

Letter 21

Frederick S. Morrill  
23049 Rosewood Rd.  
Auburn, CA 95602

Mr. Tyler Barrington  
Principal Planner  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959-9617

October 04, 2013

Re: Site 17: 57-270-06  
Housing Element Rezone Program



To Whom It May Concern:

My house (23049 Rosewood Rd. Auburn, CA 95602) is located immediately to the south border of the planned low income housing community – less than 100 feet.

This area happens to be a very sensitive environmental area:

The land where the proposed housing is to be located has a creek that runs through it. It floods on an annual Basis – providing habitat for various forms of wild life.

Having lived immediately adjacent to the area, I have observed a variety of wildlife throughout the year.

21-A

Raptors who nest in the area and raise their off spring.

Owls who nest and raise their young in the fallen oak trees in the proposed area.

Deer

Wild Turkeys

Ducks

Geese

To Name A Few.

Additionally, the area houses numerous ancient Oak Trees and numerous plant forms.

21-B

In addition to this proposed low income housing development, there is active construction immediately across Combie Road slightly to the east and north of this proposed development. The builder is in the process of building approximately 40 -50 densely situated housing units.

I believe that this proposed low income housing development in addition to the development in construction across the street just mentioned and the dense existing commercial establishments immediately across the proposed area will have a SIGNIFICANT NEGATIVE IMPACT ON THE WILDLIFE IN THE AREA.

21-C

My house is located immediately to the South of this planned "low to very low income housing" development.

All the land in my immediate vicinity has been zoned for single housing units.

The development of this low income housing complex will place the Southern border of this large complex immediately within less than 100 feet of my bedroom window, living room windows, and porch (see attaché description and maps).

This will significantly reduce the economic and intangible values of my hose and property.

21-D

When I purchased my house four years ago, I paid a market value that was based on zoning that provided the construction of single family homes, not that of a large complex containing "low to very low income" housing units (in your own words).

Sincerely

 10-04-2013  
Frederick S. Morrill

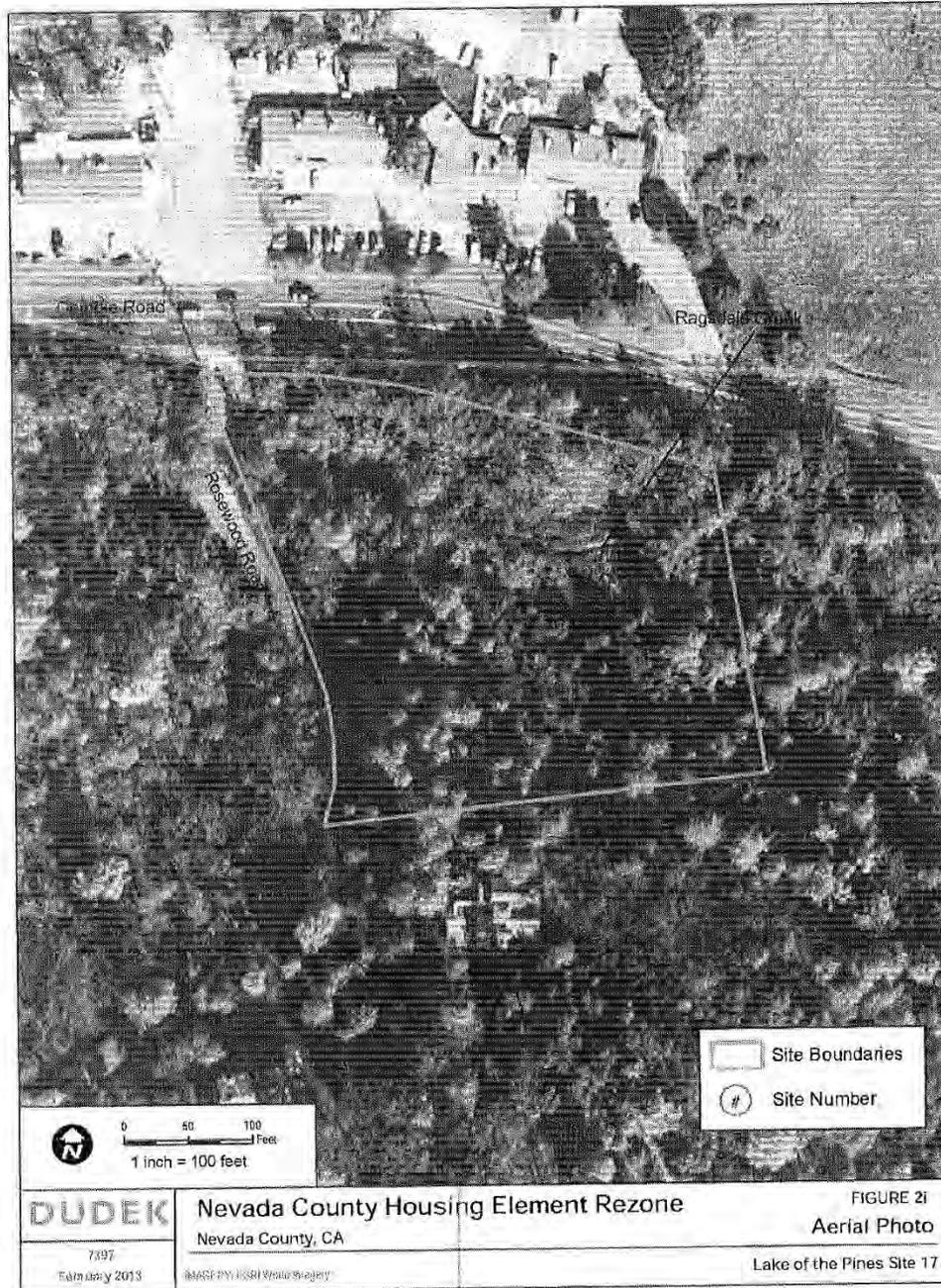
dominated by interior live oak with scattered California black oaks. A mixed chaparral community occurs in the central portion of the site, likely the result of defined past disturbances on this parcel. Dominant species observed in this small chaparral community include whiteleaf manzanita, buckbrush, yerba santa (*Eriodictyon californica*), coyote brush (*Baccharis pilularis* ssp. *consanguinea*), and coffeeberry. The remainder of the site supports a low density mixed blue-oak foothill pine community. On Site 16 this habitat is characterized by a low density mix of tree species interspersed with groups of shrubs and non-native annual grasslands. Representative tree species in this community include interior live oaks, foothill pine, and ponderosa pine. Representative shrubs include whiteleaf manzanita and poison oak. No defined hydrologic features were noted on Site 16.

#### Site 17

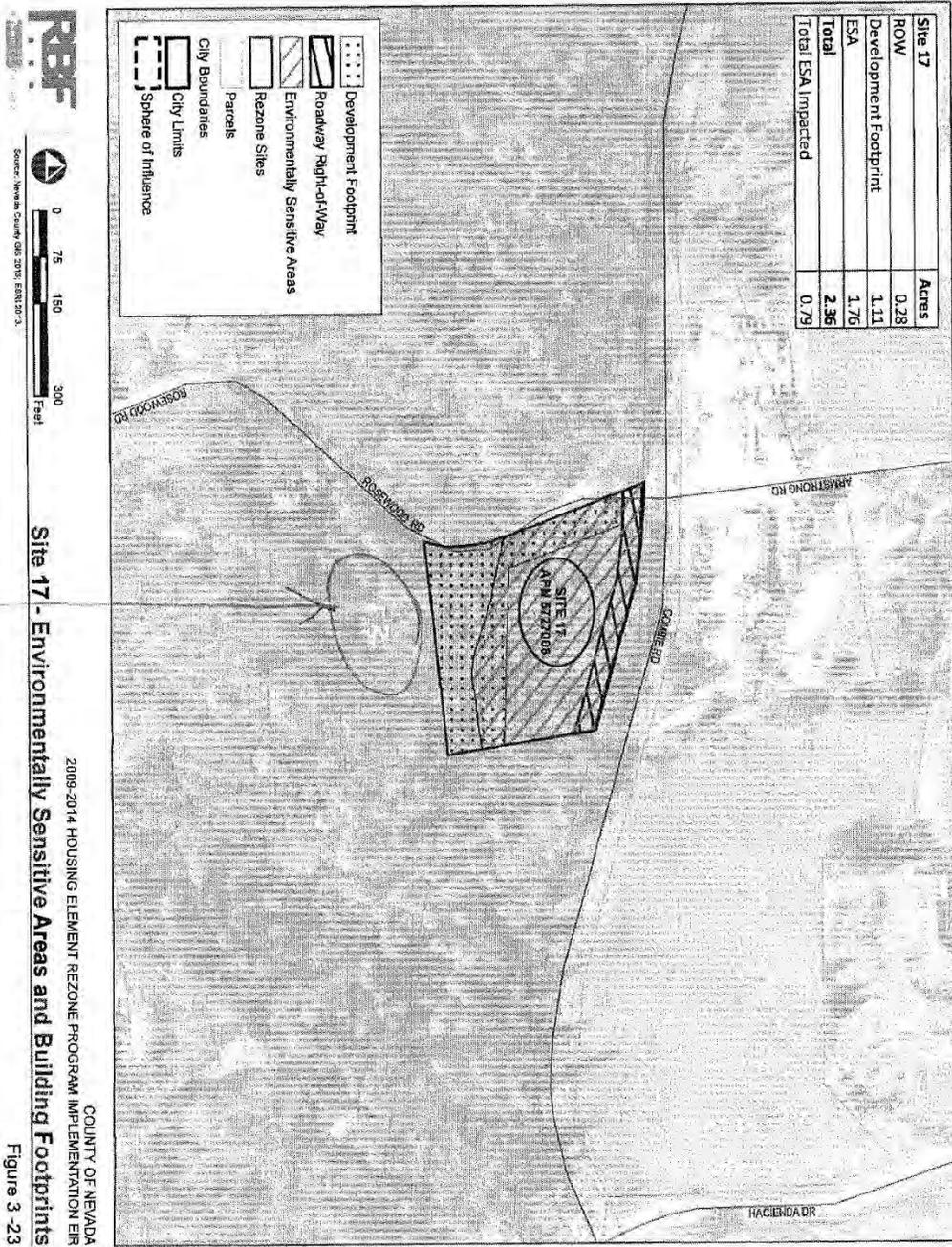
Site 17 is an undeveloped, densely vegetated parcel. The site slopes moderately to the north down to Ragsdale Creek, and bisects the site east-west along the site's northern boundary and supports a dense foothill riparian corridor. Ragsdale Creek is the only substantial hydrologic feature on the site. Himalayan blackberry, willows, and valley oak are dominant species in the riparian corridor on this site. The remainder of the site supports a densely wooded montane hardwood community of mostly smaller diameter trees. California black oak is the dominant species in this community, with interior live oak as a subdominant species and valley oak intergrading along the riparian corridor. Canopy cover of this woodland is 90 - 100 percent, qualifying the woodland onsite as a Landmark Grove. Scattered ponderosa pine and foothill pine also occur. Site 17 is bound by single family residential property on the south, Rosewood Road and undeveloped land to the east, undeveloped land to the west, and commercial development across Combie Road to the north.

