

Sierra Club Lake Group

PO Box 1011 Kelseyville, CA 95451

January 20, 2010

Emily Minton
Community Development Department
Planning Division
255 N. Forbes Street
Lakeport, CA 95453

RE: Cristallago Project

Dear Ms. Minton:

The Sierra Club Lake Group welcomes this opportunity to address the Board of Supervisors directly regarding this project. We have been involved in the debate surrounding it since 2005, have testified at numerous meetings and submitted several previous formal comment letters, which we understand will be included in the information presented to the Board in advance of the hearing to be held on January 26, 2010. All our previous submissions are to be incorporated by reference in this letter, as is the October 21, 2009 letter our lawyer, M.R. Wolfe and Associates, sent to the Planning Commission, the October 28, 2009 Sierra Club appeal of the Planning Commission certification of the Cristallago Environmental Impact Report (EIR), and all letters criticizing the EIR's analysis submitted into the record by other agencies, organizations, and individuals.

Our brief comments below fall into four primary categories: the inappropriateness of EIR certification, the project's environmental impacts, its economic effects, and its inconsistency with primary local planning documents, particularly the 2008 Lake County General Plan.

EIR certification is defective. As explained in our appeal of the certification, and in far greater detail in the earlier letter from M.R. Wolfe and Associates, the EIR does not adequately examine project impacts. Many of its defects stem from an inherent structural confusion between a project and a programmatic EIR, which has resulted in analysis of many highly significant impacts being deferred under the pretext of being programmatic, with others evaluated on a project level, while the distinction between the two is never made clear. CEQA requires that all reasonably foreseeable consequences of a project be examined, but this has not taken place. Several specific inadequacies are particularly glaring.

- Water supply. Neither possible conflicts with the obligation to supply water to the Geysers, nor effects of using Clear Lake water for golf course irrigation are evaluated.
- Traffic. Both cumulative impact analysis and proposed impact fees are inadequate.

- Air Quality. The EIR unreasonably finds cumulative contributions to greenhouse gases to be insignificant, contrary to State of California standards that came into effect on January 1, 2010. Analysis also disregards comments from the Air Quality Management District warning that cumulative impacts from this project could result in the loss of attainment status for the air basin as a whole, with drastic consequences for the whole of Lake County.
- Cultural and biological resources. Both preliminary investigations and proposed mitigations are inadequate.
- Alternatives analysis. Essential information about land use conflicts is not provided, even though these impacts have been identified as significant and unavoidable.
- General Plan inconsistencies. The EIR unreasonably fails to admit many policy inconsistencies that were identified by planning staff and members of the public.

The Sierra Club believes that reliance on this deeply flawed EIR as a basis for decisions about project approvals is unacceptable, and recommends that the Board reverse the certification, and require the preparation and recirculation of a revised Draft EIR.

We also believe that delegation of EIR certification to the Planning Commission is unwarranted, since this authority properly resides with the Board of Supervisors. The only practical effect of this unjustified delegation has been to compel the Sierra Club to instigate a formal appeal process in order to preserve our legal rights, at a cost of \$407. We therefore request that this fee be returned to us.

Environmental Impacts. As previously detailed, we contend that numerous project impacts (including biological resources, air quality, cultural resources, noise, public services, traffic, and—especially—land use) have been understated or ignored in the environmental analysis.

The extensive grading demanded by this project will result in the disturbance of a half million cubic yards of soil and rock, much of it asbestos-laden serpentinite. Nearly a hundred acres of oak woodlands will be destroyed, with no mitigation beyond the planting of saplings that at best could not begin to resemble the lost habitat for generations. Since appropriate preliminary surveys have not yet been conducted for either biological or cultural resources, the potential loss of rare plants and hitherto undiscovered archeological sites is impossible to estimate. The intense darkness of the night skies and equally intense silence of this rural area will be destroyed forever. Increased traffic will burden the neighborhood, and add to the load in downtown Lakeport and elsewhere in a manner that has not been analyzed. 600 acre-feet of Clear Lake water—nearly a quarter of the entire CSA21 allocation—will be used to irrigate a golf course. Possible sedimentation impacts on the Scotts Creek and Lyons Creek drainages, by extension affecting Clear Lake itself, have not yet been fully investigated. Possibly worst of all, the growth pattern for the whole north Lakeport region will be distorted: rather than expanding in the orderly manner prescribed by sound planning principles and defined by a Community Growth Boundary, the community will leapfrog out into undeveloped countryside

adjacent to ongoing agricultural operations. As a classic exemplar of sprawl, Cristallago must be regarded as the antithesis of smart growth.

