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July 6, 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 preparation of a Final Environment Impact Report (FEIR) responding to public comments on the Draft Environmental Impact Report (DEIR), including comments regarding wildfire risks associated with the proposed Guenoc Valley Mixed Use Planned Development Project (Project). After reviewing the FEIR, we acknowledge that you have improved two Project features addressing wildfire risks. We believe, however, that the FEIR's discussion and analysis of these risks remains inadequate.¹

Our office reviewed the DEIR and other stakeholder comments on the DEIR's analysis of wildfire risks. These included comments that the DEIR lacked adequate analyses on the Project's potential to increase the risk of wildfire ignition and exacerbate wildfire spread and the sufficiency of its evacuation capacity. These comments also noted that the DEIR relied on a Guenoc Valley Wildfire Prevention Plan (Wildfire Prevention Plan) that lacks supporting analysis and includes vague requirements and voluntary guidance.

The Lake County Planning Commission recommended approval of the FEIR and the proposed Project on June 25, 2020. This comment letter is presented to Lake County and the Lake County Board of Supervisors to consider wildfire issues that the County has not resolved.

¹ 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.

I. THE FEIR FAILS TO ANALYZE THE INCREASED RISK OF WILDFIRE IGNITION AND SPREAD THAT WOULD RESULT FROM THE PROJECT

New development in a high fire hazard severity zone increases the risk of fire ignition and, as a result, increases the risk of exposing residents, employees, and visitors to wildfire. The FEIR fails to analyze the increased risk of wildfire that would result from siting the proposed Project within such a zone.

The December 2018 Update to the CEQA Guidelines added provisions addressing wildfire impacts to implement Public Resources Code section 21083.01. The updated CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000 *et seq.*) direct lead agencies to analyze the impact of a project on wildfire risk.² Specifically, wildfire-related impact thresholds include: (1) whether a project would “expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires” and (2) whether it would, “due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from wildfire or the uncontrolled spread of wildfire.” (CEQA Guidelines, App. G, subds. IX(g), XX(b).)

The Natural Resources Agency “drafted the questions in the new wildfire section to focus on the effects of new projects in creating or exacerbating wildfire risks.”³ The analysis must start at this core question of a project’s potential to create or increase the risk of wildfires, and may need to then address the impacts of any new or exacerbated wildfire risks on the proposed project. But the first question about increased risk is critical to the wildfire analysis because “it is clear that development may exacerbate wildfire risks.”⁴ Wildfire research shows that land use decisions, such as that before the Board now, are particularly impactful:

[H]ousing arrangement and location strongly influence fire risk, particularly through housing density and spacing, location along the perimeter of development, slope, and fire history. Although high-density structure-to-structure loss can occur, structures in areas with low- to intermediate- housing density were most likely to burn, potentially due to intermingling with wildland vegetation or

² The scope of analysis on wildfire risk was codified and clarified in the CEQA Guidelines, but it is not a new requirement. (*See S. Orange Cnty. Wastewater Auth. v. City of Dana Point* (2011) 196 Cal.App.4th 1604, 1616 [“A true example [of an impact associated with bringing development to a hazard] with respect to, say, wildfires would be increasing the risk in a fire-prone area by people using their fireplaces or their backyard barbeques or by children playing with matches.”])

³ California Natural Resources Agency, *Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines* (Nov. 2018) at p. 87, https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/2018_CEQA_Final_Statement_of%20Reasons_111218.pdf (“CNRA Final Statement”).

⁴ *Ibid.*

difficulty of firefighter access. Fire frequency also tends to be highest at low to intermediate housing density, at least in regions where humans are the primary cause of ignitions.⁵

As development encroaches into exurban areas and the wildland-urban interface, large fire probability necessarily increases because humans are the leading cause of wildfires—and the degree of increased risk is determined by factors such as topographical and wind conditions, land use, structure arrangement, and density.⁶ In short, land use planning and project design is an important determinant of wildfire ignition risk and the scale of wildfire spread.⁷ Accordingly, it is critical to a wildfire analysis to analyze whether the Project itself—in its location and with its land uses, arrangement of structures, density, spacing, topography, grading, etc.—exacerbates the risk of wildfire ignition and spread.

However, neither the FEIR nor the Wildfire Prevention Plan analyzes whether the Project will increase wildfire risks. The FEIR asserts that “the Wildfire Prevention Plan and the Proposed Project would reduce wildfire risks in the area by adding an additional fire response center, year-round grazing and vegetation removal, fire breaks along project roadways in fire prone areas, and incorporating fire resistant landscaping. These measures would minimize the probability of uncontrolled spread of wildfire.” (FEIR, p. 3.16-10.) But it offers no analysis or justification for this conclusion. It then concludes that the Project “would reduce the risk of wildfire from existing levels[.]” (FEIR, p. 3.16-10.) Thus, the analysis identifies project features that would reduce the risk of wildfire, but skips over the critical step of considering whether the Project increases the risk of wildfire in the first instance.