#### Site 18

Site 18 is adjacent to the Hole 6 green of the adjacent Darkhorse Golf Course, which abuts the site on the north and east. Single family residential development and open space are east and south of the site. A small knoll occurs within the southern half of the site and the site slopes moderately away from this high point in all directions. A rock outcrop occurs at the high point of the site. Vegetation onsite is split between two plant communities. The southern half of the site supports a montane hardwood woodland community in which blue oak is the dominant species, and interior live oak and California black oak also occur. Trees on this site are generally of larger diameter and well-spaced. Some large diameter blue and black oak specimens grow on this property and likely meet County criteria for Landmark Oak status. The canopy cover in this oak woodland is 80 to 90 percent, which exceeds the County's criteria for a Landmark Grove. Understory throughout this site is primarily non-native grasses and forbs. Species recorded in the understory include gray ripgut brome, dogtail grass, blue wildrye (*Elymus glaucus*), mule ears (*Wyethia helenoides*), whiteleaf manzanita, arrowleaf balsamroot (*Balsamorhiza sagittata*), crimson clover (*Trifolium incarnatum*), and yellow star tulip (*Calochortus monophyllus*). The northern half of the site supports a Sierran mixed forest community and is dominated by well-spaced, mature ponderosa pines. No significant hydrologic features occur on this site, though a small ephemeral drainage occurs in the northwest portion of the property. Stormwater entering this drainage traverses through the site to the northeast.



*MT PROPERTY*



**Letter 21 – Frederick Morrill**

**Response 21-A** The comment refers to Site 17 in the Lake of the Pines area. The County acknowledges that Ragsdale Creek traverses this site as having sensitive oak woodland habitats. Figure 3-23 of the Draft EIR shows that the majority of the site has been designated as an Environmentally Sensitive Area (ESA) due to the presence of the Ragsdale Creek and the adjacent riparian habitat. Mitigation Measure 4.4.3b requires the developer of Site 17 to prepare a formal wetland delineation to determine the extent of the wetland area. Mitigation Measures 4.4-2b and 4.4-2c require the developer to prepare preconstruction plant and animal surveys before final development plans are approved. Mitigation Measure 4.4-5 requires the developer of Site 17 to prepare an oak woodland management plan for the protection of sensitive oak woodlands onsite.

**Response 21-B** The County does not concur with this comment. The Draft EIR includes a cumulative analysis that evaluates the cumulative effect of the Higgins Market Place, Cascade Crossing (project referenced), and Rincon del Rio projects (See Table 5-1). A discussion of cumulative biological impacts is provided in Section 5.25 of the Draft EIR. Implementation of mitigation measures in Section 4.4 would ensure that impacts to sensitive and high value habitats, such as riparian zones and wetland, and to special status species of wildlife and plants would be less than significant.

**Response 21-C** The County concurs that the properties adjacent to Site 17 are zoned for single family residential development. However, there is an existing mix of development in the surrounding area. Across Combie Road is commercially zoned property, and to the west on Combie Road are parcels with residential zone with a Mobilehome Park Combining District, Office Professional, and more commercial development at the intersection of Combie Road and SR 49. With regards to development on the site, the Regional Housing Need (RH) Combining District requires the following: “Development proposes shall undergo a Design Review process and public hearing at the Planning Commission limited to design issues only. No discretionary permit is necessary for the density or use of the site.” (LUDC Section L-II 2.7.11.C.5). This will ensure project design is consistent with surrounding area, western Nevada County Design Guidelines and the design criteria established by the Higgins Corner Area Plan. Furthermore, the existing zoning for Site 17 has Scenic Corridor (SC) and Site Performance (SP) Combining Districts which will remain. The SC combining district requires future development, “To protect and preserve the scenic resources of areas which are adjacent to highways and roads which have been identified as having high scenic quality and requiring protection for the benefit of residents and visitors.”<sup>15</sup> This protection is implemented through the preparation of a Scenic Corridor Analysis that is prepared by the developed and reviewed and approved by County Staff. The SP combining district provides “for refinements in the site development standards and/or the permitted uses in the base zone district with which the SP District regulations are combined.”<sup>16</sup> As such, site development standards for the site would be adjusted on the site to account for physical constraints such as Ragsdale Creek and sensitive habitats above and beyond the development restrictions created by the ESA designations.

**Response 21-D** Please see Master Responses #5 and #6.

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<sup>15</sup> County of Nevada Land Use and Development Code, Section L-II 2.7.7

<sup>16</sup> County of Nevada Land Use and Development Code, Section L-II 2.7.8

Letter 22

Jory Beyer Stewart, AICP  
Planning, Zoning, Environmental Review

RECEIVED  
NOV 12 2013  
Nevada County Community  
Development Agency

November 7, 2013

Mr. Tyler Barrington, Principal Planner  
Nevada County Planning Department  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959

RE: Draft EIR Nevada County Housing Element Rezone Program Implementation

Dear Tyler;

Thank you for the opportunity to submit comments on the proposed Draft EIR for the Housing Element Rezoning Implementation. In addition to my personal interest in the rezoning, I have been asked by the Penn Valley Area Chamber of Commerce to review the EIR and discuss their concerns. There are several areas that we think the EIR could be improved to fully disclose potential adverse impacts to the small village of Penn Valley. Our comments are specific to the proposed rezoning of parcels numbered 10, 11, 12 and 13 in the current draft EIR.

22-A

Inconsistency with existing plans. We believe the most important issue for the EIR to address is the inconsistency of the proposed rezoning of parcels 10 and 11 from commercial and parcel 13 from IDR to residential high density with the Penn Valley Village Focused Economic Development Study. This study, adopted by the Board of Supervisors September of 2000, identifies parcels 10 and 11 as vacant and underutilized commercial and industrial parcels (Figure 4 of the study) that are important to the future creation of jobs and tax base for Penn Valley and Nevada County as a whole. The EIR discusses the potential loss of Business Park (a designation we know is abundant in Nevada County) as a reason to exclude the East Bennett option (see page 6-16 Draft EIR) yet the EIR does not address the loss of commercial opportunity in Penn Valley due to the proposed rezoning of parcels 10 and 11, nor does it discuss the loss of the IDR options for parcel 13. The EIR should identify the loss of economic opportunity and potential increased tax base from these three parcels as an issue and potentially include dropping them from consideration in the Alternatives section of the EIR. It cannot be emphasized enough how important retaining these parcels for future commercial opportunity is to the Chamber. The Chamber has identified a possible synergy between the three parcels that could allow for a larger planned development that could provide a number of goods and services, job growth, as well as a mix of housing as a component of the development. Parcel 13 becomes critical to this scenario because of the exposure, sans access, to Hwy 20. The exposure could allow traffic along Hwy 20 to see what goods and services are available in the village of Penn Valley. Please address this critical issue in the EIR so that it may be considered by the Planning Commission and Board of Supervisors before they make a decision on the rezoning of these parcels.

22-B

Infrastructure deficiencies. The second issue that we do not feel the EIR adequately addresses is the increase of affordable residential units in an isolated rural village, Penn Valley, that has been identified

22-B CONT'D	<p>by the Department of Water Resources as a "Disadvantaged Unincorporated Community" for purposes of SB 244 compliance. The EIR should address the inconsistency of adding additional residential units especially that of potentially low-income, to an area considered to lack access to certain basic infrastructure. Adding people instead of adding tax base only acts to worsen this condition by creating long-term inefficiencies in funding improvements that will serve the area as a whole. This is inconsistent with the policy objectives established by the State legislature in the enactment of SB 244 and this inconsistency should be addressed in the EIR.</p>
22-C	<p>Related to the paragraph above is the issue of wastewater treatment and treatment capacity. The Penn Valley Wastewater Treatment Plant is discussed in the draft EIR on page 4.13-5. The EIR states that the current treatment plant is under a cease and desist order from the Central Valley Regional Water Quality Control Board due to a number of deficiencies. A proposed pipeline to connect this treatment plant with that of the Lake Wildwood plant is identified as the remedy yet there is no discussion of when this might occur, how the current waiting list for EDU's (Equivalent Dwelling Units) will be accommodated via this new connection, and if there will be capacity for the new units proposed along with existing approvals not yet built. Lastly, there is no discussion of whether or not this capacity can be discharged from the expanded Lake Wildwood plant without considerable upgrades and whether or not these upgrades are funded.</p>
22-D	<p>I believe that HCD does not require that infrastructure be in place in order for a jurisdiction to designate a parcel high-density residential. However, the concern of the Chamber is that vacant parcels viable for commercial development will be held "hostage", so to speak, if they are down zoned to residential that may never be feasible due to limited wastewater treatment capacity. The potential loss of this economic opportunity to Penn Valley is not adequately addressed by the EIR. The EIR should disclose the issues of treatment capacity for Penn Valley so that if there is a capacity issue the decision makers can weigh what is better for Penn Valley in the long run; potential commercial development or parcels zoned for high-density residential that may never be built.</p>
22-E	<p><u>Traffic Circulation.</u> The third concern has to do with the access to parcel 13. The EIR assumes access to Hwy 20 across from Cattle Drive (page 3-61). Then on page 4.15-49, the EIR discusses a landscaped-berm for noise attenuation that would prohibit access to Hwy 20. The EIR needs to clarify this discrepancy and address any changes to circulation that may be a factor depending on what access is viable. If the Hwy 20 access across from Cattle is chosen, the EIR should address the likelihood that this could occur by getting preliminary comment from CalTRANS on whether or not this access is feasible. Feasibility of an intersection at Cattle is greatly reduced due to the proximity of the signalized intersection of Spenceville Drive and Hwy 20 less than a mile away.</p>
22-F	<p><u>Willing participant.</u> The fourth concern is that having to do with the policy decision of the Board to reject parcels if the property owner did not indicate a desire to participate. This policy summarily eliminates numerous opportunities that provide the most feasible solution to provide affordable housing in the context of existing services and job availability thus addressing the jobs/housing balance policies of the Housing Element itself. The concern has been stated to be simply that the Board does not wish to act on its "police power" due to the controversy that would ensue. The EIR, as a full disclosure document, should address the use of "police power" and eminent domain so that the Board clearly understands what its authority is and what, if any, consequences would occur if they were to act on a parcel with a non-willing property owner. The EIR should also address those sites summarily rejected to evaluate the feasibility of those sites as well as the likelihood that they are more consistent with existing policies of the General Plan and Housing Element.</p>