Some of these environmental impacts are still subject to debate—and if the Board of Supervisors does not choose to reject the project outright we urge it to allow that debate to continue by decertifying the EIR, substantively addressing the many questions that have been raised, and recirculating it for public review—but unquestionably “significant and unavoidable” impacts have been identified to “public and scenic views and visual character,” to oak woodlands, and to “surrounding land uses.” A finding of overriding considerations will thus be a necessary pre-condition to project approval, and as discussed below we do not believe that such a finding can be supported.

Economic impacts. It has been repeatedly asserted that Cristallago would provide an economic engine not only for the Lakeport area but also for the whole of Lake County. This assertion, dubious even during the unprecedented housing bubble that prevailed at the time of the original application, has become absurd under current conditions. Please consider the following:

- The game of golf has been declining nationwide for the past several years, with many clubs closing and the resorts and residential developments tied to them falling into default and bankruptcy. It is estimated that another 400 to 1,000 private golf clubs will be forced to shut down in the next few years—an estimate that predates recent scandals involving Tiger Woods that are predicted to result in a 50 percent decline in the audience for televised golf.
- The economic evaluation of Cristallago’s resort component was based on the assumption that dedicated marina facilities would be provided to resort guests and home owners, an assumption that is no longer valid since the lakeshore property where those facilities were to be based has gone into foreclosure and is no longer in the possession of project developers. There is no good reason to assume that evaluations of resort viability would be applicable to the project as currently conceived, especially considering that the resort now proposed is twice the size of that originally conceived.
- The project is supposed to “create jobs,” but the overwhelming majority of those jobs would be in the service sector, with low pay and few if any benefits. Permanent job creation projections depend primarily on the viability of the resort component and will be greatly reduced if it fails to meet the improbably rosy projections that have been offered, and temporary construction jobs, to the extent that the project is constructed at all, would in all likelihood be filled primarily by out-of-county employees.
- The shaky financial condition of the developers raises the specter of a project that has been begun, perhaps with extensive grading on asbestos-laden serpentine soils, but which cannot be completed. This scenario has been repeated far too often in Lake County already, with a previous exemplar on this very project site. We cannot afford another paper subdivision, especially not on this massive scale.
- Projections for Cristallago’s residential component were based on housing demand during an unprecedented bubble that never will and never should be allowed to recur.

General Plan inconsistencies. This project is grossly inconsistent with fundamental Lake County planning documents. The most obvious inconsistency—residential densities that are not allowed outside Community Growth Boundaries—is only one among dozens of inconsistencies identified in the Draft EIR, the Final EIR, and staff reports* dating from January 2006 to October 2009. Although planning inconsistencies are not in themselves “environmental impacts,” CEQA requires that an EIR discuss inconsistencies with applicable plans, including general plans. [CEQA Guidelines, § 15125(d)]. Please see the attached chart, which lists 24 policies from the 2008 General Plan and the 2000 Lakeport Area Plan with which the EIR acknowledges the Project to be inconsistent.

State Planning and Zoning law explicitly forbids the county from approving a project which conflicts with General Plan policies or which renders the General Plan internally inconsistent. As has been repeatedly stated in the EIR, the Cristallago project conflicts directly with dozens of General Plan policies. No exception can be made to this requirement, nor do any “overriding considerations” apply. Nor is amending the General Plan for the sake of the project, as is commonly done with *designations* on particular parcels, an option when the inconsistencies stem from fundamental *policies* that provide the very backbone of the document. After years of effort on the part of staff, consultants, and the community and the expenditure of millions of dollars, Lake County recently adopted an excellent General Plan that is a model of sound modern planning policies, in the expectation that it will provide wise guidelines for the growth of the community for many years to come. It is inconceivable that the Board of Supervisors would choose to dismantle such a stellar document for any reason, and certainly not in order to facilitate a tenuous project that offers so little in the way of tangible benefits to the community.

