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July 20, 2020

County of Lake Community Development Department
Attn: Scott DeLeon, Community Development Director
255 N. Forbes Street
Lakeport, CA 95453
By email: guenocvalleycomments@lakecountyca.gov
Scott.Deleon@lakecountyca.gov

RE: Guenoc Valley Mixed-Use Planned Development Project Final Environmental Impact Report, SCH No. 2019049134

Dear Mr. DeLeon:

We appreciate your consideration of our comments on the Final Environmental Impact Report (FEIR) regarding the wildfire risks associated with the Guenoc Valley Mixed Use Planned Development Project (Project). After an initial review of the supplemental materials on the Project, we acknowledge improvements to the Project and the FEIR's treatment of wildfire risk.¹ We believe, however, that the FEIR's analysis remains inadequate.² We respectfully request that the Board of Supervisors refrain from certifying the FEIR and approving the Project until we have the opportunity to review the supplemental FEIR documentation and engage with the County on these issues.

On July 6, 2020, after communicating with the Community Development Department, County Counsel's Office, and the applicant's attorney, our office submitted a comment letter that detailed several inadequacies in the FEIR's analysis of wildfire risk. Specifically, our letter included comments that the FEIR lacks any Project-specific analysis on the potential to increase the risk of wildfire ignition and spread, lacks a wildfire analysis of Alternative C and does not justify rejection of Alternative C as the environmentally superior alternative, lacks an analysis of

¹ We understand from the applicant's attorney, Katherine Philippakis, that the applicant will remove 16 lots located at the end of long dead-end roads abutting open space. It is not clear in the County's Board materials that this change is incorporated into the Project and FEIR.

² This letter is not intended, and should not be construed, as an exhaustive discussion of the FEIR's compliance with the California Environmental Quality Act (CEQA) or the Project's compliance with other applicable legal requirements.

evacuation times in the event of wildfire, and does not address compliance with related dead-end road requirements applicable in State Responsibility Areas. Additionally, our letter explained further analytical deficiencies resulting from these omissions.

A continued hearing on the Project is currently scheduled for Tuesday, July 21, 2020, at 10:30 a.m. The applicant's attorney, Katherine Philippakis, informed us that the applicant intends to request a Board decision at this hearing. Our office, however, has not had the opportunity to review or engage with the County on the new and updated documentation addressing wildfire risk, which include: an Errata to the FEIR; new Responses to Comments; an updated Mitigation Monitoring and Reporting Program; updated CEQA Findings of Fact and Statement of Overriding Considerations; new Project maps and materials; and a response letter with exhibits from the applicant's attorney, Katherine Philippakis.

These supplemental documents provide the sole analysis of critical wildfire issues and were first made available, in part, late morning on Friday, July 17, 2020.³ Ms. Philippakis sent a second set of documents directly to our office after hours on Friday, July 17, 2020, which we received today. This gave about one day for our office—or the public and other commenters—to review all the analysis, assess its adequacy, and be informed about the Project's wildfire impacts. We had also intended to meet with the County and Ms. Philippakis to discuss any needed clarifications in advance of the Board's continued hearing. We respectfully request that the County Board of Supervisors delay consideration of the Project.

Based on our initial reading of portions of the Errata to the FEIR, updated Mitigation Monitoring and Reporting Program, and Responses to Comments, many of the issues presented in our July 6, 2020 letter have not been resolved. Further, the supplemental environmental analysis prepared to remedy prior omissions has created its own deficiencies. Below is a brief summary of issues pertaining to wildfire impacts that remain unresolved. Please note that this list is not intended to be comprehensive because, as explained above, the complete package of supplemental materials was not available until one day before the Board of Supervisors hearing.

First, the Errata to the FEIR fails to provide the required Project-specific analysis of increased wildfire risks. It provides a general summary of wildfire research on the effects of new development on wildfires in the wildland-urban interface. (Errata to the FEIR, p. 17–18.) The Responses to Comments then argue that density is not the sole factor in determining wildfire risk and that low-density development, depending on other factors, may not cause a significant wildfire impact. (Responses to FEIR Comments, pp. 2–3.) However, neither the Errata to the FEIR nor the Responses to Comments conducts a multi-factor analysis. The FEIR fails to apply