The FEIR’s reliance on the Wildfire Prevention Plan does not fill this analytical gap. In fact, the Wildfire Prevention Plan does not purport to analyze the Project’s impacts on wildfire risk. It provides a description of the existing environmental setting, including the history of wildfires at the site (FEIR, Vol. III, Appendices, Appx. FIRE, pp. 4–14), and a range of wildfire

⁵ *Ibid.* (citing Syphard, A.D, Bar Massada A, Butsic V, Keeley, J.E, *Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss* (Aug. 2013) PLOS ONE 8(8): e71708. <https://doi.org/10.1371/journal.pone.0071708>.)

⁶ *Ibid.*; Syphard A.D, Keeley J.E, *Nexus Between Wildfire, Climate Change, and Population Growth in California*, *FREMTONIA* Vol. 47, No. 2 (March 2020) (“On [high-wind] landscapes, fire is more of a people problem than a fuel problem. More people translates into a greater probability of an ignition during a severe wind event.”); Syphard, A.D., Rustigian-Romsos, H., *The relative influence of climate and housing development on current and projected future fire patterns and structure loss across three California landscapes*, *GLOBAL ENVIRONMENTAL CHANGE* 56 (March 2019) 41–55.

⁷ Syphard A.D., Keeley J.E., *Why Are So Many Structures Burning in California?*, *FREMTONIA* Vol. 47, No. 2 (March 2020), p. 33 (“[T]he most effective strategy at reducing future structure loss would focus on reducing the extent of low-density housing via careful land planning decisions.”).

prevention and response strategies (or, mitigation measures) focused on reducing wildfire impacts on the Project (*Ibid.*, pp. 15–34).⁸ But this again skips the core requirement of CEQA—to analyze and disclose the *Project’s impact on wildfire risk*.⁹

Given the Project’s location, scale, low density, and design, this is a particularly important impact category for detailed analysis and disclosure to inform the public and the County, as lead agency, in its assessment of the Project and consideration of possible design modifications and alternatives. The FEIR presents only existing risks (i.e., the baseline) and prevention strategies (i.e., mitigation measures). Revisions to the FEIR must analyze the Project’s potential to increase the risk of wildfires.

II. THE FEIR FAILS TO ADEQUATELY ANALYZE PROJECT ALTERNATIVES AND THE CEQA FINDINGS FAIL TO JUSTIFY REJECTION OF ALTERNATIVE C

The FEIR analyzes three alternatives to the proposed Project and determines that Alternative C—High Density, Compact Development Footprint—is the environmentally superior alternative. Specifically, the FEIR concludes that Alternative C would reduce impacts related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, and Hydrology and Water Quality. The benefits of Alternative C include retaining habitat for protected species, reducing modifications to the landscape and topography, and reducing conversion to impervious surfaces. (FEIR, pp. 5-11–13.)

The FEIR does not analyze whether Alternative C would reduce impacts to wildfire risks. (FEIR, Vol. II, Revised EIR, p. 5-13.) Its only discussion of wildfire risks states: “Alternative C would have the same wildfire risk as the Proposed Project. With incorporation of the same fire prevention mitigation measures as the Proposed Project, impacts would be less than significant.” (*Ibid.*) However, because the FEIR, as discussed in Section I above, does not include an analysis of the Project’s impacts on wildfire risks, it also does not consider whether the more compact

⁸ The Wildfire Prevention Plan may be insufficient to reduce wildfire impacts to less than significant. First, many of its measures are vague and unenforceable, such as (a) “100-foot-wide fire breaks *could also* be established and maintained”; (b) “Homeowners will be *advised* to establish and maintain defensible space”; and (c) “flammable vegetation *should* be reduced.” (FEIR, Vol. III, Appendices, Appx. FIRE, pp. 16, 21–24.) Second, Mitigation Measure BIO-3.4-18 limits implementation of wildfire strategies that involve vegetation removal for fire breaks and fuel reduction. (FEIR, Vol. II, Revised EIR, pp. 4.4-100–101.) The FEIR must disclose the extent of the Project’s proposed vegetation removal and also reconcile its reliance on vegetation removal to reduce wildfire risk, on the one hand, and its limitation of vegetation removal to mitigate biological resources impacts on the other.

⁹ This issue was raised in detailed written comments during the public comment period. (FEIR, Vol. I, Response to Comments, pp. 108–109 (pdf), Comment O10-27.) However, the responses to comments only refer back to the FEIR and Wildfire Prevention Plan and fail to meaningfully engage with the comments on the issue or to resolve the underlying analytical deficiency. (FEIR, Vol. I, Response to Comments, pp. 3-56–57, Responses O10-26–27.)

footprint and higher density of Alternative C would substantially reduce impacts to wildfire risk. An analysis of the Project's potential to exacerbate wildfire risk in the first instance would provide the analytical foundation to assess whether the alternative design configuration would reduce that risk.

