

Letter 48

Waldemar and Billie Prestel
10210 Rincon Way
Auburn, Ca 95602
530.269.1235

March 7, 2012

Mr. Brian Foss
Nevada County Planning Department
County of Nevada
950 Maidu Avenue
Nevada City, CA 95959

Re: Rincon Del Rio Project (Young Enterprises, Developer)

Dear Brian,

Please add this correspondence and any attachments as part of the public record and the administrative record related to the Rincon Del Rio project. This correspondence addresses serious issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

Below please find our response to the DEIR for the above proposed project.

AESTHETICS

3.1.2 California Scenic Highway Program

DEIR states the proposed project cannot be seen from SR49, but DEIR does state SR49/Rincon Way will have improvements to guide vehicles to their destination.

Contend to mitigate that the DEIR submit a rendering of what the intersection SR49/Rincon Way is proposed to look like with any signing for project; this is to ensure final aesthetics of intersection comply with the Nevada County Scenic Corridor District guidelines.

48-1

Letter 48 Continued

LIGHTING

3.1.3 DEIR states new light sources "less than significant"

Majority of proposed housing development clustered on the northwest portion of the property equates to the majority of the lighting to be located in same area. DEIR does not address any lighting on Rincon Way.

48-2

We contend to Mitigate any/all lighting is restricted to the front part of buildings because the development will be clustered in the northwest portion of the property the back or rear of buildings will be in line of sight for residents, **and no lighting on Rincon Way allowed in order to keep the rural setting.**

* **IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD**

48-3

Impact 3.1.3

We contend to Mitigate that the glare from vehicles will have "less than significant impact". Residing on Rincon Way exposes us to the glare and annoyance of all the vehicles coming and going to the proposed project 24/7 365.

48-4

We also contend to mitigate the light from the project will interfere with the night sky and radically change the scenic rural area 24/7 365.

We believe neither of the above is "less than significant".

TRAFFIC AND CIRCULATION

3.14-3.14.9

DEIR states Rincon Way will be the proposed major artery for the proposed project:

We contend to mitigate the ingress and egress of Rincon Way:

* **IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD**

48-5

* **RINCON WAY DOES NOT MEET MINIMUM COUNTY REQUIREMENTS FOR ROAD WIDTH AND EMERGENCY VEHICLE**

* **FIRE SAFETY AND A COMPREHENSIVE EVACUATION PLAN NEEDS TO BE SUBMITTED; THE UNLOCKED EMERGENCY ACCESS GATE DOES NOT SOLVE THE PROBLEM OF A DISATER EVACUATION NO MATTER WHERE THE ENTRANCE OR EXIT IS FOR THE PROPOSED PROJECT**

48-6

Letter 48 Continued

- * PROPOSED PROJECT FORCES PROPERTY OWNERS ON RINCON WAY TO COMPLY WITH NEVADA COUNTY'S ROADSIDE VEGETATION MANAGEMENT PLAN ONCE RINCON WAY IS NO LONGER A PRIVATE ROAD | 48-7

- * DEIR HAS NOT ADDRESSED THE PARTY RESPONSIBLE FOR REMOVAL OF FENCING OR LANDSCAPING OR THE PARTY RESPONSIBLE FOR REIMBURSEMENT OF THE ABOVE TO PRIVATE RESIDENTS WHO WILL BE DIRECTLY AFFECTED BY THE IMPROVEMENTS TO RINCON WAY | 48-8

- * IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD

- * DEIR DOES NOT ADDRESS HOW THE IMPROVEMENTS ON RINCON WAY EFFECT GRADE ELEVATIONS IN REGARDS TO PRIVATE DRIVEWAYS ONCE RINCON WAY HAS BEEN WIDENED AND SHOULDERS IN PLACE. DEIR HAS NOT ADDRESSED THE AESTHETICS OF THIS "IMPROVEMENT" FOR RINCON WAY. DEIR NEEDS TO ADDRESS RESPONSIBLE PARTY FOR ENSURING THE SAFETY OF PROPERTY OWNERS EXITING AND ENTERING PROPERTY WITH INCREASED TRAFFIC AND A SCHEMATIC OF THE ROAD ELEVATIONS AND TIE INS FOR PRIVATE DRIVEWAYS. | 48-9

- * PROPOSED UNLOCKED EMERGENCY ACCESS GATE CONNECTING THE RINCON WAY EXTENSION TO RODEO FLAT WILL BECOME A MAJOR THOROUGHFARE FOR THE DARK HORSE PROJECT STILL UNDER DEVELOPMENT, WINDS ALOFT, AND LAKE OF THE PINES AND LAKE OF THE PINES RANCHOS, AND ANY OTHERS WHO FIND THEIR WAY. AN ELECTRIC GATE WITH A KEY PAD WOULD ENSURE THE ROAD WOULD ONLY BE USED IN CASE OF EMERGENCY. | 48-10

- * THE ABOVE IS NOT "LESS THAN SIGNIFICANT"

3.14.17

Letter 48 Continued

DEIR states Rincon Way will have an increase in traffic, longer queues at the SR49/Rincon Way intersection for exiting and will have “less than significant impacts” for the existing residents of Rincon Way, and Hidden Ranch.