22-G

22-H

Socioeconomic impacts. In closing, affordability of housing is not just the cost of the rental. In fact, the cost of the rental is only a small factor in affordability. Affordability comes from placing housing in the appropriate context. If the unit is close to public transit (that runs at a frequency that allows a person to use it for commuting to work) or better yet; allows the resident to walk to work, to the market, to school or the local park, it becomes far more affordable because a first or second vehicle does not have to be maintained by the household. By putting affordable units in a rural village context like Penn Valley where there are few opportunities for jobs, no local grocery, infrequent transit availability and limited access to social services and health care, we are isolating a population that has very little in the way of resources. These areas become susceptible to blight and a high volume of incident calls, as can be seen in the attached CFS Event Report from the Nevada County Sheriff's Office for the Broken Oak development in Penn Valley. The EIR really does not discuss these socioeconomic issues or the greater context of what is being attempted here, which is the provision of affordable housing opportunity and lifestyle...not just units. The EIR should discuss the potential opportunities gained by conducting a socioeconomic impact assessment of the project in order to determine the best fit for the location of affordable housing. After that is completed, I think we would have a much better idea of what parcels truly meet affordability objectives.

From me and the Penn Valley Area Chamber of Commerce thanks again, Tyler. Keep up the good work and we look forward to seeing you in future meetings.

Sincerely,



Jory Stewart  
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530-432-9363  
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Penn Valley, CA 95946  
[erjames@hughes.net](mailto:erjames@hughes.net)

**Letter 22 – Jory Stewart**

**Response 22-A** The County does not concur with this comment. The Penn Valley Village Focused Economic Development Study is not a land use document with a substantive mandate for the County of Nevada. Please see Response 9-B. The County does not concur that the project would remove opportunities for commercial development in Penn Valley. Please see Master Response #3 regarding the retention of existing zoning in Penn Valley. Furthermore, the existing General Plan land use designation on Site 13, is Urban Medium Density (UMD) at 6-units per acre. Site 13 is designated PD “Planned Development” with UMD (26 ac.) and Open Space (8ac.) reflecting this designation applies to a larger set of properties, as Site 13 is approximately 20 acres. As such, this site is already slated for higher density residential than rural residential, although not as high of a density as the R3 designation. Site 13 is not designated for commercial or industrial use.

The EIR has been revised to eliminate the access from SR 20 to Site 13. Please see Response 2-B.

**Response 22-B** The County does not concur with this comment that Penn Valley lacks access to certain basic infrastructure. The Draft EIR evaluates the project’s impact on existing infrastructure and public services in Section 4.13. The County applied for and is in the final approval stages of receiving a \$1.3M CDBG Grant and a State Revolving Fund loan in the amount of \$5.1M from the Regional Water Quality Control Board to complete extend the sewer main from Penn Valley to the Lake Wildwood treatment plant and complete associated upgrades to the plant. If funding is received, this project is expected to occur in the next 2 to 4 years. The anticipated expansions would allow for a greater range of areas where high density housing could be located and would assist the County in achieving its goals of providing a range of housing options.

As a Disadvantaged Unincorporated Community (DUC) it is likely there will be a need to provide a variety of housing types for all income segments of the population. This project would assist in provide higher density options that are limited not only in Penn Valley but throughout the unincorporated area. This new housing would likely serve an existing need in the community and accommodate future population growth.

Please see Master Response #4 regarding the developers’ responsibility to provide the needed infrastructure. The County does not concur that the project is inconsistent with SB 244.

Pursuant to the requirements state law, SB 244 (CA Government Code Section 65302.10 et sec.), the County of Nevada updated the Land Use Element of the General Plan in compliance with the state law. This action was approved by the County Board of Supervisors in January 2014.

The implementation of Government Code Section 65302.10 played a major factor for the County in initiating the update process of the Land Use Element. Based on the parameters set forth in Government Code Section 65302.10, five Legacy Communities have been identified within Nevada County, including Penn Valley<sup>17</sup>. As required by state law, the

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<sup>17</sup> Legacy Communities are defined as geographically isolated communities that have been in existence for over 50 years, and where the median household income is 80% or less than the statewide median household income. In accordance with state law, the County has identified the following communities as legacy disadvantaged unincorporated communities (Legacy Communities): North San Juan, Penn Valley, Rough and Ready, Soda Springs and Washington. (CA GC 65302.10(a))

new Land Use Element language includes an inventory of the service and infrastructure needs of the five identified Legacy Communities.

Additionally, the new Land Use Goal 1.9, Policies 1.9.1 and 1.9.2 and Program 1.9.1 include an analysis of service and infrastructure needs and potential funding sources available. While the new language identifies service and infrastructure needs in the Legacy Communities, it is strictly part of a policy document that does not alter the potential build out rate of those areas. The recognition of needs based on the Legacy Community analysis does not result in specific project implementation measure being undertaken. The establishment of policies for compliance with Government Code Section 65302.10 does not, in itself, create significant impacts on housing. As such the County found that a less than significant impact would result from the adoption of the Land Use Element update, and no mitigation is required.

The Land Use update process considered the RH combining District because pursuant to Government Code Section 65583.2, the 2009-2014 Housing Element was approved by the Board of Supervisors (May 2010) with policy language specifying the sites rezoned to accommodate unmet housing needs would allow for a minimum density of 16 units per acre (Housing Element Programs HD - 8.1.3 and HD-8.1.4). This exception to residential density emphasizes that this density exception is extremely limited but is required for internal consistency within the General Plan as well as the County Land Use and Development Code Section L-II 2.7.11: Regional Housing Need Combining District which was adopted in 2011 and allows for a minimum of 16-units per acre when necessary to accommodate an unmet Regional Housing Need Allocation.

For the reasons listed above, the County is consistent with the requirements of SB 244 and no conflicts have been identified and no further analysis is required.

**Response 22-C** The County concurs that Penn Valley wastewater treatment plant is under a cease and desist order and that completion of an extension to the Lake Wildwood plant is unknown. The County does not concur that the EIR does not evaluate the impacts. The analysis on page 4.13-17 of the Draft EIR notes that currently sewer availability is limited for both Penn Valley and Lake Wildwood. The Draft EIR proposes a mitigation measure that the future developers are responsible for ensuring that adequate facilities are available. However, the EIR notes that potential impacts remain significant and unavoidable because of the unknowns of future sewer availability and the unknowns regarding the feasibility of a single developer being able to make the facility improvements. Please also see Master Response #4 regarding the developers' responsibilities codified in the County Land Use and Development Code.

**Response 22-D** The County does not concur with this comment. The project will not result in a loss of economic opportunity to for Penn Valley. Please see Master Response #3 and Response 9-C. The issues regarding wastewater treatment capacity are provided in the Draft EIR on page 4.13-17 – 18.

**Response 22-E** The EIR has been revised to reflect that access is not permitted off of SR 20. Please see Response 2-B. Additionally, the Final EIR had been revised to remove the statement regarding the landscaped berm. A landscaped berm is not proposed as part of the project.

**Response 22-F** The County does not concur with this comment. Please see Master Responses 1 and 2. The issues of police powers and eminent domain are not CEQA issues and not relevant to the EIR. The EIR addresses the physical environmental impacts associated with the

proposed project sites. The Board of Supervisors initiated the project objectives and chose not to include non-willing property owners.

Regardless of the directive to work with willing property owners, the County would still be looking at sites in Penn Valley, Lake of the Pines, the Grass Valley Sphere of Influence (SOI). It is very likely that the same sites would be identified, especially in the Penn Valley and Lake of the Pines areas because these are the undeveloped sites that met the primary requirements for inclusion in the project. The following site selection criteria are provided in Section L-II 2.7.11.B.2 of the County Land Use and Development Code (LUDC):

**Site Selection Criteria.** For sites to be designated under the Regional Housing Need (RH) Combining District, the site must meet the following criteria:

- a. Generally, the site must be identified by the County to satisfy the Regional Housing Need as outlined in L-II 2.7.11.B.1 above. A private landowner however, may apply for the RH designation if the landowner has received concurrence from the Board of Supervisors, prior to submitting an application for rezone, that the rezoning of the site to add the RH overlay is necessary to meet a Regional Housing Need.
- b. The site is currently undeveloped or it can be demonstrated that the site is underdeveloped.
- c. The site is of adequate size and shape to allow for the reasonable development of residential housing at the minimum densities required under Standard L-II 2.7.11.B.3.
- d. The site has ingress and egress on a County maintained road or can be connected to a County maintained road pursuant to Standard L-II 2.7.11.C.8.
- e. The site is in or within a reasonable walking distance to a Community Region or Village Center, as shown on the General Plan Land Use Maps, which has access to schools, services, fire protection and jobs.
- f. The site is located on or is within reasonable walking distance to a public transit route.
- g. The site is within or can reasonably be annexed into an existing sanitary sewer district and public water district.
- h. The anticipated residential development can be sited to avoid major environmental hazards and/or constraints including but not limited to wetlands, watercourses, floodways, steep slopes, geologic hazards, archaeological resources, sensitive habitat areas, and airport noise and safety zones that limit density.

