

February 3, 2012

Roger Trout, Director
Development Services Department
County of El Dorado
2850 Fairlane Court
Placerville, CA 95667

Re: Comments on Staff Report and Mitigated Negative Declaration (MND) for the
Tilden Park Project
APN's 070-280-59 and 070-280-60
File No. A08-0015/Z08-0039/PD08-0025-/TM08-1485

Dear Mr. Trout,

Stop Tilden Park is an association of area citizens who oppose the Tilden Park Project as it is currently proposed. We provide the following comments regarding the Project's incompatibility with the existing environment and the General Plan, and also discussing various violations of CEQA. This comment letter supplements any previous comments submitted by Stop Tilden Park or its members. Our counsel, Marsha A. Burch, is also submitting comments on our behalf.

Description of Tilden Park Project:

GENERAL PLAN AMENDMENT/REZONE/PLANNED DEVELOPMENT/TENETATIVE MAP:

A08-0015/Z08-0039/PD08-0025/TM08-1485/Tilden Park submitted by REAL RETURNS LLC for the following:

1. General Plan Amendment to change the land use designation from Medium Density Residential (MDR) to High Density Residential (HDR) and Commercial (C); 2. Rezone from One-Acre Residential (R1A) to One-Family Residential-Planned Development (R1-PD), Commercial Planned Development (C-PD), and Open Space-Planned Development (OS-PD);
3. Planned Development with the intention to allow clustering of lots and allow building within setbacks required for One-Family Residential (R1);
4. Tentative Map and phasing plan to create 14 single family residential lots, ranging in size from 5,151 to 9,590 square feet (total of 2.97 acres), two (2) commercial lots, which would be 3.28 acres and 4.94 acres in size, and two (2) open space lots totaling 35,506 square feet (0.82 acre);

5. **Design Waivers** have been requested for the following:
- (a) The roadway width of Crosswood Drive (private road) along the project frontage be reduced from 28 feet to 18 feet from edge of pavement to edge of pavement with type two (2) vertical curb, gutter and sidewalk on the project side only;
 - (b) The roadway width for Crosswood Drive (private road) offsite from the project to Wild Chaparral Drive be reduced from 28 feet to 18 feet from edge of pavement with one (1)-foot shoulders;
 - (c) Frontage improvements, including curb, gutter and sidewalk along Crosswood Drive (private road) be eliminated.

The property, identified by Assessor's Parcel Numbers 070-280-59 and 070-280-60, consisting of 12.01 acres, is located approximately 500 feet from the northwest corner of the intersection of Crosswood Drive (private road) and Wild Chaparral Drive in the Shingle Springs area, Supervisorial District 4. (Project Planner: Shawna Purvines/ (Mitigated negative declaration prepared).

Actual Description of the Tilden Park Project: (Conditions of Approval; Attachment 2; Findings; Tentative Subdivision Map; Exhibit F)

- Hotel, 80 rooms, (four (4) story
- Restaurant, 120 seat
- Food Market, 20,000 sq. ft.
- Commercial Building, four (4)
- Houses, fourteen (14)
- Six (6) foot concrete screening/sound wall along north and west side

This development is located on 12.01 acres in an established (over 33 years) neighborhood. The current land designation of this property is MDR (medium density residential) and the zoning is R1A. The developers are asking for a change in designation to HDR (high density residential), C (commercial zoning), and Design Waivers to take ten (10) extra feet from three (3) private property owners on Crosswood Drive (private road).

The developers are also asking for a General Plan Amendment; Rezone; Planned Development; Tentative Map creates 14 residential lots, two (2) commercial lots and two (2) open space lots on an existing 12.01 acre parcel.

Design Waivers: The roadway width for Crosswood Drive (private road) offsite from the project to Wild Chaparral Drive be reduced from 28 feet to 18 feet from edge of pavement with one (1)-foot shoulders.