We contend to mitigate these “less than significant impacts”:

- * **IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD**
- * **DEIR DOES NOT EXPLAIN HOW THE RE-STRIPING OF THE SR49/RINCON WAY INTERSECTION/ROAD, AND THE ADDITION OF A LEFT TURN LANE MINIMIZES THE INCREASED TRAFFIC AT THE INTERSECTION**
- * **DEIR DOES NOT EXPLAIN HOW THE EXISTING INTERSECTION WILL WORK AS A SAFE BUS STOP TWICE A DAY FOR OUR CHILDREN AND GRANDCHILDREN, AND ACCOMMODATE NOT ONLY THE WOEFUL INCREASE IN TRAFFIC BUT ALSO THE INCREASE IN THE AMOUNT OF EMERGENCY VEHICLES DUE TO THE TARGETED AGE OF THE RESIDENTS IN PROPOSED PROJECT**
- * **POSSIBLE ALTERNATIVE TO RINCON IS ENTRANCE THROUGH THE RIVER-ESTATES PROPERTY CURRENTLY FOR SALE**
- * **SIGHT DISTANCE AT SR49/RINCON WAY IS NOT THE ISSUE AT THE INTERSECTION; IT IS THE TARGETED AGE OF THE RESIDENTS WHO WILL NEED LONGER TO ENTER THE QUEUE OR MAKE THE DECISION TO TURN WHICH WILL LENGTHEN THE WAIT ON RINCON. FLASHING LIGHTS, ROAD STRIPING, WARNING BUMPS FOR BOTH NORTH AND SOUTHBOUND TRAFFIC ON SR49 WOULD WARN TRAFFIC OF A MAJOR INTERSECTION AND APPROACH WITH CAUTION**
- * **DEIR NEEDS TO ADDRESS SAFETY CONCERNS ON RINCON WAY; THE NEED TO SLOW DOWN, SPEED BUMPS ARE THE MOST EFFECTIVE WAY OF SLOWING DOWN TRAFFIC AND ENSURING THE SAFETY OF PEDESTRIANS, AND WIDLIFE IN THE AREA**
- * **DEIR STATES THERE IS CURRENTLY ADEQUATE PARKING FOR THE PROPOSED PROJECT; DEIR DOES NOT OFFER ANY PREDICTIONS FOR PARKING OR INCREASE IN TRAFFIC IF/WHEN THE OCCUPANCY FOR PROPOSED PROJECT IS DOUBLED CONSIDERING THERE IS ADEQUATE ROOM FOR MORE BEDS**

48-11

DEIR states “Cumulative Traffic Impacts” as “LESS THAN CUMULATIVELY CONSIDERABLE”

48-12

Letter 48 Continued

We contend to mitigate cumulative traffic impacts are not significant:

- * **DEIR HAS GIVEN INFORMATION STATING THE WOLF/COMBIE/SR49 INTERSECTION CURRENTLY OPERATES AT LOS C; GIVEN THE CUMULATIVE TRAFFIC EFFECTS THE SAME INTERSECTION WILL OPERATE AT A MUCH LOWER LOS. CAL TRANS HAS STATED IF TRAFFIC COLLISIONS INCREASE AT THE INTERSECTION OF SR49/RINCON WAY THEY WILL BE FORCED TO ELIMINATE THE LEFT HAND TURN LANE FROM RINCON WAY TO SR49 SOUTH FORCING RESIDENTS, AND SERVICE VEHICLES TO DRIVE TO THE WOEFULLY OVERBURDENED INTERSECTION OF WOLF/COMBIE/SR49 TO MAKE A U-TURN. DEIR NEEDS TO ADDRESS WHERE RESIDENTS ARE TO TURN, AND THE CUMULATIVE EFFECTS THIS TRAFFIC IMPACT WILL HAVE ON TRAFFIC SAFETY**

48-12
Cont.

- * **IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD**

NOISE

3.11

DEIR has given information regarding the ambient noise levels associated with the proposed project but has not addressed the following:

- * **TARGETED AGE OF RESIDENTS INCREASES EMERGENCY VEHICLE RESPONSES AND THE INCREASED EXPOSURE TO THUNDEROUS EMERGENCY SIRENS, BRIGHTLY COLORED EMERGENCY LIGHTS, AND SPEEDING EMERGENCY VEHICLES SUBJECTING RESIDENTS ON RINCON WAY TO AN EMERGENCY HOSPITAL LIKE ENVIRONMENT 24 HOURS OF THE DAY 365 DAYS A YEAR. DEIR NEEDS TO ADDRESS HOW THE PROPOSED PROJECT GURU'S PLAN ON DIMINISHING THE NOISE AND LIGHTS CREATED BY THE ABOVE ENVIRONMENT. THESE NOISE NUISANCES ARE SPECIFIC TO THE PROJECT AND DIRECTLY IMPACT THOSE RESIDENTS ON RINCON WAY, CONNIE COURT AND HIDDEN RANCH**
- * **SOLUTIONS TO PROPOSED NUISANCES OF EMERGENCY VEHICLES:**
 1. **Alternative project #1; building 3 more homes on the existing parcels thereby adhering to the Nevada County General Plan**

48-13

Letter 48 Continued

- 2. **Providing and building sound walls on both sides of Rincon Way where residents are most effected by emergency vehicle noise**
- 3. **Alternative entrance through River-Estates currently for sale**

48-13
Cont.