If the County has chosen not to work with willing property owners, there would not be clustering opportunities on Brunswick Road sites in the Grass Valley SOI. The sites would likely be spread out and the project impacts would be spread out as well. It is possible that the County would potentially consider sites the Nevada City and Truckee SOIs. However, it would not remove the Penn Valley or Lake of the Pines areas from consideration because these are unincorporated areas of the County that have a mix of developed and designated

uses, have existing infrastructure, and some transportation opportunities. The Penn Valley and Lake of the Pines areas meet the site selection criteria listed above; including having commercial cores with available public water and sewer, and being within community regions as identified by the County General Plan. Other more rural or remote areas of the unincorporated County do not have existing public water and sewer infrastructure and are not within community regions that have a mix of developed and planned uses such as commercial, business park, or office professional uses.

Locating all or most of the sites within a city SOI does not always benefit the needs of unincorporated population because the sites within the SOI will eventually annex into the city. Unless mutually acceptable RHNA transfer agreements can be made, the availability of these sites are lost to the County. Therefore, it is important that the County provide a balance of sites both within and outside of city SOIs.

The discussion of project alternatives that are determined to be infeasible do not require further discussion pursuant to CEQA Guidelines 15126.6(a).

**Response 22-G** The County does not concur with this comment. Given the rural nature of unincorporated area of Nevada County as a whole, the number of locations where community services, infrastructure, and employment opportunities all exist around one site are limited. However, while one particular site is unlikely to meet all of the criteria it is an effective method for comparing sites and eliminating sites that meet the fewest number of criteria. Please see Master Responses #2, #5, #6, and #7.

The Penn Valley Area is a community region, with a commercial core that has some available services within walking distance of the proposed Penn Valley sites including:

- a small market;
- salons;
- bank;
- a hardware store;
- several options for restaurants/cafes;
- gas station and auto repair stores;
- financial planning;
- churches;
- veterinary services; and,
- other commercial services that are available

The Penn Valley area includes a separated pedestrian and bicycle path runs on the northern side of Penn Valley Drive from Western Gateway Park east to just east of Pheasant Lane where it crosses to the south side of the Penn Valley Drive. The path continues east to Spenceville Road where it continues in both north and south directions. The path is within 0.25 mile of Sites 10-13. With regard to transit opportunities

There are also transit opportunities in the Penn Valley Area. Gold Country Stage Route 6 has a bus stop at Penn Valley Drive and Spenceville Road (approximately 0.2 mile from the sites) and connects to the main depot in Grass Valley, which provides access to other destinations such as Sierra College and other businesses in Grass Valley and provides a connection to Route 5. Route 5 travels to Auburn Station which connects with Placer County Transit (which serves Auburn, Rocklin, Sierra College, Roseville Galleria and Sacramento Light Rail), Auburn Transit and Amtrak Thruway bus service as connecting schedules allow.

Nevada County administers a door-to-door paratransit service for persons with disabilities for trips within the Grass Valley/Nevada City area and nearby communities. The service is provided by Gold Country Telecare, a private non-profit organization, under a contract with the County of Nevada. All paratransit vehicles are equipped with wheelchair lifts and other accessibility features.

Because of the existing access to all of these services within walking distance of the proposed Sites 10 – 13, Penn Valley is a good location for the high density housing. However, beyond what is immediately available in the Penn Valley Village Center, the Lake Wildwood Commercial Center, located just 3 miles northwest of the Penn Valley Village Center with additional commercial services. Another 1.5 miles north along Pleasant Valley Road from the Lake Wildwood Commercial Center is the Lake Wildwood Shopping Center which contains additional services such as a medical office, dental office, a pharmacy, and additional banking opportunities.

The City of Grass Valley is located approximately 16 miles to the east, approximately a 10-minute drive with additional services available. Given the existing services, existing commercial development and infrastructure (roads, sewer, water, fire service) that are available in Penn Valley, the locating potential sites in the area satisfies the site selection criteria for the for the RH Combining District discussed in Response 22-F above.

**Response 22-H** The County does not concur with this comment. Please see Response 22-G and Master Response #5

Letter 23

RECEIVED

NOV 5 2013

Nevada County Community  
Development Agency

October 30, 2013

Tyler Barrington  
Principal Planner  
Nevada County Planning Department  
950 Maidu Avenue, Suite 170 Nevada City, CA 95959

Dear Sir:

I wish to introduce myself as a resident of Penn Valley since 1977 and a retired Professor of Accounting and Information Technology for over 38years. I attended your presentation at the Church in Penn Valley concerning the rezoning of parcels in our community to Low Income, High Density Residential Housing. I attentively listened to the presentation of the EIR Study for the Project's effects on Penn Valley. At the end of your discussion, you requested that those who had concerns about the study and program should put them in writing and forward them to you.

23-A

Below I have listed a number of items within the EIR in which I disagree or at a minimum find fault. Throughout the EIR you have sited constraints and concerns to the project and then propose mitigation measures to alleviate them. In these measures the EIR utilizes to same Fees and Taxes derived from the program construction and ongoing tax collections to mitigate these constraints. The same dollars are spent over and over again. In addition other mitigation measures are assumed to take place in the future where no existing firm plans for implementation exist and no funding source is assigned. (ie. Sewer systems, potable water supply, flood control etc.) I will point out these short comings below.

**Description of Penn Valley EIR pg 3-33**

*Penn Valley, an unincorporated community, is located in the western portion of Nevada County, six miles west of the City of Grass Valley. Penn Valley has a "small town" feel with a population of approximately 1,621 but approximately 12,000 people consider Penn Valley home . In recent years, Penn Valley has developed a new post office, fire station, performing arts pavilion, a small affordable sub-division, and a 42-unit affordable apartment complex.*

23-B

This is a completely inaccurate and at minimum a deceptive portrayal of this community. While Penn Valley is six miles west of Grass Valley with a small town feel and a 1621 population the rest of the description is deceptive or inaccurate. The vast majority of the 12,000 people who call Penn Valley their home reside in Lake Wildwood, a fully occupied 3000 lot development approximately two miles away from down town Penn Valley. This gated community has for over 30 years expressed its desire to separate itself for Penn Valley, going as far as to unsuccessfully request a separate zip code and Post Office to permit addressing itself as the Community of Lake Wildwood. Of the 12000 mentioned over 9000 reside within this development. This leaves the true residents of our village to slightly more than 3000. The village center where the Rezoning Program would introduce up to over **200 high**

23-B  
CONT'D

density, low-income housing units, possibly containing in excess of 1000 new residents. would dramatically alter the nature of our community. The only public service provided within our community is the Penn Fire Department. All other services such as Law Enforcement and other governmental programs are supported elsewhere in the county. The increase in population proposed would stress the village's ability to locally meet the needs of our residence. Nowhere in the EIR is there a mention of the effects on our locally funded Western Gateway Park. Increasing the immediate population by 40% would put great stress on this facility and what it provides. Our community prides itself on the recreational opportunities provided by our Park. We offer numerous festivals and concerts every year and provide other activities such as weddings, day use picnic facilities, fishing, a large Frizbee Golf Course and two children play equipment areas. Contained within the park bordering on one of the propose High Density Facilities, are three Baseball Parks used by residents from the age of 5 to 85. The Park also provides recreation for people from outside our village, supporting the needs of people from throughout Nevada and surrounding counties. Almost all of our residents take advantage and support or local recreation opportunities of the Western Gate Park. This local treasure would most likely be over burdened by the increase population caused the Rezoning Proposal.

23-C

23-D

In addition to other glaring omissions within the EIR there is no discussion of our Nevada County, Penn Valley Village Center Area Plan, adopted January 25, 2000. With the exception of being listed in a Reference List of Documents , pg 9-2, there is no reference to its description of our community and designation of the parcels effected by this program. These parcels are designated in the Village Plan as Commercial and Light industrial. This provides for future expansion of productive community businesses to employ current and future residents. The residential zoning described in the EIR to replace these commercial designations offer no future benefit to our community only further consumption of limited services. The Village Plan was created through the input of local businesses and residents to document and validate our future expectations for this community. The complete ignoring of its contents and provisions smacks of a forced downward implementation of a detrimental design proposed by individuals who do not have to live with its effects. Having lived in this community for more than 35 years and raised a family here, I, like most of my neighbors, have watched our children forced to leave our community because of a lack of opportunities. The Rezoning Plan with its replacement of commercial parcels with a nonproductive government supported citizenry, would eliminate the possibility of future economic growth and doom future families to the same dispersion.

**2.4.5 Public Services and Utilities pg 2-8**

23-E

On page 2-8 of the EIR the document notes the current Waste Water inadequacies of the Penn Valley Sewer system and states " As described in Section 4.13 (Public Services and Utilities), future development within the proposed project sites would result in the following direct and cumulative significant and unavoidable impacts:

The Proposed Project could result in a determination by the wastewater treatment provider that it has inadequate capacity to provide for the project's projected demand in addition to the provider's existing commitments.

The County has established sewer capacity service requirements for development within its jurisdiction. Without proposed improvements to existing WWTPs there would not be sewer service available for the proposed project Sites 10 through 18 and the proposed project would

result in potentially significant impact.”

**Pg 4.13-5 Penn Valley Wastewater Treatment Plant**

The Penn Valley Wastewater Treatment Plant (PV-WWTP) is located south of the community of Penn Valley. The Penn Valley collections system conveys septic tank effluent from individual septic tanks through a network of force mains to the PV-WWTP. The PVWWTF serves 347 active connections and was historically permitted monthly average dry weather flow limit of 89,700 gallons per day. The treatment facility consists of aerated lagoons, a storage reservoir, and 33 acres of pasture land for spray irrigation.

Due to deficiencies with the current PV-WWTP, including inadequate pond size and surface discharge area and discharge violations, the PV-WWTP is currently operating under a cease and desist order (CDO) issued by the Central Valley Regional Water Quality Control Board (CVRWQCB). The CDO limits monthly average dry weather inflow to 60,000 gallons per day until facility improvements are made or another means of sewer treatment is developed.