A project or a zoning change must be consistent with the applicable general plan. [*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183; Gov. Code, § 65860(a)]. Where a project conflicts with a single general plan policy, its approval may be reversed. [*San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *FUTURE, supra*, 62 Cal.App.4th at 1341]. Consistency demands that a project both “further the objectives and policies of the general plan and not obstruct their attainment.” [*FUTURE, supra*, 62 Cal.App.4th at 1336]. Thus, where a petitioner alleges that a project conflicts with general plan circulation element policies, a court need not find an “outright conflict.” [*Napa Citizens, supra*, 91 Cal.App.4th at 379]. “The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan’s goals and policies . . . without definite affirmative commitments to mitigate the adverse effect or effects.” *Id.*

The general plan consistency doctrine also requires that a General Plan be internally consistent. [Gov. Code, § 65300.5]. Thus, in amending its General Plan to re-

*January 12, 2006: “For this proposal to move forward, a number of land-use policies would also need to be amended”; August 31, 2009: “staff is still concerned that the project remains inconsistent with the General Plan and Lakeport Area Plan.”

designate land use for the project, the County has to ensure that the amendment is consistent with the other elements of the plan and that the General Plan as a whole remains internally consistent. In this case unmitigated cumulative traffic impacts render the General Plan's land use and circulation elements internally inconsistent.

In addition to these acknowledged conflicts, many additional inconsistencies have been singled out by commentators, and as mentioned above have been unreasonably disregarded when responses to those comments were prepared.

We do not believe that the County can explain away these acknowledged conflicts. However, if it attempts to do so, then it must revise and recirculate the EIR, because any such findings of consistency would conflict with the EIR's analyses.

In short, approval of this application would eviscerate our General Plan, set devastating precedents for the rest of Lake County, distort growth patterns in the Lakeport region, and create environmental havoc, all without a viable expectation of realizing the compensatory benefits that have been promised.

The Sierra Club urges the Board of Supervisors to reject this application.

Yours sincerely,

A handwritten signature in cursive script that reads "Victoria Brandon".

Victoria Brandon
on behalf of the Sierra Club Lake Group

cc. Board of Supervisors Chair Anthony Farrington
Supervisor Jim Comstock
Supervisor Jeff Smith
Supervisor Denise Rushing
Supervisor Rob Brown

Acknowledged Inconsistencies of the Cristallago Project with the General Plan and Lakeport Area Plan

IV.B Aesthetics	
<i>2000 Lakeport Area Plan Policy Analysis</i>	
3.4.1.a: Protect scenic viewsheds from public roads to the greatest extent possible.	Inconsistent. There is a Scenic Combining Overlay along the eastern portions of the project site, which can be viewed from Hill Road, Hill Road East, Park Way, and Highway 29. The western portion of Area 2 also contains the Scenic Combining overlay zoning, potentially viewable from Scotts Valley Road. The project would result in development within the designated Scenic areas. The change to the viewshed would be unavoidable; therefore, the project is not consistent with this policy.
IV.C Agricultural Resources	
<i>2008 General Plan Policy Analysis</i>	
OSC-3.9: Williamson Act and Farmland Security Act. The County shall encourage the use of the Williamson Act and Farmland Security Act to preserve productive agricultural land. The County will not support such contracts within the boundaries of a Community Growth Boundary. [New Policy]	Inconsistent. Portions of the project site proposed for development are currently subject to Williamson Act contracts. However, Williamson Act contracts for the project site are due to expire in March 2010 and the project applicant has agreed to leave the parcels covered by the Williamson Act in their current status until such time that the contract expires. Although the project would not change this fact, it would not encourage the use of Williamson Act contracts to preserve agricultural land.
OSC-6.12: Open Space Preservation. The County shall preserve natural open space resources through the concentration of development in existing communities, use of cluster development techniques, maintaining large lot sizes in agricultural areas,	Inconsistent. Although the project would include some clustered development it would not be located in an existing community and would be located on an open space area.