Per the letter dated 9/27/10 from Michael Hardy, Asst. Fire Chief/Fire Marshall to Jason Hade, El Dorado Co. Planning Services states: (5) *"Fire apparatus access roads shall not be less than 20 feet in width and shall be all weather hard-surfaced suitable for fire apparatus."*

The three (3) properties on the North side of the Tilden Park property located on Crosswood Drive are:

- Randy & Laura Swartz residence (APN 70-280-43);
- Loren & Denise Storms residence (APN 70-280-44);
- Jerry & Kathy Scarry residence (APN 70-280-19)

These three (3) property owners stated that they "will not" allow any easements on their property for use by the Tilden Park project. (Planning Comm. meeting, 10/27/11, page 3)

The Project Description in the Staff Report is Incorrect and Inaccurate:

The present project description woefully understates what exists in the Wild Chaparral and Crosswood Drive area. The Staff Report says:

"The project site has development on the west and north sides, has an approved Planned Development (PD08-0016/Wild Chaparral Office Complex) and on the east side for seven (7) commercial lots on two (2) acres and is fronted by Wild Chaparral, a county road that parallels U.S. Route 50."

- The development on west side is Park Community Church which does not change the zoning which still exists as R1A in an existing neighborhood. This church was given a Special Use Permit to build.
- There is NO development on the north side of this project. It is an existing neighborhood that has been here for over 33 years.
- The Wild Chaparral Office Complex does not exist. A developer bought the property, had it rezoned commercial from the existing R1A and has as soon as he purchased the property he put it up for sale.
- The existing businesses on Wild Chaparral are fighting to stay open. On the east corner of Wild Chaparral and Ponderosa Road has been three (3) failed car dealerships and the building remains empty and is an eye sore.
- The business also located east of this project was formerly Bosio Sports Complex that went bankrupt and closed within one year. The county has let Kniessel Collision Center buy and develop that building. When this business opens it will violate both the El Dorado County Noise Ordinance (9.16.010) and the Public Health laws with their

pneumatic drills, 16 open bays, and hazardous materials used in repairing and painting cars:

- Resolution No. 113-2008 of the Board of Supervisors of El Dorado County (4/25/08):
 - The proposed auto body shop would be located adjacent to a residential subdivision and would have the potential to emit unpleasant odors and unacceptable noise levels inconsistent with General Plan goal 6.7B and Policies 6.5.1.3 and 6.5.1.7.

- On November 13, 2010 there was an illegal Rave event, all day and most of the night, in the empty Bosio Sports Complex. There were over 600 people in attendance and the El Dorado Sheriff and Highway Patrol were called to this facility due an illegal load and unruly crowd evacuated the illegal party goers.

El Dorado County General Plan states:

Development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses and permitted by the policies in effect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site. (El Dorado County General Plan, Policy 2.2.5.2.1, page 34)

Conflicting statements within the Mitigated Negative Declaration (MND):

Inadequate Mitigation: MND XII. NOISE

The MND States: (page 22 XII. NOISE a.) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? **LESS THAN SIGNIFICANT IMPACT**

It is generally incompatible to put new residential and commercial development in areas that are “louder” than 60dBA CNEL. It's one thing to allow some more large lot residential in this area, but increasing the density of residential and commercial density in a “noisy” area (Highway 50) is bad planning .

The MND states:

- "A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project." (page 22, XII. NOISE)

- The Restaurant Parking Lot will have noise levels exceeding the El Dorado County ambient noise level threshold criteria. (page 25)(67.4BL) Table 7
- The study identified potentially significant noise associated with the use of the parking lot and loading facilities in close proximity to the existing residence in the east as well as future residences to the north. (page 23 and 24, a, d)
- Brennan & Associates, Inc. conducted continuous 24-hour noise level measurements on January 14-15, 2008 and four (4) short-term noise assessments on January 11 and 14, 2008 on the project site. Noise levels from the adjacent Highway 50 and project-related commercial uses are predicted to **exceed the County's noise standards at the nearest proposed and existing residential lots.** (Staff Report 10/27/11 Noise Impacts, 2nd paragraph)
- Construction related activities would occur weekdays only during daylight hours, on intermittent days, and would involve intermittent use of heavy equipment, drills, air compressors and generators and would potentially exceed the thresholds established by the General Plan. **This is a potentially significant impact.** (page 23c)

El Dorado County Noise Ordinance (9.16.010):

It is unlawful for any person to produce to emit any loud or raucous noise, including human voice amplified, or the sounds of musical instruments, gunshots, explosions or other device to the extent that it carries onto private property or is heard by others using the highway within the unincorporated territory of the county.

The MND states (page 22) that there is LESS THAN SIGNIFICANT IMPACT noise levels from this project. On that same page they state there will be a "substantial permanent increase" from the project. The Restaurant Parking Lot will have noise levels "exceeding" El Dorado County ambient noise levels; as well as increased noise levels from the parking lot and loading facilities. The construction will have a "significant impact" especially since they will be using generators, air compressors, trucks, backhoes and other construction equipment. This project will violate the El Dorado County Noise Ordinance as this noise will carry onto private property in the neighborhood.