Upon the completion of a Facilities Improvement Design Report (FIDR) in December 2011, the construction of a pipeline from Penn Valley to the Lake Wildwood WWTP was determined to be the most cost-effective way to address the CDO. In April 2012, the Nevada County Sanitation District Board of Directors approved Resolution No. SD12-06 approving pursuit of a State Revolving Fund loan to construct a pipeline from Penn Valley to the Lake Wildwood WWTP. **However, as of the preparation of this EIR, the pipeline has not been constructed and there is not sufficient capacity at the Penn Valley Wastewater Treatment Plant to serve those project sites (Sites 10-13) within the Penn Valley Wastewater Treatment Plant service area.**

These two citation from the EIR both point to the inadequacies of the Penn Valley Sewer and both refer to Mitigation Measure 4.13-2. The following is that measure

Mitigation Measure:

This mitigation measure applies to all sites:

4.13-2 Prior to approval of a Site Plan, grading plan, or any permit authorizing construction (or as part of the annexation request for Sites 1-9) for a property within the RH Combining District, the project developer shall to the satisfaction of the Director of the County Planning Department (or City of Grass Valley Planning Department for Sites 1-9):

Provide written documentation that adequate sewer capacity is available for the proposed development. The project developer may provide written documentation that the wastewater treatment plant has been upgraded to increase capacity or a report from a registered civil engineer demonstrating that adequate capacity is available. If adequate sewer capacity does not exist, the developer will pay for WWTP upgrades to account for the additional effluent. The developer may develop a reimbursement agreement, if needed, to recuperate fair-share costs associated with other proposed developments nearby.

23-E  
CONT'D

23-E  
CONT'D

Level of Significance After Mitigation: Significant and Unavoidable. This impact remains significant because it is unknown what the capacity of the wastewater treatment facilities would be at the time of project construction. It is also unknown if completion of the required wastewater facility improvements would be feasible for a single project developer. Furthermore, the County does not have jurisdiction over the timing of when wastewater improvements would occur within the City of Grass Valley.

Mitigation measure 4.13.2 as stated is pure supposition and fiction since its solutions do not exist now nor are they ever likely to exist. The Lake Wildwood Association has made no recommendation for this proposal and no current or future cost estimates have been published. As stated above “the County does not have jurisdiction over the timing of wastewater improvements”, and for the County to impose rezoning which would require such improvements, would be unrealistic and bordering on incompetence. This factor alone should eliminate the possibility of the implementation of the Rezoning Program for site 10 through 13.

4.10-7 THE PROPOSED PROJECT COULD EXPOSE PEOPLE OR STRUCTURES TO A SIGNIFICANT RISK OF LOSS, INJURY OR DEATH INVOLVING FLOODING, INCLUDING AS A RESULT OF THE FAILURE OF A LEVEE OR DAM.  
Level of Significance Before Mitigation: Potentially Significant Impact.  
Impact Analysis

23-F

This section of the EIR discusses the fact that Parcel 10 – 13 in Penn Valley are within a FLOOD PLAIN. The authors propose a solution to this problem in Mitigation Measure 4.10-1a on pg 4.10-20 of the EIR. The Measure proposes nothing in the way of protecting current surrounding residences, the proposed High Occupancy Structures or any future upstream residences which may be affected. The measure solely dictates that any development is within the flood plain is designated a Environmentally Sensitive Area (ESA) and therefore must comply with rules for such areas. There is not concrete requirement for the protection of any structure or terrain now or in the future, other than the protection of ESAs. For the county to implement a plan without any true protective and clearly defined mitigation requirements is pure recklessness and would leave the county in jeopardy for future legal action in the event of flood losses. This possibility should eliminate Site 10-13 from consideration in this rezoning program.

2.6 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED pg 2.14  
2. A resident from the Broken Oak Court neighborhood in the Penn Valley area questioned whether more high density housing was needed or appropriate in that area. Only ONE!!!

23-G

As mentioned in the EIR under Controversy and Issues to be Resolved, only one letter was received questioning the need for High Density Housing in our community. There is a possible reason for what appears to be a lack of concern on the part our residents. As you stated, only those who lived within 500 feet of the propose rezoned parcels were informed my mail. This is **LUDECRIS**. The limited notification of a few people who boarder the proposed rezoned parcels, is effectively little or no notification. It makes one think that this program is trying to have a low or no profile in the effected communities, and thus avoid Controversy and Issues to be Resolved. To make matters worse, while only a few of our residents were notified, a clock was running on limited Comment Period which will expire in twelve days ending the time when dissatisfied citizens of Penn Valley could voice their concerns over this insufficient and incomplete EIR. I along with many who voiced their opinion on

23-G  
CONT'D

this matter, demand an extension to this Comment Period to provide us with the time to make and organize formal opposition.

**5.1.2 CONCLUSION pg 5.2**

23-H

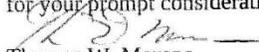
The Conclusion arrived at in the EIR states the program would provide limited economic growth, specifically pointing to the City of Grass Valley. No mention is made of the economic impact on the small rural community of Penn Valley. As mentioned at the out set of this letter, the introduction of a 40% increase in population, dependent on government, from outside our local area, would be both an economic and social disaster, disrupting the fabric of an intimate community. The program would eliminate the possibility of future economic growth for our downtown area and foster a permanent dependent class by replacing the only Commercial and Light Industrial Zoning within our small neighborhood.

To showcase the complete lack of understand of the effects of this Rezoning Action, the Conclusion ends with a final statement. “. Finally, the obstacles to growth removed by the project would be necessary to accommodate the proposed housing opportunities. Nonetheless, no growth-related impacts beyond the environmental impacts discussed in Chapter 4 of this EIR are anticipated. “

This displays the utter ignorance and indifference of the creator of this plan as it effects Penn Valley.

In conclusion, I am completely and inalterably opposed the Rezoning Plan as it pertains to Penn Valley. This opinion is not limited to the reasons stated above, but is fostered by the notion that the actions suggested represent the uncaring and ham handed abuse of distant government, who is incapable of truly understanding the needs and future hopes of small communities such as Penn Valley.

I request that you reply to this letter and answer the various points that I have listed above. I thank you for your prompt consideration and response.

  
Thomas W. Moreno  
18609 Biladeau Lane  
Penn Valley, CA 95946

**Letter 23 – Thomas Moreno**

**Response 23-A** The County does not concur with this comment. Any future development associated with the proposed project would be developed at the expense of the future developers, including all building and mitigation fees. No tax dollars would be used for the development of the project. Please see Master Response #4.

**Response 23-B** The County does not concur with this comment. The selection of suitable housing sites was not related to the population size of the community, but on the suitability of that community to support a high density housing development. Please see Response 22-G. Public Services and Utilities are discussed in Section 4.13 of the Draft EIR. Please see Master Response #4 with regard to the developers' responsibilities to ensure adequate water and sewer infrastructure is in place prior to development. Please see Response 7-C regarding the mitigation measure for fire and Sheriff protection services.

**Response 23-C** The County does not concur with this comment. Western Gateway Park is discussed in Section 4.14 of the Draft EIR. Mitigation Measure 4.14-1 requires the developers of sites in the unincorporated area, including Sites 10-13 to pay County recreation fees to offset the increased use on County parks. Recreation fees are paid pursuant to AB1600. The fees are used to fund Recreational Capital Improvement projects that increase recreational opportunities. Below is a list of recreational improvement projects that have been funded in whole or in part by County recreation fees:

- Trail Improvements at Hirschman Pond Property
- Picnic Tables and Shade Structures at Mautino Park
- Oak Tree Community Park Renovation Project (rehabilitate ball fields, restroom, and add new picnic tables)
- Kahrs Activity Flooring at Miners Foundry
- Acquisition of new parklands (Sugarloaf Mountain)
- Performing Arts Lighting Project at Grass Valley Veterans Memorial Building
- Accessible Playground Surfacing Improvements at Pioneer Park
- Condon Park Community Building New Parking Lot

**Response 23-D** The County does not concur with this comment. Please see Response 9-B.

**Response 23-E** The majority of this comment is text from the Draft EIR. The County concurs that the project would result in significant and unavoidable impacts on existing waste water treatment facilities. The analysis on page 4.13-17 of the Draft EIR notes that currently sewer availability is limited for both Penn Valley and Lake Wildwood. The Draft EIR proposes a mitigation measure that the future developers are responsible for ensuring that adequate facilities are available. However, the EIR notes that potential impacts remain significant and unavoidable because of the unknowns of future sewer availability and the unknowns regarding the feasibility of a single developer being able to make the facility improvements. Please also see Master Response #4 regarding the developers' responsibilities codified in the County Land Use and Development Code.

**Response 23-F** The County does not concur with this comment. Mitigation Measure 4.1-1a states that structures on Sites 10 and 13 must avoid the floodplain ESA. However, should a structure such as a crossing or bridge be required for access to Site 13, then as stated in Mitigation Measure 4.10-1a, "Should development within the floodplain ESA be required, then the developer shall obtain a discretionary use permit for any development within the floodplain and a ministerial management plan for any development within the floodplain 100 foot

setback.” The encroachment into the floodplain would require the developer obtain a Conditional Use Permit from the County. The use permit review by County staff would ensure that any development within the floodplain was designed to not impede or impair the flow of water within the floodplain.

**Response 23-G** The County does not concur with this comment. The County did receive letters from the public during the Notice of Preparation comment period, including letters from residents of Penn Valley. For both the Notice of Preparation and Notice of Availability of the Draft EIR, the County met the distribution requirements of the California Environmental Quality Act and the County’s own internal policies for public notification. The Notice of Availability was published in the local newspaper, and notices were sent to adjacent property owners up to 500 feet, exceeding the County’s normal 300-foot distribution. While the County has met and gone beyond its statutory noticing requirements, it has agreed to extending the noticing of future public comment periods and meetings to include other residents outside of the noticing requirements to ensure the public has an opportunity to participate in the public process. Additionally, the County held three public comment meetings, one in each of the proposed areas, during the public review period. The public comment on the Draft EIR was for 60 days which exceeds the standard 45-day review period required by CEQA and County Policy. The public review period ended as scheduled on November 12, 2013.