<p>avoiding conversion of lands currently used for agricultural production, and limiting development in areas constrained by natural hazards. [New Policy]</p>	
<p>IV.E Biological Resources</p>	
<p><i>2008 General Plan Policy Analysis</i></p>	
<p>OSC-1.2: Development in Environmentally Sensitive Areas. The County shall limit the encroachment of development within areas that contain a moderate to high potential for sensitive habitat, and direct development into less significant habitat areas. [Modified Existing Plant and Animal Resources Policy 1.2]</p>	<p>Inconsistent. The proposed project would result in direct and indirect affects to sensitive habitats, including wetlands and other waters, riparian, and oak woodland. Although implementation of Mitigation Measure BIO-2a, BIO-2b, BIO-2e, and BIO-3 as described in this section of the DEIR would reduce impacts to less than significant for wetlands and other waters and riparian habitats, Mitigation Measure BIO-2c and BIO-2d as described for removal of oak woodlands would not be considered adequate to reduce this impact to a less-than-significant level. Therefore, the removal of 95-acres of oak woodland habitat remains significant and unavoidable and, consequently, the project is not consistent with this policy.</p>
<p>OSC-1.3: Encourage Cluster Development. When reviewing development proposals, the County should encourage cluster development in areas with moderate to high potential for sensitive habitat. [New Policy; based on part of existing Plant and Animal Resources Policy 1.2]</p>	<p>Inconsistent. See response to Open Space, Conservation, and Recreation Element OSC-1.2.</p>

<i>2000 Lakeport Area Plan Policy Analysis</i>	
3.3.1.b: Replace any removal of vegetation permitted for development projects at a 2 to 1 ratio.	Inconsistent. Habitat preservation, restoration, and/or replacement is proposed for sensitive natural communities. However, mitigation is not proposed for those communities that are considered common and widespread in the region.
3.3.1.f: Encourage new subdivisions and parcel maps to cluster lots outside of oak woodlands (defined as 10% or more tree canopy coverage). Require building envelopes on maps that establish building sites outside the canopy of those oaks that minimize the removal of individual oak trees.	Inconsistent. See response to Open Space, Conservation, and Recreation Element OSC-1.2 (Table IV.E-4).
IV. G Geology and Soils	
<i>2008 General Plan Policy Analysis</i>	
HS-2.3: Landslide Areas. The County shall not allow development on existing unconsolidated landslide debris.	Inconsistent. The project site contains landslide deposits and has potential for landslides to occur. Mitigation Measures GEO-3a and 3b require that an updated geotechnical investigation be performed by a geotechnical engineer or civil engineer with geotechnical experience and shall be performed for the entire site. This updated investigation will more thoroughly characterize the geology of the site in order to facilitate design of mitigation measures for landslides.
<i>2000 Lakeport Area Plan Policy Analysis</i>	
3.1.1.c: Focus development in areas of low to moderate erosion potential.	Inconsistent. All soil types found at the project site are highly to severely susceptible to erosion. Mitigation Measure GEO-2 requires that an erosion control plan shall be prepared and implemented for the project. The

	plan shall be submitted to Lake County in conjunction with the project Grading Plan prior to issuance of a Grading Permit.
<p>4.1.1.a: Discourage development in landslide areas and areas of unstable slopes as designated by the State Department of Mines and Geology (DMG), the United State Geological Survey (USGS), or other areas identified from geological research. Development in areas where slopes average 30% or more should be prohibited.</p>	<p>Inconsistent. The project site contains landslide deposits and has potential for landslides to occur. Mitigation Measures GEO-3a and 3b require that an updated geotechnical investigation be performed by a geotechnical engineer or civil engineer with geotechnical experience and shall be performed for the entire site. Portions of the project site exceed slopes of 30 percent and slope instability has been called out as a potentially significant impact. Mitigation Measure GEO-3a and 3b sites the need for updated geotechnical investigation, to be performed for the entire site. Additional mitigation measures require appropriate documentation be provided before permits will be issued.</p>
<p>IV.H Hazards & Hazardous Materials</p>	
<p><i>2008 General Plan Policy Analysis</i></p>	
<p>HS-7.2: In areas designated as extreme or high fire hazard, the County should encourage cluster development to provide for more localized and effective fire protection measures such as consolidations of fuel build-up abatement, firebreak maintenance, fire fighting equipment access and water service provision.</p>	<p>Inconsistent. The California Department of Forestry and Fire Protection rated the project area as having a moderate to very high susceptibility to wildland fires. The hazard due to wildland fires is considered a potentially significant impact. However, the project would utilize clustered development, be constructed of fire resistant materials, include fuel management activities, and provide adequate emergency access in the event of a wildland fire.</p>