Inadequate Mitigation: MND XIV Public Services: FIRE

Findings: (MND page 28) Adequate public services are available to serve the project. Therefore, there would be no potential for a significant impact due to the development of the subject parcel either directly or indirectly.

Staff Report (page 9) EID would provide domestic water and fire-flow service. The Facilities Improvement Letter stated the current facilities available in Wild Chaparral Drive are adequate to supply the project with the **1,500** gallons per minute (gpm) for a two-hour duration.

According to the District's hydraulic model, the existing system can deliver a maximum fire flow of 1500 GPM.

El Dorado County Fire Protection District, letter dated 2/18/09 from Mark A. Johnson, Fire Marshal, states:

- Minimum fire flow for a 28,500 sq. ft. Type V-N building with fire sprinklers is **2,250 gpm @ 20psi** for 2 hours.
- EID letter dated April 18, 2008 states: "In order to provide a **3125 GPM** fire flow you would be required to construct a looped onsite extension and also an offsite 10-inch line extension connecting the 8-inch water line in Wild chaparral Drive to the 10-inch water line located in Ponderosa Road."

El Dorado County Fire Protection District, letter dated 9/27/10 from Michael Hardy, Asst. Fire Chief/ Fire Marshal, states:

12. El Dorado County Fire Protection District required a Wild land Fire Safe Plan be developed by a qualified consultant to address mitigations that need to be developed to ensure that the safety of the public and firefighters who may be called upon to respond to wild land fires and other emergencies within the project area.

There is also no fire evacuation plan for the area. There is only one (1) dead-end road that flows to Wild Chaparral from Many Oaks Lane. There are over 140 homes that travel in and out on these roads and a lot of these roads do not have the minimum of two (2) nine (9) foot sections and are only wide enough for one vehicle at a time.

Inadequate Mitigation: MND IX: WATER

El Dorado County has had water supply problems since 1989 when Crystal Mountain Casino first started construction. There is a "Limited Supply of Potable Water". (Environmental Assessment (page 5)* by Calif. Water Environmental Assoc) . It was proposed that the casino would truck 25 loads of water a day to supply their water. It was ruled illegal by State Department of Health Services.

The Crystal Mountain Casino changed its name to Foothill Oaks Casino and eventually to Red Hawk Casino. In order to supply water for fire and services to the casino they had to build a one (1) MG Potable Water Storage Tank (one million gallon) on their property.**

* http://www.hydroscience.com/pdf/HydroScience%20Engineers-Onsite%20Disposal_Red%20Hawk%20Casino.pdf

**<http://www.auburnconstructors.com/projects/red-hawk-casino-wwtp>

Where is the water coming from for the Tilden Park project? EID can't guarantee water for this development just as EID could not provide water for the Red Hawk Casino.

Inadequate Mitigation: Staff Report: HOTEL

This project is proposing an 80-room hotel. Our area cannot support a hotel that size. Our Quality Inn in Cameron Park reports that they are only filled to 30% capacity normally, only 18% for the month of December and hardly make enough money to meet expenses.

On January 19, 2012 Leslie Davis contacted Nomi Txen, General Manager, of the Motel 6 in Cameron Park. Mr. Txen reported that an adult with two (2) children can rent a room on a weekly basis for \$319. When he was asked how long can they rent on a weekly basis, he reported that they could rent indefinitely.

Inadequate Mitigation: MND VII: GREENHOUSE GASES

The Staff Report nor the MND includes an adequate greenhouse gas emission analysis in accordance with the CEQA guidelines.

The initial study does not document the anticipated emissions and quantify whether the volume of emissions expected from this project are less or more than the existing planned uses of the property.

The MND states that the traffic study concluded that the project would be expected to generate 2:07am and 3:55pm peak hours trips, with **4,455** total daily trips. (page 30, Transportation/Traffic (a))

Inadequate Mitigation: MND IX: HYDROLOGY (flood & draining)

The MND states: *"Findings: No significant hydrological impacts would result from development of the project (MND, page 20).* The Staff Report also states: *"The three (3) areas where the 50 foot setback could not be met include the northwest and northeast corners of the proposed hotel underground parking and a portion of three (3) parking stales adjacent to the hotel site."* (Staff Report, page 7 & 8 (16.))