**Response 23-H** The County does not concur with this comment. Please see Master Responses #2, #3, #5, and #6. With regard to impacts related to growth inducement, the Draft EIR concludes that while the project itself may result in an increased population and could result in the extension of some public utilities, such as sewer pipelines, project as a whole would not indirectly result in substantial growth in other areas as a result of the project. For example, the project would not result in other properties to develop at densities higher than what it currently planned, because the RH Combining District only affects the proposed sites. Should another property owner wish to increase the density on their project site, a separate discretionary permit and review under CEQA would be required from the County of Nevada.

Letter 24



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Development  
Community  
Agency

HOUSING ELEMENT REZONE IMPLEMENTATION PROGRAM  
ENVIRONMENTAL IMPACT REPORT

**EIR PUBLIC REVIEW COMMENTS**

SUBMIT COMMENTS PRIOR TO 5:00 PM ON NOVEMBER 12, 2013

Name: BRENT DICKINSON

Agency/Group/Organization: ROSELWOOD RD RESIDENT

Mailing Address: 23718 ROSELWOOD RD AVORN CA 95602

Email Address: BRENT@TC-ASSIST.COM

Phone Number: (916) 416-4764 (CELL)

Comments:

- SEE ATTACHED -

Send To: Tyler Barrington, Principal Planner  
Nevada County Community Development Agency  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959  
Telephone: (530) 470-2723  
Email: [tyler.barrington@co.nevada.ca.us](mailto:tyler.barrington@co.nevada.ca.us)

Lake of the Pines – sites 15 (APN 5727002) & 16 (APN 5727003)

My property is located on the western half of the southern border of identified site 16

- Sites 15 & 16 page 3-34

24-A | What is the building code regulations pertaining to construction beneath high tension power supply lines?
- 2.5.2 page 2-11: East Bennet Road Sites Alternative

24-B | This proposed alternative single handedly covers nearly all of the objectives of the increased high density/low income housing needs for the county. All while keeping the increased population as close to needed amenities/infrastructure as possible. I understand that the EIR was written and constrained to only consider consenting property owners and that the identified owners of the properties in the Alternative 2 were not consenting.
- 2.5.4 page 2.12-2.13 Reduced Development Alternative

24-C | You specify that Site 14 could be removed from the EIR due to the physical constraints of a mature blue oak woodland covering approximately 80% of the property, and also being a hillside slope requiring grading and manufactured slope which would be visible from SR49. I would contend that at a minimum Site 16 would also require grading and manufactured slope due to the fact that it is adjacent to my property with has a large section which is deemed as undevelopable due to slope characteristics which carry over through my north boundary line and onto site 16. This manufactured slope condition would require removal of most of the mature forested area, and would be easily visible from SR49. Site 16 also has a large area of mature oaks (unsure of species).
- 24-D | Sites 15 & 16 current land use designation is Industrial, proposed overlay zoning is Urban High Density with a proposed minimum density of 16 dwelling units per acre. (Table 3-2, page 3-35).
- 24-E | Sites 15 & 16 currently zoned as IDR-SC-SP (maximum density of 15 dwelling units total for both sites), proposed change to R3-RH or PD-RH (minimum density of 16 dwelling units per acre). Existing zoning allows for 15 units total between sites 15 & 16, the new proposed change will now allow 369 units (80 for site 15, 289 for site 16 per Table 3-4, page 3.38). This is a 2360% increase in dwelling units which will be located in close proximity to and easily visible from my home.
- 24-F | Per paragraphs for sites 15 & 16 (page 3-61), the entirety of both sites are assumed to be within the development footprint. I find this very difficult to believe, as a large portion of my lot (which borders the western end of the southern boundary of site 16) has been deemed as undevelopable due to slope conditions, which would at a minimum carry over partially to site 16.

Table 4.2.1

- 24-G

Goal 1.1 Promote and encourage growth in *Community Regions* while limiting growth in *Rural Regions*. I fail to see how placing over 300 dwelling units in a rural area accomplishes this. While these sites do fall within what could be considered the Lake of the Pines Community Region, the exact sites are squarely within a Rural Region, bordering lots that are zoned Residential/Agricultural. This appears to be in direct conflict of limiting grown in a rural region. The Lake of the Pines Ranchos community is specifically deeded as an Equestrian community (with 22 miles of riding trails). Placing what amounts to urban development on both sides of this area effectively negates any rural hold it has.

**Objective 1.1:** Define and maintain a distinct boundary between *Rural* and *Community Regions*. The placement of these two sites (and sites 14, 17 and 18) do not define and maintain a distinct boundary between rural and community regions, in fact, it effectively blurs the boundary, altering the existing rural region into a more community region.
- 24-H

Pages 4.3-6 & 4.3-7 Visual Setting and Character  
The view descriptions laid forth for sites 15 and 16, appear to imply that visually (specifically viewed from the south), forested land obscures the sites. This is not true. I can easily see a large portion of site 16 from my front porch without any extraordinary measures.
- 24-I

Page 4.8-7: Groundwater Conditions  
Further development of site 16 could potentially disrupt my water source (well, located on the western end of my property, approximately 200' in elevation below my home). Disruption of my water source could potentially render my home unlivable, as insufficient water would be available. The development of site 16 would be in addition to the negative impact of the already approved development of the Higgins marketplace located in front of the storage facility on Woodbridge (directly west of sites 15 & 16), and to contain a grocer (presumably a Safeway or Raleys at this time) as an anchor tenant. Costs to rectify this, should it come to fruition, should not be borne by me the home owner, as the situation would not have been of my own creation.
- 24-J

Paragraph 4.10-2, Page 4.10-22  
*THE PROPOSED PROJECT WOULD NOT SUBSTANTIALLY DEplete GROUNDwater SUPPLIES OR INTERFERE SUBSTANTIALLY WITH GROUNDwater RECHARGE SUCH THAT THERE WOULD BE A NET DEFICIT IN AQUIFER VOLUME OR A LOWERING OF THE LOCAL GROUNDwater TABLE LEVEL.*

This may be true when taken as single development (specifically sites 15 & 16), however, due to location of my site, I will also be impacted by the development of the Higgins Marketplace. When taken together, the development of both sites 15/16 and Higgins Marketplace is likely to negatively impact the aquifer my well is sourced by (sole source of water for my home). NID does not service my home, and I am neither willing nor financially capable of having NID service my address. This report does not take into account additional developments that have already been approved which will add to the impact in my immediate vicinity.
- 24-K

Page 4.13-5: Lake of the Pines Wastewater Treatment plant  
According to the EIR, the waste treatment is insufficient in capacity to service the additional load which would be placed on it with the addition of the DU that will be added on sites 14-18. I do not believe the

- 24-K  
CONT'D

report full takes into account the now building Cascade Crossings , approved Rincon del Rio, approved Higgins Marketplace and the existing Higgins shopping area anchored by CVS (due to the potential loss of the current small scale waste treatment currently facility located on site 16). See also table 4.13-1, page 4.13.17.
- 24-L

Traffic on Combie Rd. would be highly negatively impacted at both Higgins Rd and Rosewood Rd. The only alleviation would likely be a signal light located at Higgins Rd, in front of Cascade Crossing, and at Rosewood/Armstrong . The addition of this number of traffic lights would further negatively impact the flow of traffic in an area already in poor shape per your own study (LOS of F for Rosewood/Armstrong intersection of Combie)
- 24-M

Personal observations:  
I have already verbalized this some of my concerns in the two meetings held thus far (public meeting on 10/10 and community meeting on 10/28). Too few people in the affected area were notified. When notifying surrounding residents, many of which live on parcels that fully encompass the 300-500 feet surrounding area for notification, the end result is very few residents are notified. I requested that any further notifications sent out should require that the entirety of the Rosewood Rd residents be notified, and due to the impact for the area, I would go as far as to strongly recommend that all residents within 1/2 to 3/4 mile of any site under consideration for a zoning overlay of this nature be notified also. In fairness, I believe that the other site locations for Penn Valley and Grass Valley also be expanded to fully encompass nearby residents in a like manner as the Lake of the Pines area.
- 24-N

I know the EIR is does not take into account the economic impact to the area, however I have deep concerns that property values will be negatively impacted, potentially to a very large degree. People looking to move into a rural area are not looking to move to a rural area to only end up being beside the population density proposed, and specifically on the adjacent parcel(s). Should my wife and I decide to sell our home to move, we would be faced with an even more difficult time attracting an appropriate buyer, and with the proximity of the high density housing, would likely be unable to obtain a fair value.

I did not move to a rural area to simply have the county (or state) force me to have neighbors in close proximity resembling a city neighborhood. I don't mind neighbors...I just don't want them on my proverbial doorstep.
- 24-O

High density, low income housing should be located much closer to the required amenities and infrastructure than could be reasonably provided in the Lake of the Pines area (closer to the city centers where the needed amenities/infrastructure). You specify that the location would provide close proximity to jobs (walking distance)...what jobs? There are very few entry level type jobs in the immediate area. You specify mass transit would be provided by the bus system that connects Lake of the Pines area to both Auburn and Grass Valley. Unless multiple routes were added, how would mass transit be able to contend with the additional 3000+ residents in the area? (this number is including Cascade Crossing and Rincon del Rio. Unless you are anticipating a negligible increase in ridership, which then begs the question, how many of these low income families are envisioned as actually working in the area?
- 24-P

During the Community meeting for the Lake of the Pines area, it was asked what the costs of applying the overlay zone are, and if these costs were going to be borne by the owners of the identified

24-P  
CONT'D

properties. If I understand the response, the county would forgive the costs associated with the zone overlay. This is in effect a preferential gift (potential bribe) to the current owners of the targeted properties. With 18 sites having been targeted, this is a forgiveness of nearly \$120,000 (number based on the response that a rezone request required a minimum \$6,000 deposit to begin the consideration of a rezone – which is not guaranteed). Should one of the identified properties be purchased and the new owner did not want the new overlay zoning, he would then be required to pay the costs to begin the consideration of removal of the overlay zone. My understanding is that the request to remove the overlay would likely be denied though, with the new owner forfeiting the cost amount required to begin the overlay zone removal.



Brent Dickinson  
23718 Rosewood Rd  
Auburn, CA 95602

**Letter 24 – Brent Dickinson**

**Response 24-A** No private development is allowed within an easement for power lines. Please see Response 24-E below.

**Response 24-B** The East Bennett Road alternative was included as an alternative to address potential impacts associated with developing a large cluster of development along Brunswick Road within the Grass Valley SOI. The East Bennett Road Alternative was developed as an option to remove some of the proposed units on Brunswick Road and locate them on East Bennett Road. Please see Response 22-F.