As summarized in Section I above, various project- and site- specific factors determine the risk of wildfire, including density, footprint, and configuration.¹⁰ The FEIR must therefore first analyze the proposed Project's specific characteristics within the site context, and then assess the ability of each alternative's specific characteristics to reduce those impacts. The lack of wildfire risk analysis in the FEIR precludes the County and the public from properly considering the merits of the possible alternatives.

Additionally, neither the FEIR nor the CEQA Findings justify rejection of Alternative C as the environmentally superior alternative.¹¹ The CEQA Findings state that Alternative C "is overall less capable of achieving the full scope of project objectives" because the development would have less luxurious amenities and that it is infeasible because the developer "submitted information indicating that they would expect price reductions for residential lots of at least 35%[.]" (CEQA Findings, p. 150.) However, the developer's desire to build high-cost luxury residences, as opposed to 35% lower-cost housing, does not support a finding of financial infeasibility of an alternative.¹²

III. THE FEIR FAILS TO ADEQUATELY ADDRESS EVACUATION IN THE EVENT OF WILDFIRE

The FEIR is required to consider evacuation and accessibility for emergency response in the event of wildfire. Its analysis must take into account whether the project will adversely impact any adopted emergency response or evacuation plans; adversely impact emergency vehicle access, which can in turn slow emergency response and exacerbate the spread of

¹⁰ Syphard, A.D., Rustigian-Romsos, H., *The relative influence of climate and housing development on current and projected future fire patterns and structure loss across three California landscapes*, GLOBAL ENVIRONMENTAL CHANGE 56 (March 2019) 41–55, at Figs. 2 and 3.

¹¹ This issue was also raised during the public comment period. (FEIR, Vol. I, Response to Comments, p. 117 (pdf), Comment O10-37.)

¹² A lead agency cannot approve a project that would result in a significant environmental impact unless the agency has (a) "[e]liminated or substantially lessened all significant effects on the environment where feasible" and (b) "determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093." (CEQA Guidelines § 15092(b).) Financial or economic infeasibility is not supportable solely by a projected reduction of future income potential. (*See Uphold Our Heritage v Town of Woodside* (2007) 147 CA4th 587, 600.) The CEQA Findings also fail to consider Alternative C's important *benefit* of increasing the supply of moderate-cost housing rather than high-cost luxury housing.

wildfire; or expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. (CEQA Guidelines, App. G, subds. IX(g), XX(a) and (b).)¹³

The FEIR determines that impacts to emergency response and evacuation plans are less than significant due to the “extensive circulation system” of roads within the Project site and emergency response measures included in the Wildfire Prevention Plan. (FEIR, p. 3.16-8–9.) However, neither the FEIR nor the Wildfire Prevention Plan analyzes whether the internal roadway plan or external roadway access is sufficient to accommodate the evacuation of residents while simultaneously allowing for emergency response access. (FEIR, 3.16-8–9.)

Butts Canyon Road provides the only ingress and egress to the Project site. (FEIR, p. 3.13-20, Figure 3.13-2.) From Butts Canyon Road, evacuees would need to travel north on Butts Canyon Road to access State Route 29 because southbound Butts Canyon Road winds through rural roadways. (*Ibid.*) But the Butts Canyon Road/State Route 29 intersection is anticipated to experience significant traffic delays under normal conditions (level of service F), requiring a new three-way traffic light to mitigate this traffic impact. (FEIR, p. 3.13-24.)¹⁴ The FEIR does not disclose expected traffic delays after the three-way traffic light is installed, nor does it analyze intersection delays in abnormal evacuation conditions.

In addition, within the Project site, the internal roadway system creates an extensive system of long, winding dead-end roads and cul-de-sacs, all of which eventually collect onto two winding streets exiting on Butts Canyon Road. (FEIR, Appx. FIRE, p. 31.) The FEIR provides no analysis or traffic modelling to evaluate the time necessary for residents or visitors to evacuate the Project site via internal roadways. Nor is there an alternative route if any internal street were to become obstructed.

The FEIR purports to analyze whether or not the Project will result in inadequate delays to emergency access. (FEIR 3.13-29.) However, its brief discussion of this issue does not address the adequacy of roadway capacity—either along Butts Canyon Road or within the Project site—to accommodate a wildfire evacuation, particularly while emergency response personnel are simultaneously attempting to access the area. The inadequacy of this analysis is compounded by the California Department of Transportation’s comments on the DEIR that call into question the DEIR’s assumed percentage of visitors that would arrive by buses and shuttles. (FEIR, Vol. I, Response to Comments, p. 41 (pdf), Comment A7-11.) If those assumptions are incorrect, the FEIR’s conclusions on roadway volume/capacity ratios and levels of service at intersections

¹³ This requirement to analyze evacuation was raised in written comments during the public comment period. (FEIR, Vol. I, Response to Comments, pp. 112–113 (pdf), Comment O10-31.) The County responded to those comments, but the issue remains inadequately addressed (FEIR, Vol. I, Response to Comments, pp. 3-58–59.)