How could anyone possibly build an underground parking garage in the location of a wetlands with underground springs?

The open field on this 12 acre property has several natural springs underground as well as Oak Mill Creek, an intermittent creek, that runs through the property every year.

Every year Crosswood Drive on the north/west side of the road is flooded by water that cannot adequately pass through our drainpipe. Two years ago we enlarged the drainpipe to accommodate the water flow.

- In 2010 the home owners of Crosswood Drive installed a 48" pipe under our road. The previous pipe which was 30" and it could not handle the run off of water. For the past 31 years our road would get flooded every year on the North side of the Tilden Park property as it drains hundreds of acres to pass under the freeway and into Durock Pond. The name of the creek is the Old Mill Creek.
- The open field has multiple natural springs. On January 9, 2012 the Sentry Storage reported that a natural spring was leaking into two (2) of the storage units and they were digging paths to divert the water from the units. They hired a plumber to find the leak. Their water meter was not spinning so they determined it was from a natural springs and not from EID and diverted the water off their property.
- Arnold Pierce (property runs alongside of Tilden Park property) has major flooding problems, especially in the winter. In the winter his family cannot use their washer and must take all their laundry to a laundry mat to do their laundry. He says he has a pond on the back side of his property year around.
- Ken Young (letter dated 2/26/09 in Tilden Park file) documents his home has flooding problems due to the springs. He has a sump pump that runs continuously. (His property is directly north and is against Tilden Park property)
- Dave Koupal (property also runs alongside Tilden Park property) was to have a propane heater installed by his propane supplier. They had to go under the house to extend a supply line to the heater. They couldn't go under the house as there was too much water. They supplied a sump pump and it took three (3) days to clear out the water.

The Koupal's have a detached wine cellar. This is approximately eight feet deep . This unit has a sump pump and runs 24-7 due to winter rain and from underground springs.

- There are permanent sand bags on Many Oaks Lane due to flooding of that road. All the water that comes down Many Oaks Lane drains on the north/west side through Crosswood Drive. When the natural drainage of Old Mill Creek is paved over (72% to be paved) our neighborhood flooding and Many Oaks Lane flooding will make these areas impassable. This road (Many Oaks Lane) is the only road (dead end road) that is used by over 125 homes that travel in and out each and every day.

Not addressing commercial buildings and an additional fourteen (14) homes on this 12 acres located in a wetlands is a potentially significant impact to the Hydrology and Water Quality for the existing residents, structures and properties upstream and surrounding this development.

In the Staff Report (dated October 27, 2011, page 7 (15.) states:

Existing land use patters: POLICY 2.2.5.21 directs that development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the project is proposed.

As stated at the 10/27/11 Planning Commission meeting and Staff Report, this project does not integrate into the existing community at all. On the contrary, it is designed as a mixed-use infill project with commercial and high density residential within an existing neighborhood of primarily single-family homes on one-acre lots.

In two (2) recent court cases, *Save our Neighborhood vs. Kathi Lishman 2006, C049525 and C.N.P.S. vs. County of El Dorado 2009, C057083*) clearly upholds the central issue as to whether payment of the impact fee adequately mitigates the environmental impacts, as to plants and traffic, of all projects within the relevant area. More exactly, by paying the fee, does a developer establish entitlement to a mitigated negative declaration (MND), as to plants and traffic, instead of having to prepare an environmental impact report (EIR)? The answer is "no".

Mitigation Measures neither Adequate nor Related to the Impact

The MND is fatally flawed for not analyzing the growth that will occur in the area served by the Project. "Determining Important Mitigations Strategies" sometime in the future does not comply with CEQA. 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 these 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. This 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. Firstly, the environmental review process is hidden from the public and CEQA is, first and foremost, 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 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.

The MND is replete with these "mitigations" that are to be developed in the future, out of the purview of public review, and involve a great deal of discretion in the development of the particular procedure, plan, or activity, that is purported to mitigate various environmental concerns. Some examples (not a complete listing) are:

- **Future Mitigation: MND XVI.: TRANSPORTATION/TRAFFIC. a & b.**

Item a) is indicated as Less Than Significant Impact to traffic congestion. The Less Than Significant Impact designation is achieved by mitigating that "These intersections are proposed to be widened in the future to include two through lanes in each direction of the bridge, with funding to be provided through the County's Capital Improvements Program (CIP)."

