July 3, 2026

Via Email

Chair and Members of the Planning Commission
City of Sutter Creek
c/o Erin Ventura, City Planner (eventura@haugebrueck.com)
c/o Tom DuBois, City Manager (tdubois@cityofsuttercreek.org)

Re: Supplemental Response to Amador County Comment Letter, Dated July 1, 2026 (Traffic) — Proposed Cannabis Retail Facility at 11 Ridge Road (APN 044-020-063); July 8, 2026 Planning Commission Hearing

Dear Chair and Members of the Commission:

This letter is submitted on behalf of Sutter Creek Responsible and Compliant Retail LLC ("Permittee") and supplements our June 30, 2026 response. It addresses the County's letter of July 1, 2026 (the "Traffic Letter"), the County's third comment letter, which was received after our prior response. The Traffic Letter abandons the recognized methodology used in the staff report and instead reverse-engineers a daily trip count by dividing Permittee's multi-year business-plan revenue by a per-transaction spending figure taken from a 2016 consumer blog post. That approach is analytically indefensible, legally irrelevant to the Section 15301 determination, and factually wrong in a way that alone defeats it: the County counts multi-year delivery revenue as in-store customer trips. We respectfully request that this letter be entered into the administrative record in full.

At the threshold, the Traffic Letter's argument, even if fully credited, is directed at a single element of a single exemption — the "negligible or no expansion of … use" language in Section 15301. It does not reach the two other independent grounds available on this record: the Class 32 infill exemption (§ 15332) and the common-sense exemption (§ 15061, subd. (b)(3)), neither of which contains that element. We also note, for context, that the County's three comment letters contain no site-specific environmental evidence — no traffic study, intersection analysis, biological survey, noise study, or air-quality analysis for 11 Ridge Road — and that the record reflects the County inquiring about Planning Commission schedules and the cost to appeal a Commission decision to the City Council before its legal comments were filed. The Commission is entitled to weigh that context in evaluating the weight of the County's submissions.

1. The Controlling CEQA Metric Is VMT, Not Trip Counts, Percentages, or Congestion.

The Traffic Letter frames the issue as a percentage increase in daily trips and culminates in the assertion that the roughly 500-foot segment of Ridge Road and the Highway 49 turn lanes "cannot accommodate this level of use." That is a congestion, or level-of-service, argument — and since July 1, 2020, congestion is not a CEQA impact. CEQA Guidelines section 15064.3, subdivision (b)(2), provides in terms that "a project's effect on automobile delay shall not constitute a significant environmental impact." Transportation significance is now measured by vehicle miles traveled (VMT). (Sen. Bill No. 743 (2013–2014 Reg. Sess.); Guidelines, § 15064.3.)

Under Governor's Office of Planning and Research guidance, a small, locally serving retail use is presumed to have a less-than-significant VMT impact. This Project fits that presumption and, if anything, is VMT-reducing: because there is no licensed dispensary in Amador County, residents who purchase cannabis now drive roughly 22 to 32 miles each way to dispensaries in neighboring counties, and a local option shortens and captures those trips. A percentage increase in trips at the site, measured against a nearly dormant former bank branch, is fully consistent with a net reduction in regional VMT. The County offers no VMT analysis at all. To the extent our June 30 letter described the trip increment as "negligible," we clarify the point here: the operative significance metric is VMT, under which the Project's impact is less than significant and likely beneficial; the raw percentage change in site trips is not the measure of significance under current law.

2. The County's Reverse-Engineered Methodology Has No Evidentiary Value.

Setting aside that trips are the wrong metric, the County's method of estimating them is not a recognized CEQA traffic-analysis technique. The City's planner applied the Institute of Transportation Engineers (ITE) Trip Generation Manual — the established California standard — using the published rate for the relevant land use. The County instead divides Permittee's projected gross annual revenue by a "$33 median" per-trip spend drawn from an undated Priceonomics blog post adapted from a national consumer-loyalty dataset. That article was not prepared as a traffic study; it accounts for no trip purpose, multi-stop trips, pass-by trips, or shared trips, and has no bearing on operating conditions at a rural dispensary in Sutter Creek. It is advocacy dressed as arithmetic.

