Pabalinas@edcgov.us

Subject: Comments on Piedmont Oaks

Dear Mel,

Below are several of the many issues concerning this project.

Measure E:

The staff report for Piedmont Oaks states that Measure E does not apply to the project. We disagree. The Subdivision Map Act Section 66474.2 refers specifically to applications for a tentative map, however this project is also applying for a rezone, general plan amendment, and planned development. As such, Measure E does apply to this project.

TGPA/ZOU lawsuit:

There are nexus points between Piedmont Oaks and pending lawsuits - This project relies on [allegedly] flawed aspects of the General Plan as it was amended in 2015 under the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU). Should the County approve Piedmont Oaks before the resolution of the pending TGPA/ZOU suit, they are committing county resources to yet another potential lawsuit as well as jeopardizing the project's approval.

Note too, that the General Plan update under the TGPA/ZOU began in 2010. It was publicly noticed. Many project applicants actively participated in the project and were well aware of proposed changes, including the applicant for Piedmont Oaks. Many applicants delayed their projects in order to take advantage of the new Travel Demand Model, which this project does.

Nexus points-

- a. The Travel Demand Model used in the Piedmont Oaks traffic analysis is alleged under the TGPA/ZOU lawsuit to exacerbate inconsistencies between development potential of the Land Use Element and level of service requirements of the General Plan's Circulation Element (See RCU v. El Dorado, PC 20160024, filed Jan. 13, 2016, El Dorado County Superior Court, Dept. 9, p. 26-27, para.63.)
- b. The TGPA/ZOU relocated the tables for noise standards as well as revising those standards, including removing their applicability to construction noise. Conflicts regarding these changes are apparent in the Findings of Consistency for the Piedmont Oaks project, which includes those mitigations as though they still exist. Construction noise is listed as a significant and unavoidable impact, unmitigated, that will continue through the build out of the project, immediately adjacent to existing homes in a quiet rural setting.
- c. The separation of the impact analysis of the Biological Resources update from the General Plan update was challenged in the pending RCU lawsuit, and the Piedmont Oaks project environmental review references the updated policies that have not yet been approved, potentially entangling all three projects (Biological Policy Update, TGPA/ZOU, and Piedmont Oaks)

Traffic:

In Staff Report Exhibit L Attachments 17-18, it states: The Pleasant Valley Road / SR 49 (west) intersection and the Pleasant Valley Road / Forni Road intersection will both operate at unacceptable levels of service in 2025; however, the Piedmont Oaks project will generate less than 10 peak hours trips through these intersections. Based on General Plan Policy TC-Xe this is not considered significant. Therefore, no fair share contribution would be required.

How was it determined that 10 peak hour trips would not be generated?

According to the Staff Exhibit L Proposed Mitigated Negative Declaration: The project is expected to generate approximately 1,346 new daily trips with 115 new trips occurring during the a.m. peak hour and 201 new trip generated during p.m. peak hour.

Additionally: The project is anticipated to contribute to the existing level of service F condition at southbound approach into the intersection of Pleasant Valley Road / Racquet Way and Missouri Flat / China Garden.

If the County is not going to apply Measure E to this project, then it must apply the 2008 Measure Y. Since it's not clear as to whether or not this project will be required to fully build the necessary infrastructure that prevents level of service F, and if the intersections at Missouri Flat / China Garden or Pleasant Valley / Racquet are allowed to remain at LOS F due to only paying a fee, then these segments must be added to Table TC-2 El Dorado County Roads Allowed to Operate at Level of Service F by a 4/5ths vote of the Supervisors.

TABLE TC-2 EL DORADO COUNTY ROADS ALLOWED TO OPERATE AT LEVEL OF SERVICE F¹ (Through December 31, 2018)		
Road Segment(s)		Max. V/C²
Cambridge Road	Country Club Drive to Oxford Road	1.07
Cameron Park Drive	Robin Lane to Coach Lane	1.11
Missouri Flat Road	U.S. Highway 50 to Mother Lode Drive	1.12
	Mother Lode Drive to China Garden Road	1.20
Pleasant Valley Road	El Dorado Road to State Route 49	1.28
U.S. Highway 50	Canal Street to junction of State Route 49 (Spring Street)	1.25
	Junction of State Route 49 (Spring Street) to Coloma Street	1.59
	Coloma Street to Bedford Avenue	1.61
	Bedford Avenue to beginning of freeway	1.73
	Beginning of freeway to Washington overhead	1.16
	Ice House Road to Echo Lake	1.16
State Route 49	Pacific/Sacramento Street to new four-lane section	1.31
	U.S. Highway 50 to State Route 193	1.32
	State Route 193 to county line	1.51
Notes: ¹ Roads improved to their maximum width given right-of-way and physical limitations. ² Volume to Capacity ratio.		