Item b) is indicated as Less Than Significant Impact to level of service. The Less Than Significant Impact designation is achieved by mitigating that "The impacts of this project can be mitigated with the completion of County Capital Improvements Project (CIP) #71333 US 50/Ponderosa Road/South Shingle Road Interchange Improvements, #71339 North Shingle Road Realignment and #71338 Durock Road Realignment."

As stated at the 10/27/11 Planning Commission Meeting, these improvements to the US 50/Ponderosa Road/South Shingle Interchange and the Realignments to North Shingle and Durock Roads have been part of the CIP for many years, but may not be completed within the next 20 years due to a lack of funding. Both of these traffic mitigations are planned for an indefinite time in the future, which is not acceptable under CEQA guidelines. Additionally, an October 25, 2011 letter from the Department of Transportation contains the following statements:

This project will create "direct impacts" at the US 50 EB off ramp intersection under the existing plus project scenario and a finding of *less than significant impact* in IS/MND is not supported by the evidence. . . The IS/MND clearly presents contradictory conclusions and statements that do not meet the requirements of CEQA for a MND. An EIR is required to be completed unless

mitigation for the impacts are required when the project is scheduled for completion, not at some uncertain future date.

When all of the evidence is considered, the findings for XVI. Transportation/Traffic a) and b) must be changed to Potentially Significant Impact and an EIR is required for this project.

- **Inadequate Mitigation: MND XVI.: TRANSPORTATION/TRAFFIC. f.**

The commercial buildings in Lot 18 may not share parking spaces due to the fact they do not have distinct and differing hours of use and peak traffic period. Offices, shops, a food market, and a restaurant do not have distinct and differing hours of use and peak traffic period.

Per El Dorado County Zoning Ordinance 17.18.060, the tentative subdivision map shows the following inadequate number of parking spaces for the project:

- On Lot 17 one (1) space of parking is required for each room of the hotel, so at most the hotel can have 69 rooms because the map shows 69 spaces for the hotel.
- The front half of Lot 18 should have 126 spaces to accommodate the shops (22), offices (24) and food market (80), but the map shows only 60 spaces for these buildings to share.
- The back half of Lot 18 should have 40 spaces to accommodate the restaurant, but the map shows 92 spaces for the restaurant.

Lot 18 should have a total of 166 parking spaces to accommodate the food market, shops, offices, and restaurant, but the tentative subdivision map shows only a total of 152 spaces for these buildings. Additionally, because of the physical limitations of the lot, a majority of the parking spaces are located at the back half of the lot, away from the high traffic businesses. This is a poor design that does not provide employees or customers with convenient parking.

When all of the evidence is considered, the findings for XVI. Transportation/Traffic a) and b) must be changed to Potentially Significant Impact and an EIR is required for this project.

- **Inadequate Mitigation: MND X.: LAND USE PLANNING. b)**

El Dorado County Zoning Ordinance 17.14.230 Mixed Use Development states, “G. Findings: To assure the proposed development meets the intent of this section for mixed-use development and in addition to the findings in section 17.04.030(B), the following findings shall be made prior to approving a mixed-use project. 1. Community integration: Development integrates into the existing and planned community and creates an appropriate internal and external human scale, providing for pedestrian comfort and amenities.”

As stated several times at the 10/27/11 Planning Commission meeting, this project does not integrate into the existing community at all. On the contrary, it is designed as a mixed-use infill project within an existing neighborhood of primarily single-family homes on one-acre lots. Per the 2011 CEQA Statute and Guidelines, infill projects are defined as:

§ 21061.3. INFILL SITE

“Infill site” means a site in an urbanized area that meets either of the following criteria:

- The site has not been previously developed for urban uses and both of the following apply:
- The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.
- No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.
- The site has been previously developed for qualified urban uses.

Simply showing that one undeveloped commercial lot exists adjacent to the east side of the project does not justify the zoning change. General Plan Policy 2.2.5.7 states, “Where a zoning district applied to given land is consistent with the General Plan land use designation, the County reserves the right to deny development plans providing for permitted uses where adequate findings for approval (including adequate public facilities and services) cannot be made.” The County has the right to deny this zone change based upon the following issues:

- Wetlands without the required 50 foot setbacks;
- Inadequate buffers between the new commercial parcels and the residential parcels, both new and existing;
- Inadequate traffic infrastructure for the size of development;
- Inadequate water supply for the size of the development;

- The tentative parcel map does not follow the proposed R1 Zone District minimum lot size;
- The isolated location of the site will add to sprawl;
- Surplus of existing commercial parcels and buildings in the county at this time.