The framework is also backward. The City used the recognized ITE methodology; the burden is on the party opposing a categorical exemption to produce substantial evidence that an exception applies. (CEQA Guidelines, § 15300.2; Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, 1105.) Substantial evidence is fact or expert opinion supported by fact — not speculation or a competing figure fabricated from a consumer blog post. (Pub. Resources Code, § 21080, subd. (e); Guidelines, § 15384; Bowman v. City of Berkeley (2004) 122 Cal.App.4th 572, 581.) Compounding the problem, the pro forma the County mines is an aspirational, multi-year business-planning document — not prepared by a transportation engineer, not designed to estimate trips, and evaluated against optimistic revenue targets rather than the project as it will initially operate. The Section 15301 exemption is assessed at approval against the project as proposed: a storefront retail operation in an existing building.

3. The County's Calculation Is Factually Wrong: It Counts Delivery Revenue as In-Store Trips.

Even on its own terms, the County's year-five figure is not a methodology dispute — it is a factual error that independently destroys the analysis. The County divided Permittee's projected year-five revenue ($10,595,579) by $33 to reach 880 "daily trips," without asking what drives the growth from year-one revenue ($6,228,954). The answer is in-home delivery — a separate distribution channel that generates no customer trips to the retail site.

Permittee's business plan contemplates adding licensed in-home delivery in later operational years, after the required state and local approvals are obtained; the dispensary will open as a storefront retail operation only. Under state regulation, a single delivery vehicle carries a capped inventory and completes many orders on one route — generating one vehicle trip (the driver), not dozens or hundreds of customer trips to 11 Ridge Road. The revenue growth from year one to year five reflects the addition of that off-site channel, not more walk-in customers at the store. The County counted every dollar of delivery revenue as an in-store visit. Corrected for that error — applying the County's own approach to in-store, year-one revenue only — the result is consistent with or below the staff ITE analysis. The 880-trips-per-day figure is arithmetically wrong and should be disregarded.

4. Trip-Count Comparison Is Not the Legal Standard Under Section 15301.

The Traffic Letter rests on a false legal premise: that "negligible expansion of use" is decided by comparing vehicle-trip rates between the prior and proposed uses. No California court has adopted a trip-count test for Section 15301. As used in the exemption, "use" refers to the character and intensity of the land use — the nature of the activity and its relationship to the physical structure — not "vehicle trips per day." The prior use was commercial retail (walk-in service in a commercial building); the proposed use is commercial retail (walk-in service in the same building). The land-use category is identical, the structure is unchanged, and no construction is proposed.

This reading is confirmed by the very authority the County cites. Sunflower Alliance holds that a change in use is "negligible" when the risk of environmental harm from the new use is negligible — a consequence-based test, not a trip-count test — and on that basis upheld the Class 1 exemption. (That decision is also under California Supreme Court review, S287414, and is not binding pending review; Cal. Rules of Court, rule 8.1115(e)(1).) Under the County's contrary theory, the exemption would vanish for nearly any change of tenancy that draws more visitors than its predecessor — a storefront replacing a storage unit, a café replacing a bank — a result flatly inconsistent with the text and purpose of Section 15301 and decades of statewide practice.

5. In Any Event, the Increment Is Not Significant, and the Baseline Is Conservative.

Even accepting the staff ITE analysis at face value — roughly 325 daily trips for the dispensary against 130 for the bank, an increase on the order of 195 daily trips — that increment does not approach any recognized threshold of traffic significance, and percentage framing obscures the modest absolute number. By way of illustration, common retail uses generate far higher volumes: a fast-food outlet or convenience market generates many hundreds of daily trips, and a small grocery several thousand. The County offers no intersection analysis, level-of-service calculation, or VMT study showing that this increment causes a significant effect; its assertion that the intersection "cannot accommodate this level of use" is a bare conclusion, and bare conclusions are not substantial evidence. (Guidelines, § 15384; Bowman, supra, 122 Cal.App.4th at p. 581.)