* **IT SHOULD BE NOTED RINCON WAY IS A PRIVATE ROAD**

* **DEIR NEEDS TO ADDRESS SPECIAL EVENTS HELD AT THE PROPOSED PROJECT. HOW WILL THE TRAFFIC BE EFFECTED, THE NOISE LEVELS BY TYPE OF EVENT, HOW OFTEN WILL THEY OCCUR, WILL LIGHTING HOURS INCREASE**

48-14

DEIR Mitigation 3.11.1 needs to be amended:

HOURS OF OPERATION 7 A.M. TO 5 P.M. MONDAY THROUGH FRIDAY ONLY; SATURDAY ONLY WITH NOTIFICATION AND APPROVAL OF RESIDENTS AFFECTED BY UNDUE INCREASE IN CONSTRUCTION TRAFFIC AND INCONVENIENCE, I.E. OWNERS ON RINCON WAY, CORNER OF HIDDEN RANCH AND ALL OF CONNIE COURT
DEIR Mitigation 3.11.5

48-15

DEIR CURRENTLY DESCRIBES THE SEWER LIFT STATIONS AS ABOVE GROUND; WE CONTEND SEWER LIFT STATIONS TO BE PLACED UNDER GROUND TO ELIMINATE NEED FOR SPECIAL INSULATING AND WILL KEEP THE AESTHETICS MORE IN COMPLIANCE WITH A RURAL SETTING

48-16

DEIR STATES THERE WILL BE AIR-CONDITIONING, ARCHITECT AT PLANNING MEETING SAID NO AIR-CONDITIONING; IS THERE OR IS THERE NOT GOING TO BE AIR-CONDITIONING INSTALLED, IF NOT HOW WILL THE UNITS BE COOLED AND ARE THE PUBLIC ROOMS AIR-CONDITIONED OR NOT. LOW-GENERATING NOISE IS A CONCERN AND DEIR NEEDS TO ADDRESS THE ADDED UNITS OR WHAT THE ALTERNATIVE TO AC UNITS WIL BE

48-17

DEIR DOES NOT ADDRESS HOW RESIDENTS WHO CURRENTLY RECEIVE WATER FROM NID WILL BE AFFECTED DURING ANY PROPOSED CONSTRUCTION, OR ATERNATIVES TO ANY INTERRUPTION OF SERVICES. SMALL FARMS/ORCHARDS AND GARDENS RELY ON THE NID WATER, SOME SEASONALLY, OTHERS ALL YEAR

48-18

Personal Response:

Letter 48 Continued

The beautiful rural area is beautiful because the General Plan keeps it that way. Rincon del Rio (RDR) a Continuing Care Retirement Center will change the rural landscape forever; **their traffic, sirens, service vehicles, street lights, buses, special events all contribute to urban existence.** Street Lights, sidewalks, buses, service vehicles, sirens all belong in the city limits.

48-19

We choose to live in the unincorporated area of Nevada County for a reason...it is unincorporated. We always believed the General Plan would be abided by; why as resident/voters in Nevada County are we so afraid our rights as property owners will be ignored? We see people with a lot of money aligning themselves with bigger money, and then start bullying everyone because they want what they want at someone else's expense. When the pressure from big developers is allowed projects such as RDR are poised to morph into a project no longer recognized as originally submitted. We believe in growth, we have no objections to the property being developed; it is the type of development we object to.

My family developed Phase 2 of The Hidden Ranch Development off of Rincon Way. We asked for no Entitlements or Amendments to the General Plan. The property was zoned 5 acres, we developed 5 acre parcels; sunk wells and septic systems; adhering to the Nevada County General Plan and in accordance with the Rural setting. It looks today much the same way it did when completed; Beautiful rural vistas, no sidewalks, no streetlights, no through traffic, truly rural and truly beautiful.

The project proposed as a Continuing Care Retirement Center, Rincon del Rio is inappropriate to the area and does not fall under the guidelines of the Nevada County General Plan. When a project starts by asking for a minimum of 10 Entitlements and text amendments to the General plan, we ask ourselves, "Why was the application accepted in the first place?"

48-20

This area has zoning of 5 acre parcels; let them build homes on 5 acre parcels. Imagine our surprise as property owners on Rincon Way when we found out the Young's property had been zoned to 3 acre parcels. We were never notified of the re-zone, and are curious as to why we were not notified.