IV.J Land Use & Planning	
<i>2008 General Plan Policy Analysis</i>	
<p>LU-2.3: Maintain Urban Edge. The County shall maintain distinct urban edges for all unincorporated communities, while creating a gradual transition between urban uses and open space.</p>	<p>Inconsistent. The project site is not within the proposed urban boundary for the Lakeport area, which maintains development should occur east of Highway 29. Additionally the project proposes high density residential development in areas adjacent to agricultural uses.</p>
<p>LU-2.6: Community Growth Boundaries. The County shall limit urban development to the areas within designated Community Growth Boundaries (as defined on Figures 3-2 through 3-13). These Community Growth Boundaries are located in the following communities: Clearlake Oaks, Clearlake Riviera, Coyote Valley, Kelseyville, Lower Lake, Lucerne, Middletown, Nice, North Lakeport, Soda Bay, South Lakeport, and Upper Lake.</p>	<p>Inconsistent. The project site is not within the proposed urban boundary for the Lakeport area, which maintains development should occur east of Highway 29, as shown on Figure 3-10 of the 2008 General Plan.</p>
<p>LU-3.8: Rural Residential. The Rural Residential land use designation shall be subject to the following requirements: Areas which qualify for densities greater than 1 unit per 10 acres must meet the following characteristics (unless cluster policy and a land capacity ordinance is used): average slopes must be below a 30% grade; and, areas not identified as a moderate-to-high landslide hazard area (special study zones). Access to new development should be via an existing publicly maintained road or via a new road improved consistent with adopted county standards.</p>	<p>Inconsistent. The project proposes designating parcel 005-009-005 and a portion of 005-009-006 Rural Residential, and building approximately 50+ residential dwellings in the area, some of which has slopes greater than 30%. Further geotechnical analysis in these areas would be required before landslide hazards could be determined. The project would cluster development around the proposed roadway.</p>

<p>LU-3.9: Suburban Residential Reserve. The Suburban Residential Reserve land use designation shall be subject to the following requirements: Areas with 30 percent or greater slopes should have acreage minimums in excess of three gross acres, and if identified as a moderate-to-high landslide risk area, a five gross acre minimum. When reviewing land divisions, it must be shown that the sizes and shapes of parcels/lots will not compromise future land divisions.</p>	<p>Inconsistent. The majority of the project site is proposed to be designated Suburban Residential Reserve, with many areas containing slopes greater than 30%. Further geotechnical analysis in these areas would be required before landslide hazards could be determined.</p>
<p><i>2000 Lakeport Area Plan Policy Analysis</i></p>	
<p>3.4.1b: Encourage development on soils (other than classes I – IV) within or contiguous to existing development and public services in the Lakeport area.</p>	<p>Inconsistent. The project site includes four soil types defined as Class I-III or IV: Lupoyoma Silt Loam, Manzanita Loam 5 to 15 percent, Maywood Variant Sandy Loam, and Sleeper Variant Loam. No Class I or II soils are present. Seven parcels within the project site were approved for a Williamson Act contract for grazing uses. While the Class I-IV soils would be developed predominantly with non-agricultural uses, the proposed project would also include cultivation of organic olive trees. The project proposes to connect to the Northwest Treatment Plant of the Lake County Sanitation District (LACOSAN), which is located just north of the site. The project would seek County approval for annexation to the County Service Area No. 21, and to amend the sphere of influence for water supply. The project site is not within an existing development and only a portion of the site is contiguous to existing development.</p>

<p>3.4.1c: Encourage infill development within the Lakeport Planning Area with emphasis on the North Lakeport area where public sewer and water systems are available.</p>	<p>Inconsistent. Infill development may be defined as the use of vacant land, or restoration of existing structures or infrastructure, in urban areas where water, sewer, and other public services are already in place. While water and sewer service are available to the site, the proposed project would not be considered infill development. The project proposes to connect to the Northwest Treatment Plant of the Lake County Sanitation District (LACOSAN). The project would seek County approval for annexation to the County Service Area No. 21, and to amend the sphere of influence for water supply.</p>
<p>5.5.1.c: Allow large lots with lower residential densities in outlying areas of the Lakeport Area Plan when consistent with other policies of this plan.</p>	<p>Inconsistent. The project proposes 650 single family residences and 325 resort units located around an 18-hole golf course. Additionally 15 rental units are proposed above commercial mixed-use areas in the Tuscan Village. The maximum residential density allowed based on the proposed land use map for the site would be 0.88 units per acre, or 688 residential units. The project proposes a total of 650 single family dwelling units on 781 acres of the site to be zoned PDR, which equates to 0.84 units per acre. The project is requesting that portions of the site be rezoned to PDR, which does not determine density, but allows for the density on the site (allowed by the general plan designations) to be “rearranged” or clustered as is proposed by the project. The units would be clustered around proposed streets (aka minor collectors) and would therefore be higher in density than 0.84 units per acre.</p>