Commercial Capacity of Missouri Flat Interchange:

In a March 29, 2012 Memorandum regarding the Rezone Z10-0009/Planned Development PD10-0005/Tentative Parcel Map P10-0012/Creekside Plaza (Project) Traffic Impact Analysis from Steve Kooyman, P. E., Acting Deputy Director Engineering, and TP&LD, states:

"The commercial capacity identified within the Phase 1 MC&FP was approximately 750,000 square feet that can be accommodated by the Phase 1 Interchange Improvements. To date approximately 500,000 SF of commercial space has been approved within the MC&FP planning area."

Thus, in 2012, there was approximately 250,000 square feet remaining to develop in the MC&FP. In 2014, The Crossings Phase 1 development was approved for 120,000 square feet of the MC&FP and the pending Sundance Plaza is proposed to allow 350,000 square feet. The new Public Safety Facility will be 106,331 square feet. There is not enough capacity within the MC&FP to accommodate the Piedmont Oaks project.

Approved square footage as of 2012500,000
The Crossings approved in 2014 120,000

Total known developed commercial within MC&FP Phase 1620,000

Diamond Dorado approved September 11, 2012, but not yet built..280,515
New Public Safety Facility approved 2015, but not yet built 106,331

Total approved commercial within MC&FP Phase 1 1,006,846

Pending Sundance Plaza 350,000

Total pending and proposed square footage within the MC&FP .. 1,356,846

Total square footage capacity of MC&FP Phase 1750,000

Note: This does not include existing or proposed residential development

The U.S. 50 Missouri Flat Interchange expansion is needed to accommodate this project due to the cumulative capacity being maxed out as shown above. Since this improvement is not included in the 2016 CIP Book of projects it will need to be conditioned as other projects to provide that improvement prior to moving forward with their project.

Documented by Caltrans regarding concerns with the capacity of the U.S. 50 Missouri Flat Interchange below;

CalTrans:

Per Jeffrey Morneau, Acting Branch Chief, CalTrans in his January 27, 2015 remarks regarding the Public Facility project:

"Traffic studies..., such as Piedmont Oak Estates, state that the Missouri Flat Interchange will operate at LOS E and F in the 2035 Plus Project Scenario without improvements to the interchange - a conclusion we agree with. The 2035 Plus Project Scenario LOS for the Missouri Flat Interchange without improvements to the interchange is reported as B and C..., a conclusion we do not agree with. "

See attached document.

Biological

Oak Woodlands: Option B is not allowed per lawsuit. No new ordinance has been adopted.

Per County Website:

"On May 6, 2008 the Board of Supervisors adopted the Oak Woodland Management Plan (OWMP) and its implementing ordinance, to be codified as Chapter 17.73 of the County Code (Ord. 4771. May 6, 2008.). The primary purpose of this plan is to implement the Option B provisions of Policy 7.4.4.4 and Measure CO-P. These provisions establish an Oak Conservation In-Lieu Fee for the purchase of conservation easements for oak woodland in areas identified as Priority Conservation Areas.

A lawsuit was filed in El Dorado Superior Court on June 6, 2008 against the Oak Woodland Management Plan. On February 2, 2010, the Court ruled to uphold the Board's action to adopt the Plan. However, on appeal, the Appellate Court over-ruled that decision, remanding the case back to Superior Court, with the direction to require the County to prepare an Environmental Impact Report for the OWMP. The OWMP was rescinded on September 4, 2012 (Resolution 123-2012) and its implementing ordinance was rescinded on September 11, 2012 (Ord. No. 4892). For the time being, only Option A of Policy 7.4.4.4 is available to mitigate impacts to oak woodlands."

In the EIR, the project has been broken into 2 phases in order to get around the County's Oak Woodland Management Plan, which the project violates as it stands as a whole.

The project is being divided into two phases that relate to resolution of issues associated with the County's Oak Woodland Management Plan.

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. Therefore, severing the impact of this project into 2 phases in order to avoid the County's Oak Woodland Policies is a violation of CEQA and therefore this project should not be allowed.