The proposed emergency gate connecting Rodeo Flat with Rincon Way Extension is of great concern to us. We firmly believe the use of this road will be taken advantage of and the thru traffic from the yet undeveloped Dark Horse subdivision, Winds Aloft, Lake of The Pines, Lake of The Pines Ranchos and any others wanting a quick way to SR49 will be quickly found. This will turn Rincon Way into a major thoroughfare. What guarantee will the county give this will not happen? None. Residents along Rincon Way will have to deal with the constant assault of a variety of vehicle noises with no respite, and never experiencing a rural setting ever again.

48-21

Letter 48 Continued

A Comprehensive Fire/Disaster Evacuation Plan needs to be submitted for the South Nevada County and surrounding neighborhoods. The unlocked emergency access gate will do nothing to help with evacuations out of RDR or LOPR. A Disaster evacuation needs 2 ways of exit, the unlocked emergency access gate at Rodeo Flat and the Rincon Way Extension will not solve the problem. There will be a bottle-neck type grid lock of vehicles backing up to access SR49. Given the type of development that is proposed at the terminus of Rincon Way, we have not been told how the proposed project plans on evacuating those residents who are non-ambulatory; how will this debacle effect residents on Rincon Way and Hidden Ranch from emergency exit?

48-22

The Safety issues alone regarding the fire evacuation should make Nevada County Planners sit up and take serious notice of requiring a thoughtful, intelligent comprehensive Fire/Disaster Evacuation Plan for the area. An unlocked emergency access gate is not the solution.

The intersection of SR49/Rincon Way is also of great concern to us. RDR is trying to separate the project from the intersection; we believe you cannot have one without the other. We are concerned the intersection will become one of **DESTINATION** given the increase in traffic, service vehicles, and emergency vehicles which will be frequenting the intersection 24/7 365. We believe at some point signs for the development will start to appear, similar to the advertising Del Webb does with its CCRC projects. This is of major concern; it brings in more unwanted traffic to the area, and there will be no way to regulate any "curious eyes" driving or walking on our rural roads to check out RDR. We would like to see a serious rendering of the intersection with the proposed improvements and placement of any signing for the project, at the intersection and anywhere on Rincon Way. Increased traffic equates to vehicles speeding. "Speed Management" is a great concern; serious deterrents will need to be installed.

48-23

We are first hand witnesses to Jim and Carol building their current home on Connie Court. For approximately 2+ years we were subjected daily to increased noise from contractors, dump trucks (too many to count), semi-trucks, tractor-trailers, ad nauseam. Because the home has such a large footprint, and supports numerous outbuildings, it needs more maintenance; this has increased the traffic on Rincon Way with service vehicles and since the inception of the RDR project the traffic increases still. Numerous events have been held at the Young's residence which has given us a small taste of how the traffic will be an issue on our PRIVATE LITTLE ROAD. This experience was for 2 years, we have been informed by Ed Scofield the project could take up to 10 years to complete, he has no idea. We believe if the project were approved Nevada County Planning needs to require performance bonds to ensure the completion of the project in a timely manner.

48-24

We cannot fathom living on our little rural road subjected every day to the thunderous construction noises of a "Del Webb on Steroids". We cannot hope to believe property values will go up. We are doomed unless the Nevada County Planning Department sees the folly in the proposed project site.

Letter 48 Continued

As stated earlier, we are not against developing the property, we knew some day it would be developed; but we envisioned what you see in the surrounding area not what is proposed.

The targeted age of the residents combined with an overburdened intersection is worrisome; navigating the intersection is difficult for the best of drivers. We are concerned the increase in accidents prompting Cal Trans (per the DEIR) to deny left hand turns onto SR49 South from Rincon Way. At that point we will be forced to drive out of our way in order to turn around. It makes no sense.

48-25

We believe the project Rincon Del Rio (RDR) as presented needs to be denied. Development in Nevada County certainly needs to progress, but it needs to be intelligent, conscientious, and above all thoughtful. The RDR DEIR has submitted 3 alternatives to the proposed project. Our first choice, #1 is the most logical and thoughtful choice. The Alternatives 2, 3, and 4 all require major water and sewer issues not to mention the fire safety issues that the area is ill equipped to deal with at this time. To keep the property rural the Planning Department and the Board of Supervisors need to enforce the Nevada County General Plan. Development needs to fit the area and RDR does not. The project and its scope belong closer to services that will be easier to access for the population targeted. The project is too ambitious for the area, and time needed to complete the project is unacceptable.

48-26

KEEP IT RURAL!