<p>6.3.1.c: Allow no rezoning of agricultural land in Scotts Valley with soils I – IV for nonagricultural uses.</p>	<p>Inconsistent. The project site includes four soil types defined as Class III or IV: Lupoyoma Silt Loam, Manzanita Loam 5 to 15 percent, Maywood Variant Sandy Loam, and Sleeper Variant Loam. No Class I or II soils are present. APN 005-012-33 on the project site is zoned for agricultural uses and has a soil classification of IIIe. The project proposes to rezone APN 005-012-33 to PDR and PDC.</p>
<p>IV.L Population and Housing</p>	
<p><i>2004 Housing Element Policy Analysis</i> Goal HE-1: To encourage new residential development in suitable locations that meet the projected need of all economic segments of the community.</p>	<p>Inconsistent. Although the proposed project would include some variety of housing types, including 15 village commercial area rental units and 650 residential homes on lots of varying sizes and therefore of varying square footage and pricing; with the exception of the village commercial units, all project housing would likely be priced above very low, low, and moderate-income level categories.</p>
<p>HE-1.6: The County shall encourage innovative housing, site plan design, and construction techniques to promote new affordable housing by the private sector.</p>	<p>Inconsistent. The proposed project would not include affordable housing.</p>
<p>HE-1.7: The County shall continue to support self-help housing.</p>	<p>Inconsistent. The proposed project would not include self-help housing.</p>
<p>HE-2: To maintain housing affordability in County of Lake for all income groups.</p>	<p>Inconsistent. Although the proposed project would include some variety of housing types, including 15 village commercial area rental units and 650 residential homes on lots of varying sizes and therefore of varying square footage and pricing; with the exception of the village commercial</p>

	units, all project housing would likely be priced above very low, low, and moderate-income level categories.
HE-7.1: The County shall seek to attract industrial, office, and commercial development in an effort to promote creation of new jobs in the community, improve the financial resources of residents, and create a balanced community that is more resistant to economic down-turns.	Inconsistent. The proposed resort operations, 18-hole golf course, and retail facilities have the potential to employ approximately 560 persons per year, at full operations. However the project does not propose any industrial or office development and proposes only a limited amount of commercial development. .
<i>2000 Lakeport Area Plan Policy Analysis</i>	
5.2.1.c: Encourage diverse housing development that meets the community's needs, including affordable housing for low-, moderate- and high-income families.	Inconsistent. Although the proposed project would include some variety of housing types, including 15 village commercial area rental units and 650 residential homes on lots of varying sizes and therefore of varying square footage and pricing; with the exception of the village commercial units, all project housing would likely be priced above very low, low, and moderate-income level categories.
IV.M Public Services	
<i>2008 General Plan Policy Analysis</i>	
OSC-1.12: Hunting and Fishing. The County shall provide opportunities for hunting and fishing activities within the County pursuant to appropriate regulations of the California Fish & Game Code. [New Policy]	Inconsistent. The project site is used by its current owners for hunting and fishing activities, which would not continue once the project is under construction.

In addition, LAP Policy 3.4.1.i prohibits the rezoning or division of prime agricultural lands for other than agricultural purposes. The DEIR incorrectly claims that the Project is consistent, arguing that the 2000 Lakeport Area Plan defines prime agricultural lands as Class I and II soils and that the Project site

does not contain such soils. Staff points out that the Lakeport Area Plan in fact calls for preservation of soil classes I through IV for agriculture. Staff Report, Aug. 31, 2009, p. 8. Since the site contains Class III and IV soils, the policy clearly bars its rezoning. We note that the October 8, 2009 Staff Report revises the FEIR to acknowledge that the Project is in fact inconsistent with LAP Policy 3.4.1.i based on the presence of Class III and IV soils. Staff Report, Oct. 8, 2009, FEIR Errata, p. 14.

Finally, the FEIR Errata also admits that the project is inconsistent with LAP Policy 5.4.1.g, requiring connections to existing and future bike routes and paths. FEIR, p. III-36.