³ Recirculation may be required and appropriate here. (*See* Cal. Code Regs., tit. 14, § 15088.5.) The Errata to the FEIR acknowledges for the first time that the Project would exacerbate wildfire risk and it relies on mitigation measures, styled as project design features, to conclude (without analysis) that this impact would be less than significant. Other changes to the FEIR, including a new Amendment to the General Plan and new mitigation on wildfire evacuation, and alternatives analysis in the Responses to Comments, also suggest recirculation is appropriate.

the general research it describes to a Project-specific analysis of the Project's exacerbating impacts on wildfire risk, which is necessary to analyze the Project's impacts. As explained in our July 6, 2020 letter, the FEIR must analyze whether the Project—in its location and with its land uses, arrangement of structures, density, spacing, topography, grading, etc.—exacerbates the risk of wildfire ignition and spread.

Second, the Errata to the FEIR does not analyze whether Alternative C would reduce impacts to wildfire risks. Instead, the Responses to Comments again argue that density is not the sole factor, without analyzing it with other relevant factors. (Responses to FEIR Comments, pp. 6.) It then re-asserts that Alternative C does not fully meet Project objectives or is infeasible because the price of residential lots would be reduced and, therefore, Alternative C would financially preclude implementation of the same wildfire prevention strategies proposed for the Project. (*Ibid.*) But, as explained in our previous letter, the applicant's desire to build high-cost luxury housing, as opposed to lower-cost housing, is not a justification to reject the environmentally superior alternative. Further, claiming financial infeasibility cannot circumvent the requirement to analyze a reasonable range of alternatives "which would feasibly attain most of the basic objectives" and to "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." (*See* Cal. Code Regs., tit. 14, § 15126.6.) In other words, the FEIR cannot define alternatives that lack the luxury amenities needed for the applicant to deem it financially feasible, and then decline to analyze whether the alternative would reduce impacts based on a claim of financial infeasibility.

Third, while the Errata to the FEIR includes some additional discussion and maps regarding circulation within the Project area, it does not adequately address evacuation, including capacity on internal and external roadways, in the event of wildfire. Instead, the FEIR continues to defer this analysis to a future Wildfire Evacuation Plan. (See Response to Comments, pp. 7-8.) In addition, the FEIR still does not adequately address post-mitigation level of service at the Butts Canyon Road/State Route 29 intersection. Without mitigation this intersection would experience significant traffic delays (level of service F) under normal conditions. In response to comments, the FEIR points to Tables A1 and A2 of the Appendix, Traffic Impact Analysis, to the FEIR. (Response to Comments, p. 9 [*referencing* FEIR, Appx. TIA, p. 2747 [pdf].) But this is inadequate; the FEIR, as a public disclosure and information document, must explain the Project's traffic impact after mitigation and compare it to applicable thresholds. While not clear, the FEIR, Responses to Comments, and Appendix TIA suggest that the Project would result in a significant impact by reducing levels of service from LOS C to E. (FEIR 3.13-21–22.) Nor is it clear how this intersection or others will perform during an evacuation because this analysis is deferred. However, the Project's impacts on traffic under normal conditions suggest an unanalyzed significant impact to wildfire evacuation.

Fourth, the Project fails to comply with the dead-end road requirements applicable in the SRA. While the County is correct that exceptions to these standards may be granted if the "same practical effect" can be achieved through other means, this has not yet been appropriately established. The response to comments suggests that the facts to support an exception will be established sometime in the future (Response to comments, p. 9), but if a deviation has not yet

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been established, the Project, which presently fails to comply with the standards, should not be approved.

Finally, the supplemental documentation does not address other deficiencies. It does not reconcile the FEIR's reliance on vegetation removal to reduce wildfire risk, on the one hand, and its limitation on vegetation removal under MM-BIO-3.4 to mitigate biological resources impacts, on the other. It is also unclear whether many of the wildfire prevention strategies remain vague and unenforceable.

We appreciate your consideration of our comments and respectfully request that you refrain from certifying the FEIR and approving the Project until the FEIR is further revised and sufficient time is provided for our office and members of the public to review and understand the wildfire risks associated with the Project. We would also like the opportunity to discuss our concerns with your staff and with the project applicant, and the short time that has thus far been provided with the new materials has not afforded us that opportunity. If you have any questions or would like to discuss our comments, please feel free to contact us.

Sincerely,

ANDREW CONTREIRAS
Deputy Attorney General

NICOLE RINKE
Deputy Attorney General

For XAVIER BECERRA
Attorney General