Sincerely,

Waldemar and Billie Prestel

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Letter 48 – Waldemar & Billie Prestel

- Response 48-1:** The comment repeats Comment 47-1. See Response 47-1.
- Response 48-2:** The comment repeats Comment 47-2. See Response 47-2.
- Response 48-3:** The comment states Rincon Way is a private road. The commenter is correct, and this fact is acknowledged in the Draft EIR. As stated on page 3.14-21 (Section 3.14, Traffic and Circulation), "...Hidden Ranch Road and Rincon Way are private roads."
- Response 48-4:** The comment repeats Comment 47-3. See Response 47-3.
- Response 48-5:** The comment states Rincon Road does not meet County standards for width or emergency vehicles. The proposed project is requesting approval of a road standard exception to allow for a 30-foot easement on Rincon Way. The 30-foot easement would be adequate for emergency vehicle access.
- Response 48-6:** The comment states an evacuation plan needs to be prepared. The project would be required to prepare an emergency evacuation plan for the project site (mitigation measure MM 3.8.7 in Draft EIR Section 3.8, Hazardous Materials/Human Health, page 3.8-22). See also Master Response 2.
- Response 48-7:** The comment states property owners on Rincon Way would be required to comply with the County's roadside vegetation management plan. As stated in Draft EIR Section 3.14, Traffic and Circulation, page 3.14-21, management of roadside vegetation within the right-of-way is the responsibility of the vicinity property owners.
- Response 48-8:** The comment states the Draft EIR does not address who is responsible for removal of fencing or landscaping along Rincon Way. The project applicant would fund construction of improvements on Rincon Way, including removal of vegetation and fencing, if required. If private improvements (e.g., fences or landscaping) located within the right-of-way must be removed, the County provides no mechanism for reimbursement for those improvements.
- Response 48-9:** The comment states the Draft EIR does not address grade separation on Rincon Way and local driveways. The design-level details are not yet available, but the County would review the plans to ensure that any grade differences would not result in safety issues for residents.
- Response 48-10:** The comment states the unlocked gate on Rodeo Flat Road would result in through traffic on Rodeo Flat Road. See Master Response 1.
- Response 48-11:** The comment includes several questions regarding traffic at Rincon Way. The comment states the Draft EIR does not explain how restriping of a left turn lane would alleviate traffic at Rincon Way/SR 49. Restriping would separate traffic queuing for left turns from those turning right, thus shortening overall queue times. The comment questions how a school bus stop will function with the project. In California, when a stopped school bus is displaying a flashing, alternating red lamp, the driver of a vehicle meeting or overtaking the stopped bus from either direction (front or back) must stop and wait until the bus moves

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

again or the red light is off. The school bus driver waits until the children are at a safe distance before turning the lights off. See Response 21-9 regarding the age of drivers in the project. The commenter's recommendation for speed bumps on Rincon Way is noted. The comment includes an assumption that the population of the project, and thus the parking demand and traffic, would grow beyond that proposed. The project applicant proposes a population of 415 residents. The Draft EIR evaluated that population for the project in regards to physical effects on the environment. See Response 3-14 regarding the Development Agreement.

Response 48-12: The comment suggests that Caltrans may have to prohibit left turns from Rincon Way to maintain traffic on SR 49. The SR 49/Rincon Way intersection is discussed in Impact 3.14.2 on page 3.14-17 of the Draft EIR (see Section 3.14, Traffic and Circulation). As noted in the discussion, the analysis assumes that turning movements from Rincon Way would be delayed longer than traffic on SR 49. In this instance, the efficiency of a minor roadway is allowed to diminish so that the major roadway can continue to function acceptably. In Impact 3.14.3 on page 3.14-19, the Draft EIR evaluates the need for queuing on SR 49 for vehicles waiting to turn onto Rincon Way and notes that the existing intersection is adequate for the anticipated queue length. Finally, the Draft EIR evaluates cumulative traffic impacts based on regional growth on page 3.14-25, noting that while the level of service on Rincon Way is further diminished due to regional growth, the service on SR 49 remains acceptable. The Draft EIR also notes that a lower level of service on Rincon Way does not meet the requirements for installation of a traffic signal. Installation of a traffic signal would actually reduce the efficiency of traffic on SR 49. The Draft EIR does not suggest that left turns from Rincon Way would be prohibited, nor does the Caltrans comment letter (see comment Letter C in this Final EIR).

Response 48-13: The comment expresses concern about emergency vehicle sirens. Emergency siren noise is an occasional noise source that already has potential of occurring in the project area and is not an ambient noise condition that is expected to result in conflicts with County noise standards. See Response 47-4.

Response 48-14: The comment states the Draft EIR needs to address special events held at the facility. As noted on Draft EIR page 3.14-10, the continuing care retirement community (CCRC) may contain special services such as medical, dining, recreational, and limited retail supporting facilities, which would reduce the need to travel outside of the site. Continuing care retirement communities are typically designed as self-contained villages. The project applicant has further identified that the project would not be available for outside members of the public to rent or utilize for special events such as weddings, music concerts, and the like. The on-site amenities proposed are for residents only and potentially their immediate family activities if approved by management (Creighton 2012).

Response 48-15: The comment proposes time restrictions on the project. As this is a residential community, time restrictions as suggested would be inappropriate.