**Response 24-C** The geotechnical report (Appendix G of the Draft EIR) prepared for the project identified Site 16 as having moderate slope of approximately 20 percent. The County's Land Use and Development Code (LUDC) Section L-II 4.3.13 defines steep slopes as those areas with a slope (gradient) of 30% or greater. Per the LUDC development in areas of steep slopes is restricted. Any future development on these sites would be subject to review and approval of a site plan review and grading plan by County staff.

With regard to visual impacts, Sites 15 and 16 do not have the same visibility from SR 49 and are located a greater distance from the roadway than Site 17. Additionally, the existing zoning for Sites 15 and 16 has Scenic Corridor (SC) and Site Performance (SP) Combining Districts which will remain. The SC combining district requires future development, "To protect and preserve the scenic resources of areas which are adjacent to highways and roads which have been identified as having high scenic quality and requiring protection for the benefit of residents and visitors."<sup>18</sup> This protection is implemented through the preparation of a Scenic Corridor Analysis that is prepared by the developed and reviewed and approved by County Staff.

Site 16 does have Blue Oak-Foothill Pine Woodland which differs from blue oak woodland (found on Site 14) by having a greater proportion of foothill pines intermixed with blue oak and interior live oak. Mitigation Measure 4.4-5 requires the developers of sites with oak trees to prepare an oak woodland management plan for the protection of sensitive oak woodlands onsite.

**Response 24-D** It should be noted that the General Plan Designation for Sites 15 and 16 is Planned Development: Urban High Density (15 units per acre). The zoning is IDR-SC-SP, see responses 24-C and 24-E.

**Response 24-E** The County does not concur with this comment. As noted in Response 24-D above, the existing general plan designation identified the properties as Urban High Density (15 units per acre). The current zoning designation is Interim Development Reserve – Scenic Corridor Combining District – Site Performance Combining District (IDR – SC – SP). As such, the existing land use designations reflect an intention to have a transitional land use between the commercial areas around Higgins Marketplace and the surrounding residential uses. The site is designated Planned Development: Urban High Density (PD-UHD) (15 DU). The UHD designation allows for 15 dwelling units per acre. Site 15 is 5-acres in size and under the UHD designation would allow for 75-units, as a result of the proposed project this density would be increased to 80-units. Similarly Site 16 is 18.12-acres in size and under the UHD designation would allow 271-units, as a result of the proposed project

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<sup>18</sup> County of Nevada Land Use and Development Code, Section L-II 2.7.7

the density would be increased to 289-units. As discussed in Response 24-A, the power line easement that transverses the site is not a developable area.

To demonstrate how an easement or other physical or regulatory constraint can affect the aggregate (or net) density of a site, Figure 3-12 of the Final EIR has been revised to provide a conceptual building footprint and is located as Exhibit 1 to this comment letter. For purposes of responding to this comment, the existing power line easement has been delineated from the aerial photo and removed as developable area with regards to the density calculation. Additionally the setbacks for both sites have been identified (30-foot from interior yard and rear yards, 20-foot from front yard) to minimize the overall development footprint on the sites. While these setbacks do not affect the density calculations, they do further demonstrate how regulatory constraints affect the building envelope.

To calculate the new aggregate density, the easement and setback areas have been subtracted from the development footprint area. The developable area of Site 15 would change from 5 acres to 4.4 acres a difference of 0.6 acres. The developable area of Site 16 would change from 18.12 acres to 11.81 acres; a difference of 6.96 acres. The figure also shows a portion of Site 16 east of the power line easement and the eastern property line as a non-development area. Due to the restrictions of the power line easement and the setbacks, a triangular shaped area with a mature woodland, and no offsite access is all that remains in this portion of the site. Given these physical constraints it is assumed this area would not be developed.

The aggregate density for Site 15 would become 70 units (10 units fewer than proposed) and the aggregate density for Site 16 would become 189 units (100 units fewer than proposed) The two sites together would have approximately 200 fewer units than what is proposed under the conservative estimate of the project. This calculation does not take into account requirements for driveways, parking, water detention basins, etc., that could further reduce the number of units constructed. The resultant density would be less than what would be achievable under the current PD designation

**Response 24-F** Please see Responses 24-C and 24-E.

**Response 24-G** The County does not concur with this comment. Please see Response 24-E. There is an existing mix of development in the surrounding area. Site 14 has a current zoning designation of Office Professional. Across Combie Road from Site 17 is commercially zoned property. Site 18 is located within the Dark horse development, the Site 18 property was designated for high density and affordable housing.

**Response 24-H** The description of views onto Sites 15 and 16 on pages 4.3-4 and 4.3-5 describe existing offsite views onto the property. The description notes that exiting views include those of the existing woodlands.

**Response 24-I** Proposed development pursuant to the RH Combining District would be served by the public water system from the Nevada Irrigation District (NID) and would not use groundwater. The proposed units would be connected to the public sewer system and would not utilize septic systems. Surface water runoff will have to meet County requirements enforced through the review of a project specific hydrology report required in Mitigation Measure 4.10-1c. The report will verify expected pre- and post-project stormwater volumes from the proposed development, projected peak storage capacity of detention basins, and percolation characteristics of the soil. The developer will be required

to demonstrate that the surface water runoff controls could effectively treat the anticipated pollutants expected from the development. Development of the Higgins Marketplace would have to meet the same County requirements. As such, no impacts to the existing groundwater has been identified.

**Response 24-J** Your comment is noted. Please see Response 24-I above. Cumulative impacts, including those from Higgins Marketplace were discussed in Section 5.2 of the Draft EIR. Implementation of the proposed project would not require homes on Rosewood Road to connect to the NID system.

**Response 24-K** The County does not concur with this comment. Please see Master Response #4.

**Response 24-L** The County concurs that the existing level of service at the Rosewood/Combie Road intersection currently operates at LOS F during the peak hour. Developers on Sites 14 through 18 would contribute to traffic mitigation improvements that would improve the traffic operations at SR 49 and Combie Road and Combie Road at Higgins Road. The traffic improvements at this intersection include installing additional turn lanes at SR49/Combie Road and a traffic signal at Combie Road/Higgins Road. Improving the operations at these intersections would improve the flow of traffic along the Combie Road roadway segment because the traffic flow would be controlled which would improve operations the Rosewood/Armstrong/Combie Road intersection.

**Response 24-M** For both the Notice of Preparation and Notice of Availability of the Draft EIR, the County met the distribution requirements of the California Environmental Quality Act and the County's own internal policies for public notification. The Notice of Availability was published in the local newspaper, and notices were sent to adjacent property owners up to 500 feet, exceeding the County's normal 300-foot distribution. While the County has met and gone beyond its statutory noticing requirements, it has agreed to extend the noticing of future public comment periods and meetings to include other residents outside of the noticing requirements to ensure the public has an opportunity to participate in the public process. One example is the County has agreed to notice all residents whose property's access is off of Rosewood even though they are beyond distances that would normally be noticed. Similar criteria will be applied to other sites in Lake of the Pines, Penn Valley and the Grass Valley SOI areas.

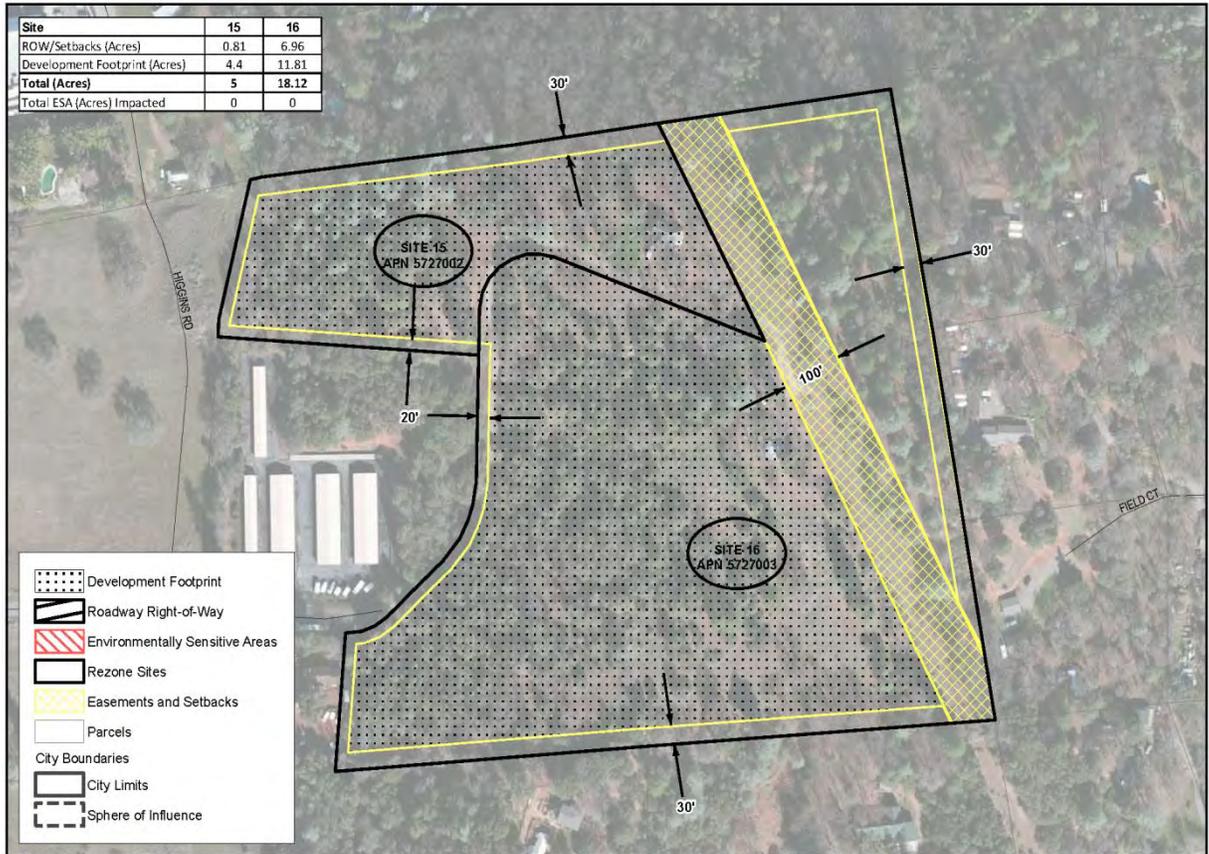
Additionally, the County held three public comment meetings, one in each of the proposed areas, during the public review period. The public comment on the Draft EIR was for 60 days which exceeds the standard 45-day review period required by CEQA and County Policy.