¹⁴ It should be noted that the analysis of level of service at intersections is based only on the first phase of the Project and does not reflect additional traffic that would be generated by future phases. (FEIR 3.13-24.)

would also be under-represented—meaning traffic conditions would be more impacted and evacuation more constrained than described.¹⁵

Likewise, the FEIR concludes that the exposure of people or structures to a significant risk of loss, injury or death due to wildland fires is less than significant after mitigation. (FEIR, p. 3.16-13–14 [Impact 3.16-5].) The impact analysis does not include any discussion of evacuation, but rather focuses on on-site fire management techniques (e.g., fire breaks, landscape management, building materials, fire hydrants) and the Project’s inclusion of designated meeting sites within the Project area for “residents, visitors, and employees to gather for safety and assistance.” (FEIR 3.16-13–14.)

Mitigation Measure 3.16-2 requires the preparation of a post wildfire emergency response plan (PWERP). (FEIR, p. 3.16-14.) However, this PWERP appears to only address “post-fire response measures” (FEIR 3.16-13), such as soil stabilization and restoration of burned areas to reduce subsequent hazards (3.16-12), not evacuation at the time of fire.¹⁶ While we applaud the contemplation of post-fire response measures to reduce future hazards, pre-fire planning is also critical to prevent and minimize the occurrence of and loss associated with wildfire. Absent inclusion of an evacuation analysis or plan, this impact discussion is inadequate to conclude that people or structures will not be exposed, either directly or indirectly, to a significant risk of loss, injury or death as a result of wildland fires.

IV. THE PROJECT MUST COMPLY WITH APPLICABLE DEAD END ROAD LIMITATIONS

Related to the issue of evacuation and emergency access, the County must ensure that the Project complies with applicable limits on the length of dead end roads. The Project is located in a State Responsibility Area (SRA). (FEIR 3.16-4–5.) Within the SRA, certain road standards apply, including limits on the length of dead-end roads. (Cal. Code. Regs., tit. 14, § 1273.09.) The Final EIR states that “primary residential structures on dead-end roads that exceed 0.25 miles in length will be required to have exterior fire suppression systems.” (FEIR, p. 3.16-14.) However, if the parcels served by the dead-end roads are between 1 to 4.99 acres in size, as it

¹⁵ The FEIR, with no additional analysis, responds that the assumptions are correct, but commits to monitoring to make sure that the trip reductions associated with the shuttles are being achieved as anticipated. (FEIR, p. 3-12.) However, how those reductions might be achieved is unspecified and unclear given the remote nature of the Project site.

¹⁶ This mitigation measure is also inadequate because it calls for the future preparation of a plan with no prescribed performance standards and is, therefore, an improper deferral of mitigation. (See e.g., *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027–1029 [deferred development of mitigation is permitted if, in addition to demonstrating some need for deferral, the lead agency (1) commits itself to mitigation; (2) lists in the EIR the possible mitigation options; and (3) establishes “specific performance criteria” the mitigation must meet.])

appears they are, dead end roads over .25 miles would be prohibited. (Cal. Code. Regs., tit. 14, § 1273.09 [limiting dead end roads for parcels of this size to a maximum length of 1,320 feet].)

In addition, the Project is located within the Middletown Area Plan. (FEIR 2-10.) That plan requires that roads and driveways “meet CAL FIRE Standards and be either looped or double-access to provide escape routes in the event of wildland fire emergencies.” (FEIR 3.16-7.) Conformity with these dead-end road limitations must be confirmed.

Conclusion

The public comment period on the Draft EIR closed on April 21, 2020. Less than two months later, the County issued a Final EIR with Responses to Comments and scheduled a Planning Commission hearing for June 18, 2020. On June 25, 2020, the Planning Commission recommended to the Board of Supervisors approval of the Project and certification of the Final EIR. Less than two weeks later, on July 7, 2020, the County Board of Supervisors plans to consider the Project for approval.

This is an unusually rapid pace to consider an EIR, particularly one for a Project of this scale and significance. The County received extensive public comments from community members, organizations, and agencies, including detailed comments on wildfire impacts. The FEIR does not adequately address these comments. 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 revised. If you have any questions or would like to discuss our comments, please feel free to contact us.

Sincerely,

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NICOLE RINKE
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For XAVIER BECERRA
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