Response 48-16: The comment suggests putting the sewer pump station underground to reduce visual effects. As shown in Figure 2.0-17 (see Section 2.0, Project

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Description), the sewer pump station would occupy an approximately 14-foot by 18-foot site. The aboveground structure would be constructed on a slope and would be screened by existing vegetation. As this is not a significant visual impact, the Draft EIR need not consider alternatives to this component.

Response 48-17: The comment questions whether air conditioners would be required. The Draft EIR assumes the project would include air conditioners; therefore, noise associated with operation of air conditioners was analyzed in the Draft EIR. Any alternative to air conditioners would be required to generate less noise than air conditioning units or the project proponent would be required to construct shielding to ensure noise levels do not exceed those disclosed in the EIR.

Response 48-18: The comment questions interruptions in service from NID when extending lines to the project site. The Nevada Irrigation District would be responsible for constructing the facilities and would notify water customers of any interruption of service. It is anticipated that any interruption would be temporary.

Response 48-19: The comment repeats Comment 47-5. See Response 47-5.

Response 48-20: The comment questions the number of entitlements needed to approve the project and states a preference for a project that includes homes on 5-acre lots. The comment is noted and forwarded to the decision-makers for their consideration.

Response 48-21: The comment repeats Comment 47-2. See Response 47-2.

Response 48-22: The comment states that a comprehensive fire evacuation plan needs to be developed. See Master Response 2.

Response 48-23: The comment expresses concern about the intersection of Rincon Way and SR 49. See Response 47-7. Regarding "curious eyes" driving onto what are currently private roads, there are no controls currently in place to keep out nonresidents. Short of a gate, there would be no way to keep nonresidents from using Rincon Way.

Response 48-24: The comment provides personal observations about the project site and property owners. The comment states opposition to the project as proposed. The comment is noted and forwarded to the decision-makers for their consideration.

Response 48-25: The comment repeats Comment 48-12. See Response 47-2.

Response 48-26: The comment expresses opposition to the project as proposed and supports Alternative 1, No Project, analyzed in the Draft EIR. The comment is noted and forwarded to the decision-makers for their consideration.

Letter 49

RANGEL MUNICIPAL CONSULTING, LLC
CITY PLANNING • ECONOMIC DEVELOPMENT • REDEVELOPMENT
24511 Rodeo Flat Rd. Auburn, Cal. 95602

March 19, 2012

Mr. Brian Foss, Interim Planning Director, Nevada County
950 Maidu Avenue
Nevada City, Ca. 95959-8617

**Re: Rangel Municipal Consulting LLC Comments on
Rincon del Rio (RDR)
Continuing Card Retirement Community (CCRC) Project
Draft Environmental Impact Report (DEIR)
State Clearinghouse No. 2011052030**

Dear Mr. Foss;

Following are my comments on the before referenced DEIR. Please include these comments into the Public and Administrative Records of this project.

For the records, I became a Certified City Planner in 1982 and have been a practicing City Planner since 1971. I spent twenty-six years working for six cities in my capacity as a City Planner. I ended my public sector career as a City Manager before being Director of Community Services and Director of Community and Economic Director for two different cities. I have been a Municipal Consulting specializing in City Planning, Economic Development and Redevelopment for the past eleven years.

My Planning specialty over the years has been the preparation and oversight of Comprehensive General Plans. As anyone in the Advanced Planning field knows, General Plans require the preparation of Environmental Impact Reports (EIRs). I have overseen the EIR process for years. Even today, I review EIR's as part of my work for clients.

Specific Responses to DEIR

Many of my comments to the DEIR were submitted as comments in my response to the Notice of Preparation (NOP) on June 9, 2011. At that time I submitted my comments as Art Rangel 24511 Rodeo Flat Road and not as Rangel Municipal Consulting LLC. It appears my comments along with those of many other concerned citizens were ignored.

49-1

Rangel MC Comments
To RDR DEIR

3/19/2012

Letter 49 Continued

Project Description

The DEIR is severely inadequate in that it neglected to provide analysis of many potential impacts of the "Project". Section 15378 of the CEQA Statutes and Guidelines define "PROJECT" as:

- (a) "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:
 - (1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.
 - (2) An activity undertaken by a person which is supported in whole or in part through public agency contacts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
 - (3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
- © The term "Project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

49-2

There are twelve proposed amendments, deviations or other entitlements for benefit of the Rincon del Rio Continuing Care Retirement Community project identified in the Notice of Availability. All of these twelve items and subsequent discretionary approvals constitute the "Project" pursuant to CEQA.

Because there are so many inadequacies and deviations from the CEQA process I will not attempt to provide a comprehensive analysis of these deficiencies but will only address some of these omissions and inadequacies. Other people impacted by or concerned with the "Project" will provide individual comments on specific issues which should have been assessed in the DEIR.

49-3

Notice of Preparation (NOP)

The NOP is inadequate pursuant to Section 15082 of the CEQA Guidelines. While the notice provides great detail of the proposed amenities and perceived attributes of the proposed project, it does not adequately describe the "potential environmental effects" of the project from the twelve associated applications for entitlements.