**Response 24-N** Please see Master Response #5.

**Response 24-O** Please see Master Response #2 and #7.

**Response 24-P** Please see Master Response #1. The property owners are not financially involved in the process and it is the Board of Supervisors will make the ultimate decision as to which sites are included in the RH Combining District.

Exhibit 1 – Revised Figure 3-12 Showing Power Line Easements and Setbacks.



Letter 25

**Tyler Barrington**

**From:** ds33452@hushmail.com  
**Sent:** Monday, November 11, 2013 1:21 PM  
**To:** Tyler Barrington  
**Subject:** Regarding rezoning in Penn Valley



Hello, Regarding rezoning in Penn Valley,

25-A

I went to the Penn Valley meeting at the 7<sup>th</sup> Day Adventist Church meeting, and am disappointed to hear that it sounded like under the threat of not receiving money, some people in the local government are submitting to what may be called a 'state mandate' when it was very clear by show of hands of near if not all who showed up that they were against the intensive-housing projects from occurring in Penn Valley where there appears no need for them other than maybe by a few who are looking to benefit financially or are pro-urbanization in this rural, connected-to-the-land/nature-area.

Briefly as a reminder, labeled as a Nazi war criminal, Adolph Eichmann stated when asked along the lines of what made it so easy for him and his men to send so many people to their deaths, he replied it was their language, which he called 'amtssprache', or bureaucratic language; a language that denies personal choice and responsibility, versus owning that in every moment we are choosing to take a specific action. The language of 'should, must, have-to, ought, can't'. "Why'd you do it?" 'Superiors orders', 'It's the law', 'I'm only doing my job', etc. Doing things because of an order or under threat of not receiving funds does not serve people, it is simply an act of submission like a slave who has no choice in the first place, and if the people do actually have a choice, it is an act of giving up any choice to a few that deem 'what's best' for the masses.

25-B

I'm guessing that the parameters of addressing the weaknesses along the lines of the Environmental Impact Report are much more narrow than what the average person would consider a detrimental effect on their surrounding social and physical environment. In fact, it may not address the human social environmental impact at all, even though this is equally as important an issue as if streams will become polluted and species die-off. The EIR may 'aim' to address issues such as sewage and drain capacity, potential toxin input, and impact on 'some' known local animal and plant species, but, does it look into social effects of unsustainable population influx, introduction of groups of people unfamiliar with the local region or culture in terms of needs for a quality of social community, cooperation, and trust; or does it address issues such as a human environmental carrying capacity for living in harmony with surrounding resources without degradation for many generations plus?

25-C

Urbanization of valuable farmland of statewide importance: Did you know that much of Penn Valley is on 'Farmland of statewide importance' and a little as 'prime farmland'? High quality farmland is somewhat rare to come by in Nevada County, and according to the history of use of land in Grass Valley where it even has more 'Prime farmland', it has over time consistently been developed upon, covered in houses, buildings, concrete, and asphalt. Is this the aim, practice, and effect of the use of Environmental Impact Reports,

- 25-C  
CONT'D | statements, and then the cost passed on to tax payers that were opposed to the development? And the cost for the process of 'mitigation' thereafter that was mentioned as a possible action course for when the opposed development later adversely affects the social and natural environment with sewage or toxin spills, increased traffic, and increased crime?
- 25-D | Concern for the current sewage capacity not able to handle these future unwanted projects, requiring people to pay more out of their pockets for an 'upgrade' was brought up at the meeting. Some agreed that they were almost done paying for 'upgrading' the sewage system years ago, and the question was asked if now will they need to pay more to follow the will of this intensive housing 'State mandate'?
- 25-E | Environmentally sensitive areas appeared in shaded in red on the maps during the meeting. It appeared to me that there was so much sensitive area I was confused on how to even put apartment complexes there without it adversely affecting the surrounding environment, especially as time passes. That sounds like an environmental impact I would not want to risk.
- 25-F | The saying "Build it, and they will come" reminds me of people once enjoying their current connected-to-nature, rural settings, only to have an influx of more people that won't end up with enough personal space to meet their needs and support a nurturing environment for their ultimate enjoyment of life. This will most likely end up in the declining quality of life of the local residents and feeling more dissatisfied with time.
- People love this area because of their connection with the land in a way that works with it, as opposed to colonizing it at the social and environmental expense for monetary gain.
- With housing influx exceeding the lands' sustainable carrying capacity, culture changes away from working-with and dependence on local natural sustainable resources, to outside dependence for once local resources, and hand-outs. Sometimes this can occur quickly, and sometimes this is like the frog in the warming to boiling water where years or decades pass, sometimes without awareness.
- Does this issue come down to money, or concerning quality of life, and meeting universal human needs? Sometimes, if not often, the former is under the guise of the latter.
- Does this issue come down to outside dictation by people not connected to local region, and motivated by money?
- 25-G | Following 'State mandates' and 'economic planning': the inevitable acceleration toward urbanization, and problems that go along with that. Does an Environmental Impact report report on these issues? And once it is 'reported', does the 'report' have any bearing on whether the project will proceed, or are 'planners', and some people involved in the government simply required to 'report' on it?
- 25-H | Sometimes I wonder about the motivations behind a bigger picture. My expression here is intended to stimulate thought regarding ones' own actual connection to life, to stimulate personal thought, curiosity, and action toward independence, from what appears to be akin to a slave-like mentality and way of life, even if it is in tiny, everyday actions to boycott at first in your everyday life as best you know how; and third, to dissuade the few voting for the many (how did we get so far off track) from following the will of a few participating in 'state or federal governance' (it was set up that they work for the people, not the other way around) thinking they know what is best for others, even if it is delivered with economic threats to withdraw their seat.

You can reply to me at [ds33452@hushmail.com](mailto:ds33452@hushmail.com), sincerely Eric S. of Penn Valley, California

**Letter 25 – Eric S.**

**Response 25-A** The County acknowledges this comment. The comment however is not at variance with the content of the EIR and therefore, no further response is required.

**Response 25-B** Public services and utilities, including sewer capacity are discussed in Section 4.13 of the Draft EIR. Biological resources, including impacts to wetlands and plant and animal species are discussed in Section 4.4 of the Draft EIR. Surface water runoff is discussed in Section 4.10 of the Draft EIR. Please see Master Response #5 regarding the potential social and economic issues. The County agrees with this comment that the EIR addresses the physical impacts of the environment and does not evaluate social or economic impacts. Please see Response 22-B regarding the County’s efforts to address socio economic impacts in Penn Valley by identifying the Penn Valley area as a Disadvantaged Unincorporated Community.

**Response 25-C** None of the of the project sites are located on soils identified as Farmland of Statewide Importance or Prime Farmland. None of the project sites support any kind of agricultural activity. Most of the project sites are undeveloped and are not surrounded by existing development and non-agricultural uses. As such the project does not result in any conversion of Farmland of Statewide Importance or Prime Farmland. Approximately 6.5 acres of Site 13 is designated as “Farmlands of Local Importance (FLI).” The County Land Use and Development Code (LUDC) Section L-II 4.3.4 requires a management plan for non-agricultural projects on land with this designation. The purpose of the management plan is to encourage avoidance, which the project does through the placement of Environmentally Sensitive Areas over a portion of the site. However, the agricultural potential for the site is limited as the area designated as FLI is located adjacent to Highway 20 (including areas within the Caltrans Right of Way), and other existing developed uses. Further, the existing zoning designation on the site is PD (UMD 26ac OS 8ac) and not conducive to agricultural uses. For these reasons, potential impacts to FLI lands are less than significant.

The EIR does identify mitigation measures for those impacts that have been identified as potentially significant. The future developer of each of the sites will be responsible for the implementation, and any costs associated with the implementation, of the mitigation measures which are enforced by the County. The enforcement will occur as future developers submit grading plans, site plans, and building permits and must demonstrate that the applicable mitigation measures have been satisfied. The Draft EIR does include mitigation measures for sewer connections, traffic impacts, and water quality design features to minimize pollutants from flowing offsite with surface water. No potential impacts from toxin spills have been identified.

**Response 25-D** Please see Master Response #4.

**Response 25-E** The comment refers to the Environmentally Sensitive Areas (ESAs) identified for the project sites and shown in Figures 3-15 through 3-24 of the Draft EIR. The ESAs show the areas where future development is restricted in order to avoid and minimize impacts to sensitive resources. The enforcement will occur as future developers submit grading plans, site plans, and building permits and must demonstrate that the proposed development has avoided the ESAs. The Nevada County Land Use and Development Code does permit some encroachment into an ESA, if a Management Plan prepared consistent with Section L-II 4.3.3.C is approved by the County prior to Building Permit Issuance.

**Response 25-F** The County acknowledges this comment. However the comment is not at variance with the content of the EIR and therefore, no further response is required.

**Response 25-G** The Draft EIR evaluates land use compatibility and consistency with the relevant goals and policies of the General Plans for Nevada County and City of Grass Valley in Section 4.2 of the Draft EIR. The EIR is prepared as an informational and disclosure document to the public and to the decision makers. For this project, the ultimate decision making body is the Board of Supervisors. If the Board of Supervisors approves the project, the Mitigation Monitoring and Reporting Program (MMRP) is approved with the project. The MMRP become the document in which future development pursuant to the project must comply. Enforcement of the mitigation measures will occur as developers submit future project design plans (e.g., grading plans, site plans, building plans) for review and approval. The developer must demonstrate that the applicable mitigation measures have been satisfied prior to the developer receiving approved plans or permits.

**Response 25-H** The County acknowledges this comment. However the comment is not at variance with the content of the EIR and therefore, no further response is required.