The proposed project is a high density, mixed use, urban development, which is not consistent with the General Plan's designation of Medium Density Residential land use for the parcels. Policy 2.2.1.2. of the General Plan states:

Medium-Density Residential (MDR): This land use designation establishes areas suitable for detached single-family residences with larger lot sizes which will enable limited agricultural land management activities. This designation shall be applied where the character of an area is single-family residences; where the absence or reduced level of infrastructure including roads, water lines, and sewer lines does not justify higher densities; where the topography poses a constraint to higher densities; and as a transitional land use between the more highly developed and the more rural areas of the County. The maximum allowable density shall be one dwelling unit per 1.0 acre. Parcel sizes shall range from 1.00 to 5.00 acres. Except as provided in Policy 2.2.2.3, this designation is considered appropriate only within Community Regions and Rural Centers.

Policy 2.2.5.6 states, "Where approval of this General Plan has created inconsistencies with existing zoning, lower intensity zoning, in accordance with Table 2-4, may remain in effect until such time as adequate infrastructure is available to accommodate a higher density/intensity land use." Because this project creates several inconsistencies with existing zoning, it would be prudent to keep the lower intensity zoning as suggested by the General Plan Policy 2.2.5.6.

This project creates conflicts with both the General Plan and Zoning Ordinances for which there are no mitigation measures that can resolve those conflicts. Therefore the findings for X. Land Use Planning. b) must be changed to Potentially Significant Impact and an EIR is required for this project.

- **Inadequate Mitigation: MND IV.: BIOLOGICAL RESOURCES. a).**

The MND states: The project as proposed avoids any impact to the identified sixty-six ceanothus plants. Therefore, no mitigation is required. However, several agencies have commented that the project will, in fact, impact the native plant species on the site.

- A November 16, 2011 letter from Graciela Hinshaw of the Pine Hill Preserve states, "Because of the proximity of the proposed project to Preserve lands (0.15 miles) it is possible that rare plants existing in the project area (including the federally listed Pine Hill ceanothus) provide conservation values to other rare plants at the Preserve by contributing to genetic exchange through pollination. I

think a careful examination of the project should include the potential effects on both the project area's rare plants and on other Preserve populations.”

- A March 5, 2009 letter from Kent Smith of the Department of Fish and Game states, “The biological evaluation indicates that the proposed project area contains many valuable biological resources. DFG is particularly concerned that the proposed project site contains habitat for fourteen (14) special status plants, of which sixty-six (66) Federal Endangered and State Rare Pine Hill ceanothus (*Ceanothus roderickii*) plants were observed at the southern end of the identified gabbroic northern mixed chaparral community on the site. . . The DFG is concerned that the current funds assessed to this project's sponsor by the above current in-lieu fee program may not alone be adequate to offset the potential project's impacts, or meet the standard set forth by the California Environmental Quality Act (CEQA), because this in-lieu program has not been adjusted to reflect current costs to implement an effective plant habitat acquisition and management program, nor has the County funded the entire required 50 percent of the total cost of the rare plant program. Projects approved by the County over time have cumulatively led to the loss of rare plant habitat and rare plant occurrences throughout a significant portion of their limited range. Therefore, at a minimum, the DFG recommends that the in-lieu fee program be re-evaluated and updated for the above reasons prior to its use to mitigate impacts to rare plants to below a level of significance.”
- A September 13, 2010 letter from Mark Egbert of the El Dorado County Resource Conservation District states, “A review of the California Natural Diversity Database (CNDDDB) did identify the potential presence of federally threatened or endangered species (Pine Hill Ceanothus and Layne's Ragwort) within the project footprint.” The Botanical Inventory by Sycamore Environmental did not find the presence of the federally threatened Layne's Ragwort that has been known to exist on the site in the past. Therefore, further investigation is warranted.

CEQA 15064(g) states:

After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is 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 shall prepare an EIR.

Due to the disagreement of expert opinion about the effects of this project on the native plants known to exist or to have existed on the site, an EIR is required for this project.

- **Inadequate Mitigation: MND IV.: BIOLOGICAL RESOURCES. b).**

To the extent feasible, the tentative parcel map is subject to consistency with applicable General Plan policy 7.3.3.4 involving minimum setbacks of 50' for intermittent streams and wetlands. However the tentative parcel map clearly shows that the 50' setback is not met for the intermittent stream and is completely missing for each of the 11 wetlands on the site.