49-4

Because of the phasing component of the project and the potential number of General Plan Amendments needed for General Plan consistency and analysis, a Master EIR should be prepared. The "Project Description" includes General Plan amendments and zoning code amendments which apply countywide. The NOP is flawed because it was not noticed countywide.

Letter 49 Continued

Notice of Availability

The Notice of Availability is inadequate because it does not comply with Section 15087 (Public Review of Draft EIR) of CEQA. While this section provides for a "brief description of the proposed project", the Project Description does not specify which General Plan Policies will be amended and which Zoning Code sections will be amended. In addition the Project Description includes building permits and grading permits. As a result the EIR must provide a detailed analysis of these specific permits and there environmental impacts as these permits are no longer ministerial but become subject to the same analysis as discretionary approvals by virtue of them being included in the Project Description.

49-5

Countywide Notice and Assessment:

The "Project Description" includes General Plan amendments and zoning code amendments which apply countywide. The Notice of Availability is flawed because it was not noticed countywide. In addition Nevada County violated § 21003.1 of CEQA because the DEIR did not address many items which were brought up by citizens in their response to the NOP.

It is very obvious that Nevada County is amending policies within its General Plan to comply with the RDR Continuing Care Retirement Community (CCRC) instead of having the RDR CCRD comply with the County's adopted General Plan policies. General Plan amendments and zoning code amendments apply countywide. However the DEIR only attempts to assess impacts as those impacts may apply to the RDR site. Because General Plan policies apply countywide impacts resulting from these amendments must be assessed countywide. The DEIR is severally inadequate because it does not assess affected properties countywide as provided under CEQA.

49-6

The DEIR identifies changes to Policy 1.3 and of the Nevada County General Plan as a proposed amendment where CCRC can be established. The minimum parcel size for this amendment is 20 acres. The DEIR is inadequate because there is no analysis of such acreage throughout Nevada County where a CCRC can be established.

The DEIR indicated Policy 1.5 of the Nevada County General Plan amendment is proposed adding CCRC as a Planned Development (PD) area. The DEIR is inadequate because it does not assess impacts countywide where PD areas exist or can exist. In addition Appendix 3.0-A – General Plan Consistency Tables does not address this policy, analysis or offer an opinion related to consistency with the General Plan.

Rangel MC Comments
To RDR DEIR

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Letter 49 Continued

The DEIR indicated proposed amendments to the "Special Development Area" (SDA) designation to allow the CCRC use. The DEIR identifies three existing SDA areas. The DEIR is inadequate because it does not assess impacts on these areas resulting from this amendment.

The Specific Plan prepared for each SDA shall include a Transportation System Management and Demand Management program designed to minimize the SDA's impacts on the local road and State highway systems. Said program will ensure that implementation of the Specific Plan will provide for consistency with adopted County LOS as found in policies 3.10, 4.1, and 4.3. The DEIR is inadequate because it did not assess impacts Countywide for these impacts.

Policy 1.xx is proposed to be added to the General plan providing for CCRC's. This policy applies Countywide. The DEIR is inadequate because it does not assess the impacts of this additional policy Countywide.

CCRC's are proposed to be added to Policy 1.6 in the Rural Regions identified within the General Plan. Again because this policy applies Countywide, the DEIR is inadequate because it did not assess the impacts of this added polity Countywide.

CCRC's are proposed to be added to Policy 1.13 in the Community Regions identified within the General Plan. Again because this policy applies Countywide, the DEIR is inadequate because it did not assess the impacts of this added polity Countywide.

Clustering of CCRC's is proposed to be added to Policy 1.18. The DEIR is inadequate because it did not assess the impacts of clustering within rural areas Countywide.

To implement the before mentioned General Plan amendments providing for CCRC's, Nevada County is proposing to amend Policy 1.19 of the General Plan by adding CCRC;s to the following zoning code categories: AE, AG, RA, R1, R2, R3, OP, C1, C2, CH, BP, C3, M1, M2, REC, FR, P, TPZ, OS, IDR, PD. The DEIR is inadequate because it did not assess the impacts of changing these zoning categories Countywide.

The DEIR is inadequate because by the DEIR's own admission there are currently 22 sites throughout Nevada County which could be developed with a CCRC, yet there was no assessment of the impacts resulting from these potential developments. Again consider the definition of "Project" as follows:

The term "Project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

As a result the entire Cumulative Impact Summary 4.0 is inadequate.

49-6
Cont.

Rangel MC Comments
To RDR DEIR

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Letter 49 Continued

The DEIR is inadequate because it not only did not assess why Rodeo Flat was the best location for secondary access to the Project but it did not assess alternatives to that access.

49-7

CEQA and General Plan Consistency

Section 15125 (d) of CEQA requires that:

- (d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, regional blueprint plans, plans for the reduction of greenhouse gas emissions, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountains.

Goal 1.3, Objective 1.3 and directive Policy 1.6 of the Nevada County General Plan reads as follows:

Goal 1.3

Within *Rural Regions*, maintain and enhance the County's pastoral character, existing land use patterns, rural lifestyle, and economy in their natural setting.