The staff figures are also conservative, as the City's planner explains in the email the County itself attached: the dispensary rate (published ITE daily rate of 252, applied at 250 per 1,000 sf) was selected "to be conservative," and reviewed studies used rates "as low as 70 per 1,000" after pass-by adjustments; the bank baseline (100 per 1,000 sf) was likewise grossed up from a PM-peak figure because ITE publishes no daily walk-in-bank rate. The former Umpqua branch was a low-volume rural bank, so even the 130-trip baseline is generous. Properly pass-by-adjusted, the net new traffic is modest in absolute terms regardless of the percentage it represents over an artificially low base.

6. The Commission May Rest Its Determination on All Three Exemptions.

Because the Traffic Letter's "negligible expansion of use" argument is unique to Section 15301, the grounds for exemption are strongest when the determination is made on all three independent bases identified in the record — Class 1 (§ 15301), Class 32 infill (§ 15332), and the common-sense exemption (§ 15061, subd. (b)(3)). The Class 32 exemption does not contain the "negligible expansion of use" trigger; its traffic criterion is assessed under the VMT standard, which the Project satisfies for the reasons above. The common-sense exemption is a general exemption not subject to the "unusual circumstances" exception. These grounds are available on this record, and resting the determination on all three insulates it regardless of how the trip-count debate is resolved.

7. Suggested Points for Consideration by the City's Transportation Consultant.

The trip-generation questions the County raises are engineering questions best answered for the record by the City's transportation consultant rather than by counsel. We defer to the consultant on the technical specifics and respectfully offer the below points that may be used in a brief memorandum or otherwise introduced into the record that would complete the record and directly and definitively answer the Traffic Letter:

1. *VMT is the controlling metric.* Confirm that transportation significance is evaluated under VMT (Guidelines, § 15064.3) and that automobile delay / level of service is not a CEQA impact (§ 15064.3, subd. (b)(2)); explain that the Project screens as less-than-significant under the OPR presumption for small, locally serving retail, and quantify the net regional VMT effect of capturing trips that currently leave the County (approximately 22–32 miles each way).

2. *The staff estimate is conservative.* Confirm the inputs described in Ms. Ventura's June 22 email — the ITE dispensary rate of 252 (applied at 250) per 1,000 sf and the 100 per 1,000 sf bank baseline grossed up from the PM-peak rate — and confirm that both were selected to be conservative.

3. *Apply a pass-by reduction.* Provide the applicable ITE pass-by reduction for a highway-oriented retail use and state the resulting net-new daily trips after that adjustment (reviewed studies used rates as low as 70 per 1,000 sf on this basis), so the record reflects the adjusted increment rather than the gross figure.

4. *Even unadjusted, the volume is modest.* Explain that roughly 325 daily trips is a small absolute volume that does not approach a threshold of significance and, under section 15064.3(b)(2), cannot constitute a significant impact through congestion or turn-lane capacity; provide comparative ITE volumes for common retail uses for context.

5. *The sales-to-trips method is invalid.* Explain, in engineering terms, why dividing projected revenue by a median in-store spend does not yield vehicle trip-ends — accounting for the delivery and online/pick-up share of sales, the one-way trip-end definition, pass-by capture, and the error of dividing a median into a total — and why the resulting 517/880 figures raised in the Traffic Letter are not a valid trip-generation estimate.

6. *Turn lanes are a non-CEQA operational matter.* Confirm that the Highway 49 turn-lane concern is a congestion/operational question outside CEQA's significance analysis, and separately advise whether any operational improvement is warranted as a non-CEQA matter.

Conclusion

The Traffic Letter fails at every level. Its methodology — reverse-engineering trips from a business-plan projection using a consumer blog post — is not a recognized CEQA technique; its year-five figure is factually wrong because it treats delivery revenue as in-store trips; its legal premise, that Section 15301 turns on a trip-count comparison, has no basis in California law and is refuted by the County's own authority; and, in any event, congestion is not a CEQA impact and the modest net increment is not significant under any recognized standard. The County has submitted three escalating comment letters without a single piece of site-specific environmental evidence. The exemption is properly invoked, and the Commission may rest its determination on all three independent grounds.

We respectfully urge the Commission to approve the Project and execute the Development Agreement on July 8, 2026, and request that this letter be entered into the administrative record in its entirety.

Sincerely,

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