- **50' setback for intermittent stream**

The MND acknowledges that the 50' setback for the intermittent stream is not met in 3 areas (the northwest and northeast corners of the proposed hotel underground parking and a portion of 3 parking stalls). However, the MND does not mention the 20' wide fire access lane behind the hotel that is clearly drawn on the tentative subdivision map and almost entirely within the 50' setback. And it is notable that the fire lane is not drawn on Exhibit G nor on Exhibit H, which are dated 4-19-10, yet the fire lane is included in all of the Exhibits dated 8-15-11 and 9-16-11. This suggests that the fire lane was added as an afterthought and drawn into the 50' stream setback for lack of space and planning.

A pedestrian bridge with a path from the hotel in Lot 17 to the shops in Lot 18 is included on the tentative subdivision map, completely within and spanning the entirety of the stream and its setbacks. This path and bridge are not mentioned in the MND and are included in the map despite suggestions from experts to reduce or restrict human access and place "environmental sensitive area" signs in the open space area.

- **50' setback for wetlands**

Upon careful examination of the tentative parcel map, there are no setbacks for the 11 wetlands on the site – none. Lots 1, 7, 8 and 14 are just a few feet from the perimeter of a wetland, while the hotel and restaurant parking are anywhere from 5' - 25' from the perimeter of a wetland.

This project does not adhere to the 50' setback for intermittent streams and completely ignores the 50' setback for wetlands. Therefore the findings for IV. Biological Resources. b) must be changed to Potentially Significant Impact and an EIR is required.

- **Inadequate Mitigation: MND IV.: BIOLOGICAL RESOURCES. e).**

An Oak Canopy Analysis was prepared by Sycamore Environmental Consultants, Inc. on November 25, 2008. However, the project map was significantly modified sometime

after April 19, 2010 to add a 20' wide fire access lane behind the hotel (this is noted by the absence of the fire lane in maps dated April 19, 2010, but the addition of the fire lane in maps dated August 15, 2011 and later).

This MND was prepared using old calculations that are no longer valid. Therefore the findings for IV. Biological Resources. e) must be changed to Potentially Significant Impact and an EIR is required.

- **Inadequate Mitigation: MND XV.: RECREATION. a & b).**

The MND states, “The proposed Tentative Map would increase population that would substantially contribute to increased demand on recreation facilities or contribute to increased use of existing facilities. The project does not propose any on-site recreation facilities and would not be required to construct any new facilities or expand any existing recreation facilities. . .”

There are no existing recreation facilities in the existing surrounding neighborhood, therefore they cannot be expanded to accommodate the increased population. Existing residences are fortunate to have one-acre or larger parcels for residents to use for their personal recreational use. However, the proposed housing residents and hotel guests will not be provided with recreational space anywhere on the site. This could lead to unintended consequences:

- Hotel guests will tromp through the wetlands and native plant setbacks that are intended to preserve the environment.
- Children residing in the small, new houses will be in search of nearby recreational opportunities and will tromp through the wetlands and native plant setbacks, or ride their bicycles and skateboards around the shopping buildings, or loiter in front of the food market and shops.

Simply stating that on-site recreation is not required for the project does not address the need for recreational facilities for the hotel guests and future residents. Therefore the findings for XV. Recreation. a & b) must be changed to Potentially Significant Impact and an EIR is required.

- **Inadequate Mitigation: MND I.: AESTHETICS. c).**

The MND is full of statements that are misleading and make it appear that this project site is surrounded by commercial development, however that is not accurate. Examples of these misleading statements are:

- “However, neighboring commercial projects have been approved to the east and west.”

Correction: There are no commercial projects to the west. There are single-family homes and a church, which is not a commercial project. Beyond that is the Pine Hill Preserve.

- “Approving the proposed Development Plan and subdividing the land would not be inconsistent with the surrounding visual environment to the south and east.”
By what standard is it not inconsistent? There is a frontage road and highway separating the site from the hodgepodge of businesses to the south. Does the unsightly mishmash of businesses have to spread across the freeway to the site? To the east there are single-family homes and an undeveloped commercial parcel. What about to the north and west? The Development Plan is undoubtedly inconsistent with the north and west.

