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VIA ELECTRONIC MAIL

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Michael Johnson
Environmental Coordination Services
Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

Re: *Sierra Club Comments on Notice of Preparation of an Environmental Impact Report/Environmental Impact Statement for the Martis Valley West Parcel Specific Plan Project*

Dear Mr. Johnson:

The Motherlode Chapter of the Sierra Club submits the following comments on the Notice of Preparation of an Environmental Impact Report/Environmental Impact Statement for the Martis Valley West Parcel Specific Plan Project ("Project.") As an initial matter, Sierra Club joins in the comments previously submitted by the North Tahoe Preservation Alliance and Ellie Waller. In addition to those comments on the NOP, the Sierra Club offers the following additional comments.

The EIR for the Martis Valley West Parcel Specific Plan must establish strong standards for proposed development. Additionally, the Draft EIR must set forth the feasible mitigation measures to mitigate the Project's significant environmental impacts. The standards and mitigation measures for development must be addressed in this Draft EIR and not delayed for future decisions and environmental review. The use of tiering does not permit the County to defer analysis of reasonably foreseeable significant environmental impacts to a later stage of review to avoid addressing such impacts in a first tier EIR. (CEQA Guidelines, 15152(b).) *Id.* CEQA's information disclosure requirements are not satisfied when the agency simply asserts that information will be provided in the future. (*Vineyard Areas Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.App.4th 412, 431.) Thus, a significant environmental impact is ripe for evaluation in a first tiered EIR when it is a reasonably foreseeable consequence of the action proposed for approval and the agency has sufficient data for a meaningful and accurate review. (See *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1028.)

The Draft EIR should fully analyze impacts to aesthetic resources and feasible mitigation measures. Analysis of aesthetic impacts should not be deferred to future

environmental analysis. The same applies to transportation, water supply and other areas. Deferring analysis of these reasonably foreseeable environmental impacts would violate CEQA's informational requirements. (*Vineyard Areas Citizens for Responsible Growth v. City of Rancho Cordova*, *supra*, 40 Cal.App.4th at p. 431.)

A. Alternatives

CEQA mandates that a lead agency adopt feasible alternatives or feasible mitigation measures that can substantially lessen the project's significant environmental impacts. (Pub. Resources Code, § 21002; Guidelines, § 15002(a)(3); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) For that reason, "[t]he core of an EIR is the mitigation and alternatives sections." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) "The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. (Pub. Resources Code, § 21002.1(a) (emphasis added); see also Pub. Resources Code, § 21061.) In preparing an EIR, a lead agency must ensure "that all reasonable alternatives to proposed projects are thoroughly assessed." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 717; quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197; Pub. Resources Code, § 21001(g) (lead agency must "consider alternatives to proposed actions affecting the environment"); *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California* (1988) 47 Cal.3d 376, 400.)

The EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6(a); see *Citizens of Goleta Valley*, *supra*, 52 Cal.3d at 566.) The alternatives discussion must focus on alternatives that avoid or substantially lessen any significant effects of the project. (*Id.*, § 15126.6(b); *Citizens of Goleta Valley*, *supra*, 52 Cal.3d at 556 (EIR must consider alternatives that "offer substantial environmental advantages").) The range must be sufficient "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*San Bernardino Valley Audubon Soc'y v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750; see also *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1217-18, 1222 (EIR that only considered two alternatives for less development was not a range of reasonable alternatives).)

The Notice of Preparation is silent as to the range of alternatives that will be considered in the Draft EIR. The fact that there is a settlement agreement between the property owners and several organizations does not alleviate the need or legal obligation to consider a reasonable range of feasible alternatives to the Project. As discussed above, the Draft EIR must contain an adequate discussion of alternatives. Such alternatives should include a reduced project in terms of housing units; a reduced commercial center,

elimination of the commercial center from the ridge; and alternative locations for the housing such as moving the development closer to Highway 267. Additionally, the Draft EIR should include an alternative that eliminates development in the Tahoe Basin.

B. Aesthetics

A project's environmental context is a key consideration in aesthetic impact analysis. (See *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 586-589; *Ocean View Estates Homeowners Ass'n Inc. v. Montecito Water District* (2004) 116 Cal.App.4th 396, 401.) The environmental setting of the proposed Project plays a key consideration in evaluating aesthetic impacts. The Initial Study recognizes the potential for significant impacts to the aesthetics. The Draft EIR must consider and adopt mitigation measures that avoid or reduce such impacts. Such mitigation measures should include but not be limited to preservation of mature trees to maintain screening; state of the art night lighting; and the use of natural construction materials to avoid or reduce glare.

C. Land Use and Planning

The Draft EIR must discuss the Project's consistency with the other land use planning documents, such as the Martis Valley Community Plan (MVCP). Particular attention should be given towards the planning documents' respective policies regarding land use (MCVP, Chapter 2); protection of scenic areas and scenic resources (MCVP, Chapter IV); transportation (MCVP, Chapter V); and natural resources (MCVP, Chapter 9).

D. Water Supply

The Draft EIR must include a water supply assessment. (See Water Code, § 10912; see generally *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*, *supra*, 40 Cal.App.4th 412.)

E. Cumulative Impacts

CEQA requires a discussion of the cumulative effect on the environment of the subject project in conjunction with other closely related past, present and reasonably foreseeable probable future projects. (Pub. Resources Code, § 21083(b); Guidelines, §§ 15064(h)(1); 15130, 15355.) The requirement for a cumulative impact analysis must be interpreted so as to afford the fullest protection of the environment within the reasonable scope of the statutory and regulatory language." (*Citizens to Preserve the Ojai v. Ventura County* (1985) 176 Cal.App.3d 421, 431-32.) Assessment of a project's cumulative impact on the environment is a critical aspect of the EIR. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720.) The more severe the existing environmental problems are, the lower the threshold for finding that a project's cumulative impacts are significant. (*Id.* at p. 781.)

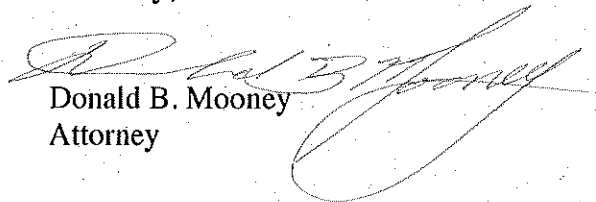
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The Draft EIR must analyze the cumulative impacts of other proposed development in the Tahoe region such as the Northstar Mountain Master Plan. Additionally, if there are other projects in the region that will contribute to traffic and air quality issues in the region then such projects must also be included in the cumulative impact analysis. For example, the proposed expansion at Squaw Valley will have cumulative impacts to traffic in the region even though it is located on Highway 89. It will effect traffic on regional roadways at peak times.

The NOP should have identified the related past, present and reasonably foreseeable projects that the County intends to include in the cumulative impacts analysis.

Pursuant to Public Resources Code section 20192.2 please provide this office copies of notices regarding of all future notices regarding the Environmental Impact Report/Environmental Impact Statement for the Martis Valley West Parcel Specific Plan Project.

Sincerely,



Donald B. Mooney
Attorney

cc: Terry Davis