With all the impacts that this project proposes to the surrounding community, the impact to traffic and the Oak Woodlands the County should require a full EIR in order to properly mitigate the impacts of this project.

Thank you,

Sue Taylor
Save Our County

12-17-19

To the El Dorado County
Board of Supervisors
330 Fairlane
Placerville, CA 95667

Re: Comments on the recommendation of the Planning Commission on the Creekside Plaza project to request a Rezone (Z10-0009), a Tentative Parcel Map (P10-0012), and a Planned Development (PD10-0005) on property identified by Assessor's Parcel Numbers 327-211-014, 327-211-016, and 327-211-025, consisting of 4.39 acres, in the Community Region of Diamond Springs, submitted by Grado Equities VI, LLC; and the Planning Commission recommending the Board take the following actions:

- 1) Adopt Resolution 233-2019 certifying the Environmental Impact Report (Attachment C), subject to California Environmental Quality Act Findings (Attachment D);
- 2) Adopt the Mitigation Monitoring Reporting Program (Attachment E) detailing the recommended Mitigation Measures in the Environmental Impact Report, in compliance with California Environmental Quality Act Guidelines Section 15097(a);
- 3) Approve Z10-0009 rezoning Assessor's Parcel Numbers 327-211-014, 327-211-016, and 327-211-025 from Community Commercial-Design Control to Community Commercial-Planned Development and Open Space-Planned Development based on the Findings (Attachment G) presented;
- 4) Approve Tentative Parcel Map P10-0012 subdividing the project site into four parcels including a 0.22-acre portion of Forni Road Right of Way subject to a General Vacation based on the Findings (Attachment G) and subject to the Conditions of Approval (Attachment H) as presented;
- 5) Approve Planned Development PD10-0005 as the official Development Plan for the proposed Creekside Plaza commercial center containing three buildings totaling 30,560 square feet with on-site parking, lighting, signage, and landscaping based on the Findings (Attachment G) and subject to the Conditions of Approval (Attachment H) as presented; and
- 7) Adopt Ordinance 5118 for said Rezone.

Dear Board of Supervisors,

The following is excerpts from the 2015 TGPA/ZOU that was approved by the Board of Supervisors.

8.2 Master Response 1: Specificity of Environmental Review

A number of commenters have suggested that the environmental analysis in the DEIR should be more specific and provide environmental impact information at the parcel level. The EIR for the TGPA/ZOU is characterized as a "program EIR." That is, an EIR prepared for a series of actions that can be characterized as one large project and that are related in connection with the issuance of regulations and plans (paraphrasing CEQA Guidelines1 Section 15168). The proposed TGPA/ZOU is the project for which the EIR was prepared.

As described in Section 1.1.3 of the DEIR, the TGPA/ZOU program EIR (TGPA/ZOU EIR) differs from the typical "project EIR" that is prepared for a site-specific project such as a highway interchange or large development proposal. The degree of specificity in the TGPA/ZOU EIR corresponds to the degree of specificity contained in the proposed TGPA/ZOU, consistent with CEQA Guidelines Section 15146.

Because the TGPA/ZOU does not include site specific development projects, it does not have the degree of specificity that would be expected of the EIR prepared for a development project. This approach corresponds with CEQA Guidelines Section 15146(b), which states:

An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

The ZOU includes site specific zone changes, but does not propose any specific development on any of those sites. The zone changes are being undertaken in order to make the zoning consistent with the General Plan's land use map, as required by California Government Code Section 65860, various policies of the General Plan, and General Plan Implementation Measure LU-A. As a result, there are no parcel specific development proposals that could be examined for environmental impact.

The ZOU zone changes will result in zoning that is consistent with the adopted General Plan. As discussed in Master Response 2, the analysis in the TGPA/ZOU EIR references the conclusions of the 2004 General Plan EIR regarding the impacts of the General Plan, while taking into account existing conditions. This provides the general level of environmental review and disclosure required by CEQA for this type of project.

The TGPA/ZOU EIR is not required to, nor does it speculate about the specific development that might someday be proposed on the zone change sites. CEQA does not require lead agencies "to engage in speculation in order to analyze a 'worst case scenario'" (Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 373). CEQA Guidelines Section 15151 describes the standard for adequacy of an EIR as follows:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.

Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

-
*CEQA will apply to future specific projects, even after the Final TGPA/ZOU EIR is certified. The CEQA analyses prepared for those proposed projects will provide decision-makers and the public with information on the potential project-specific impacts, as well as mitigation measures. The holding in *Town of Atherton v. California HighSpeed Rail Authority* (2014) __ Cal.App.4 __ explains the expected level of detail in a program EIR in relation to that expected in a project-level CEQA document.*

... Requiring a first tier program EIR to provide greater detail as revealed by project-level analyses, "undermine[s] the purpose of tiering and burden[s] the program EIR with detail that would be more feasibly given and more useful at the second tier stage." (Bay-Delta, supra, 43 -Cal.4th at p. 1173.) While significant new information must be included in an EIR, requiring a program EIR to include everything discovered in project-level analyses before the program EIR is certified would result in "endless rounds of revision and recirculation" of EIRs that the Legislature did not intend. (Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, 1132.) Petitioners' position would require an agency to stop all level analysis until after the program EIR was certified in order to avoid endless revisions. ...

8.2.1 Future Use of the TGPA/ZOU EIR

Certifying the TGPA/ZOU EIR does not eliminate the need to analyze the potential environmental impacts of later actions. CEQA Guidelines Section 15168 establishes two important limitations on this streamlined process.

First, the later action must be "within the scope" of the program EIR. That means that (1) the action is part of the project described in the program EIR and (2) all of its significant impacts were examined in the program EIR. If the later action was not part of the project or would have new significant impacts that were not examined previously, then the action would be subject to CEQA's usual requirements for preparation of an EIR.

Second, when the later action is within the scope, it must be examined to determine whether it would result in a substantial increase in the severity of any of the significant impacts that were previously analyzed in the program EIR. The increase in severity could be related to any of the following: (1) the extent to which the later action is a change to the project; (2) the extent to which changes have occurred in the circumstances that existed when the program EIR was certified; or (3) whether there is new information that was

not known and could not have been known when the program EIR was certified. (CEQA Guidelines Section 15162) If the later action would increase a significant impact's severity, then a "subsequent EIR" would be required by CEQA. The subsequent EIR would focus its attention on that impact.

In conclusion, once it is certified, the TGPA/ZOU EIR will offer opportunities for streamlining the CEQA process for later actions. The extent to which this will occur will depend on the characteristics of proposed later action and will be determined on a case-by-case basis.

The historic zoning on Creekside was residential. None of the General Plans that were adopted by the County analyzed the impact of the conversion of those properties to Commercial. When the 2004 General Plan was adopted the mitigation for matching the zoning to the Land Use was contained in General Plan Policy 2.2.5.3:

Policy 2.2.5.3 The County shall evaluate future rezoning:

(1) To be based on the General Plan's general direction as to minimum parcel size or maximum allowable density; and

(2) To assess whether changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include, but are not limited to, the following:

- 1. Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;*
- 2. Availability and capacity of public treated water system;*
- 3. Availability and capacity of public waste water treatment system;*
- 4. Distance to and capacity of the serving elementary and high school;*
- 5. Response time from nearest fire station handling structure fires;*
- 6. Distance to nearest Community Region or Rural Center;*

7. Erosion hazard;

- 8. Septic and leach field capability;*
- 9. Groundwater capability to support wells;*
- 10. Critical flora and fauna habitat areas;*
- 11. Important timber production areas;*
- 12. Important agricultural areas;*
- 13. Important mineral resource areas;*

14. Capacity of the transportation system serving the area;

15. Existing land use pattern;

16. Proximity to perennial water course;

17. Important historical/archeological sites; and
18. Seismic hazards and present of active faults.
19. Consistency with existing Conditions, Covenants, and Restrictions.

After adopting the 2004 General Plan discretionary and ministerial projects were reviewed based on this criteria. That was stopped with the adoption of the TGPA/ZOU and the public was told that the TGPA/ZOU was a program EIR and future changes that had not been analyzed under the TGPA/ZOU, such as this project would be analyzed individually. Also that TGPA/ZOU does not use the existing General Plan as the baseline because the General Plan illustrates the future uses of land, not existing conditions. Now we are at that point and this project is heavily relying on the TGPA/ZOU and not as if we were looking at existing conditions.