- “Project areas adjoining residential lots are planned for residential development.”
Correction: On the east, the commercial restaurant adjoins the full length of the Pierce residential parcel and a portion of the Welch residential parcel. On the west, the commercial hotel adjoins the Park Community Church and Del Rio residential parcels. Within the project site, the north side of commercial Lot 18 adjoins residential Lots 8, 12, 13, and 14.

- “The project has included a six-foot tall screening/sound wall and landscaping to reduce visual impacts between the commercial and residential components of the project and surrounding uses.”

Correction: On the Tentative Subdivision Map, the sound walls are placed between a residential lot and an asphalt parking lot, leaving minimal room, if any, for landscaping. This may be an adequate buffer between a commercial and residential lot in an urban environment, but it is not an adequate or visually pleasing buffer in a rural environment such as this site.

The MND inaccurately portrays the site’s surroundings as predominantly commercial when in fact it is predominantly rural residential. The proposed mitigation of 6’ sound walls is inadequate to buffer the existing rural parcels from the proposed Planned Development. Therefore the findings for I. Aesthetics. c) must be changed to Potentially Significant Impact and an EIR is required.

Other Concerns Raised by Community Members

- The long term viability of the proposed businesses is a very high concern among community members. The first response people say when they hear that a hotel is planned for the site is, “What? Who is going to stay there?” The Quality Inn in Cameron Park only averages a 30% occupancy rate. The Red Hawk Casino is slowly headed for financial ruin. These are valid concerns. Shingle Springs, of itself, is not a destination type of town. People enjoy living here for its rural characteristics and small town atmosphere, but it is not an activity center of its own. Residents typically choose to live here because of its close proximity and easy access to areas such as the Sierras or the Bay Area (see Winter issue of Around Here magazine).

Wild Chaparral has already had its share of failed businesses and empty buildings. The defunct Bosio Sports Complex sat empty for almost 10 years, with several short-lived, failed businesses, including a solar panel business and an off-road vehicle business. And the building at the corner of Ponderosa Road is once again empty, as it has been several times in the last 10 years. Part of the reason behind these failures is the inaccessibility of the road and lack of attractions. Wild Chaparral is a dead-end frontage road with a storage facility and a few car dealerships on it – these are not businesses that attract shoppers. Cameron Park is only one mile away and is a hub of shopping opportunities.

What will become of an empty hotel building or empty food market? What will happen after the developer is finished and the buildings sit vacant? Will the short term revenues of the development be outweighed by the long term blight and burden of vacant buildings? It has happened in nearby regions, such as Elk Grove and Rancho Cordova, so it can happen here too.

- Sprawl is another issue that must be looked at carefully. Currently, most errands can be done in one trip to Cameron Park where there is an abundance of shopping opportunities: major grocery stores, dry cleaners, restaurants, gas stations, drug stores, and more. By adding a few commercial businesses in a small cluster just one exit away from Cameron Park, the county will be encouraging shoppers to drive another mile for one more stop with limited choices. This is the very type of driving pattern that smart growth is supposed to discourage, not encourage. Because we live in a predominantly rural community, infill projects add to sprawl rather than reduce it. As stated in the November 5, 2011, Sacramento Bee article [Sprawl's spread speeds up](#), Elk Grove resident Peters reflects on the area's growth and states, “It was too fast, too hasty. . . I know they needed to bring in taxes, but they could have been more patient.” We should

carefully examine the consequences of such a dramatic change to our community and learn from nearby communities.

- Road Easements with residents of Crosswood Drive have not been resolved.
- The growth inducing impacts of commercial and high-density development in the area impacted by the Project are never even discussed in the MND.
- This developer, Real Returns, is asking to take a beautiful piece of property with wild grass, rare and endangered plants, old-growth oak trees, and natural drainage to our area and fill it with concrete and asphalt. The results will be traffic, noise, flooding, water and sewer problems, only to name a few items.
- In Adam Baughman, Sr. Planner for DOT, El Dorado County, letter dated 2/10/09 states: Delivery Truck Circulation: Is it the intent of the project to have delivery trucks exit out through the residential streets?
Every homeowner on Crosswood Drive is opposed to this project. We will never allow any non-residents from driving or using Crosswood Drive at any time of day or night.

We would ask that this Mitigated Negative Declaration be rejected and the project be rejected until a properly written environmental impact report (EIR) can be composed that will comply with CEQA and the El Dorado County General Plan.

Sincerely,

Leslie A. Davis
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Attachments (3) Old Mill Creek