The TGPA/ZOU EIR stated that “Where the 2004 General Plan EIR identified mitigation measures that were adopted as General Plan policies, the TGPA/ZOU EIR **identifies those prior mitigation measures** and the extent to **which they reduce the impact of future development that is consistent with the General Plan**”(SECTION 8.3.1. Use of the 2004 General Plan EIR). **Section 2.2.5.3 of the 2004 General Plan was one of those prior mitigation measures expected to take place with this project.** Despite promises from the Board of Supervisors that approved the TGPA/ZOU, never has.

Mitigation Measures in the TGPA/ZOU EIR

To an extent, the level of detail in the TGPA/ZOU EIR's mitigation measures is limited by the nature of this project. The TGPA/ZOU does not propose any specific development projects. Therefore, the size, intensity, and design of future development that could occur under the TGPA/ZOU cannot be known at this time. For example, the ZOU would allow a Health Resort and Retreat Center in specified zones either by right or upon approval of an administrative or conditional use permit. However, the ZOU's definition of Health Resort and Retreat Center does not provide much detail about what would constitute such a center.

As a result, many of the mitigation measures act at the policy or ordinance level. Unlike the mitigation measures that might be adopted for a development project, they are not site-specific. Using the Health Resort and Retreat Center as an example again, in response to the potential impacts of such centers in rural areas, the TGPA/ZOU EIR includes Mitigation Measure AG-1a which would limit these centers to the size of bed and breakfast inns.

The mitigation measures for a private development project are typically adopted as “conditions of approval” for that project to ensure they are implemented. The TGPA/ZOU is not a development project, but is instead a set of proposed changes to the County's land use planning policies and zoning regulations. Accordingly, the mitigation measures for the TGPA/ZOU will be included in the approval of the TGPA and ZOU, thereby incorporating them into the General Plan and the proposed Zoning Ordinance to ensure their implementation.

We are now at that Development stage in which this project must be analyzed as promised in the 2004 General Plan.

Practical Constraints on Future Development under the TGPA/ZOU

8.6.1 Practical Considerations

The TGPA/ZOU EIR does not assume full build-out because there are practical constraints on development that make such an assumption unreasonable. Neither the General Plan designation nor zoning that is applied to any given parcel confers a vested right to develop that parcel at the maximum density provided for under the designation or zone.

This is saying that just because the applicant can apply for development does not mean that project can be without constraints. Originally this project violated the General Plan, the zoning ordinance, Measure Y and Measure E, 30% slope limitations, the Oak Woodlands Policies, and wetland standards. The project will also require the 50' right of way along Forni Road owned by the County.

See the County's statement below:

Since the rescission of the project approvals, some changes to the General Plan and Zoning Ordinance as part of the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU) that was adopted by the County Board of Supervisors on December 15, 2015 have taken place that are relevant to the project. First, the subject parcels were rezoned from One-Acre Residential (RIA) to Community Commercial-Design Control (CC-DC). Second, development restrictions on slopes 30% or greater under General Plan Policy 7.1.2.1, has been codified into the Zoning Ordinance under Section 130.30.060 (*Hillside Development Standards; 30 Percent Slope Restriction*). Third, regulation of oak resource impacts under General Plan Policy 7.4.4.4 has also been codified under Section 130.39 of the Zoning Ordinance implementing the Oak Resource Management Plan (ORMP) (note: this ordinance was not a part of the TGPA/ZOU). Lastly, regulation of impacts to wetlands under General Plan Policy 7.4.4.4 has been codified under Section 130.30.030 of the Zoning Ordinance (*General Development Standards-Setback Requirements-Protections of Wetland and Sensitive Riparian Habitat*).

The project also violates the allowed commercial square footage allowed in the Missouri Flat Corridor. This is without the Creekside Project:

Approved square footage as of 2012	500,000
The Crossings approved in 2014	120,000
Total known developed commercial within MC&FP Phase 1	<u>620,000</u>
Diamond Dorado approved September 11, 2012, but not yet built..	280,515
New Public Safety Facility approved 2015, but not yet built.....	106,331
Total approved commercial within MC&FP Phase 1	<u>1,006,846</u>
Pending Sundance Plaza	350,000

Total pending and proposed square footage within the MC&FP .. 1,356,846

Total square footage capacity of MC&FP Phase 1 750,000

Note: This does not include existing or proposed residential development

CalTrans:

Per Jeffrey Morneau, Acting Branch Chief, CalTrans in his January 27, 2015 remarks regarding the Public Facility project:

"Traffic studies..., such as Piedmont Oak Estates, state that the Missouri Flat Interchange will operate at LOS E and F in the 2035 Plus Project Scenario without improvements to the interchange - a conclusion we agree with. The 2035 Plus Project Scenario LOS for the Missouri Flat Interchange without improvements to the interchange is reported as B and C..., a conclusion we do not agree with. "

The EIR proposes an alternative with reduced impacts, which still is an unmitigated transportation impact since the traffic has really not been adequately mitigated.:

Transportation

*The Wetland Avoidance Alternative consists of developing 20,060 square feet of office, retail, and restaurant uses on the project site, which represents a reduction of 35 percent or 10,500 square feet relative to the proposed project. Accordingly, fewer corresponding daily vehicle trips would be generated as compared to the proposed project. The reduction in peak-hour trips would avoid or lessen the severity of significant impacts at several intersections and roadway segments; **however, this alternative would still contribute to facilities experiencing unacceptable operations and would require mitigation measures**, similar to the proposed project. Therefore, the Wetland Avoidance Alternative would have similar less than significant transportation impacts as the proposed project, although the severity of impacts would be reduced.*

No matter what this project must comply with Policy TX-Xa #2. and the County has continued to avoid addressing this requirement which was passed by the voters and validated by legal action of the court.:

Measure E Applicability to the Project

The County has determined that, because the project application was deemed complete before Measure E's adoption and subsequent ruling, Measure E policies do not apply to the project. However, the 2008 Measure Y policies (before Measure E took effect) are applicable (Pabalinas, pers. comm.). The language 2008 Measure Y Policy TC-Xa is provided as follows:

- **Policy TC-Xa**—The following policies shall remain in effect until December 31, 2018:
 1. Traffic from single family residential subdivision development projects of five or more parcels of land shall not result in, or worsen, Level of Service F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.
 2. **The County shall not add any additional segments of U.S. Highway 50, or any other roads, to the County's list of roads that are allowed to operate at Level of Service F without first getting the voters' approval or by a four-fifths vote of the Board of Supervisors.**

3. Developer-paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county.

In 2011 Stephen Pyburn, PE, TE performed the traffic study for Creekside. He stated that the addition of the proposed project causes the intersection at Forni Road and Golden Center Drive to change from LOS D to LOS F. The mitigation was to be a signal. Since there was no stacking room for a signal the mitigation was removed from the project and has not been mentioned since. The Staff just dropped the ball on following through with real mitigation once it was determined this was not feasible. There is nothing in this current EIR that addresses peak hour traffic as required by either Measure Y or E:

Current EIR:

5. Traffic and Circulation Traffic and Circulation impacts were evaluated based on a Traffic Impact Analysis (TIA) submitted for the project. The TIA evaluated the traffic conditions (LOS) at 11 existing intersections and three roadway segments primarily along Missouri Flat Road. Traffic conditions reviewed for the project includes verification of Level of Service, Traffic Volume, Traffic Signal Warrants, and Intersection Queues at signalized intersections. The project was also reviewed for consistency with infrastructure needs including bus stop siting, bicycle lane, and pedestrian paths. As discussed in the DEIR, the project was reviewed for consistency with the applicable standards of the Traffic and Circulation Element policies involving Measures Y and E. **Impacts associated with the generation of new vehicular trips have been determined to contribute to unacceptable traffic operations under Existing Plus Project conditions and 2035 plus Project conditions and are considered potentially significant.** Application Mitigation Measure MM TRANS-1, which requires payment of Traffic Impact Mitigation (TIM) fees, has been identified as the appropriate measure to reduce the impact to less than significant. **The generated vehicular trips have also been reviewed for potential impacts to mid-afternoon traffic operations in the immediate area, in particular during school operation hours. As determined, the mid-afternoon traffic conditions in the Existing plus Project and the 2035 scenarios would not result in unacceptable intersection Level of Service or satisfaction of traffic signal warrants.** Impacts would be less than significant. Project design was analyzed for potential substantial increase of hazards and incompatible uses. The design was reviewed against the County's Traffic Impact Study Guidelines and On-Site Transportation Review (OSTR) for site access and circulation, sight distance, parking as well as review of historical vehicular accidents in the area. **The potential impact was considered potentially significant which can be mitigated to less than significant with application of Mitigation Measure MM TRANS-5.**

I ask that the Board of Supervisors continue this project, deny the EIR and require that the project be redesigned to minimize the impacts and to also comply with Measure E, Policy TC-Xa #2.

Sincerely,

Sue Taylor

Save Our County