Objective 1.3

Provide for a land use pattern compatible with preservation of pastoral character, environmental values and constraints, and the form and orderly development of *Rural Places*.

49-8

Directive Policies

Policy 1.6 Within these *Rural Regions*, growth is provided for only those types and densities of development which are consistent with the open, pastoral character which exists in these areas.

Goal 1.7, Objective 1.16 and Directive Policy 1.22 of the Nevada County General Plan read as follows:

Goal 1.7

Coordinate land use planning within the *Community Regions* and *Rural Regions*.

Objective 1.16

Provide for specific densities for residential uses in the *Community* and *Rural Regions*.

Directive Policy

Policy 1.22 The General Plan shall provide for the following population densities in the respective land use designation based upon the maximum number of dwelling units or persons per acre for the minimum parcel area per dwelling.

Letter 49 Continued

The RDR site, while designated PD on the General Plan Land Use diagram, is surrounded by properties designated as Rural 5 acres. The RDR project is inconsistent with the before referenced Nevada County Goals, Objectives and Policies.

Goal 16.1 of Chapter 16 "Agriculture" and the associated objective 16.1 read as follows:

Goal 16.1

Encourage the use of significant agricultural lands and operations in *Rural Regions*.

Objective 16.1

Identify and encourage the use of significant agricultural lands based on soil type and suitability for various forms of agriculture.

The Project is inconsistent with Policy 16.1 of the General Plan because it eliminates 211 acres of existing agricultural land and converts it to urban uses, leaving only 4 acres for row crops and orchards.

The Project is inconsistent with Policy 16.2 because it converts 211 acres of a 215 acre rural agricultural property to urban uses.

The Project is inconsistent with Policy 16.3 because it does not address aquaculture uses.

The Project is inconsistent with Policy 16.4 because it rezones the RDR site from Rural Agricultural to Planned Development CCRC which because of its clustering is an urban use.

Objective 16.3 reads as follows:

Objective 16.3

Minimize and reduce pressures to convert lands zoned for agricultural use to more intensive uses.

The Project is inconsistent with Policy 16.7 because it did not address this policy as an alternative to the RDR site as a private conservation easement to preserve this land for agricultural uses.

Objective 16.4 reads as follows:

Objective 16.4

Identify the appropriate parcel sizes on lands zoned for agricultural use that provide for a range of agricultural operations that may be carried on in those zones.

49-8
Cont.

Letter 49 Continued

The Project is inconsistent with Policy 16.8 "Allow new development in Rural Regions outside of Rural Centers only..." because it is not a rural use within a Rural Region.

The Project is inconsistent with Policy 16.10 because the primary use (CCRC) does not support local agricultural production and promotes or markets agricultural products as identified in said policy.

The project is inconsistent with Policy 13.1, Policy 13.2, Policy 13.2A, Policy 13B, Policy 13.4A, Policy 13.4B, Policy 13.4G, Policy 13.8, and Policy 13.9 because the project proponent did not conduct a comprehensive site constraints analysis to determine if in fact significant environmental features would or would not in fact be disturbed by the project.

The Project is inconsistent with Policy EP-10.1.2.2 because it did not assess Rodeo Flat Road, a local class 1 road, as an emergency access road.

The Project is inconsistent with Policy FP-10.8.5.3 because the Lake of the Pines Ranchos area is within a high fire hazard area and the Project is not a low-density land use designation in this rural, high fire area.

The Project is inconsistent with Policy 1.36 because it is not in the public interest and is inconsistent with the General Plan's central themes, goals, objectives and policies.

The Project is inconsistent with Policy 9.7, Policy 9.8, Policy 9.9 because it creates land use conflicts with surrounding rural land uses and would likely result in increased noise levels in rural areas.

The Project is inconsistent with Policy 3.1, Policy 3.14, Policy 3.16, and Policy 3.17 because the available number of EDU's, within the Lake of the Pines waste treatment plant, needed for the project have not been verified as available.

The Project is inconsistent with Policy LU-4.1.1, Policy LU-4.1.3, Policy MV-4.2.5 because the project will result in greater than LOS C and will exceed existing LOS on Rodeo Flat and Timber Ridge as a result of an unlocked gate at the terminus of Rodeo Flat Road. In addition the DEIR did not assess these impacts resulting from the RDR approval as well as the proposed General Plan amendments Countywide.

The Project is inconsistent with Policy MV-4.2.10 because Rodeo Flat Road does not meet road standards.

The Project is inconsistent with Policy 3.10.f because through traffic resulting from an unlocked gate at the terminus of Rodeo Flat Road providing access to the RDR project will result in LOS greater than C.

49-8
Cont.

Letter 49 Continued

Approval of the Project renders Policy 3.19 inconsistent with other General Plan policies because of its clustering and increased density components.

The Project is inconsistent with Policy 2.6 because it did not provide an economic analysis of the projects economic benefits as part of the many General Plan Amendments. This analysis should have been performed for affected properties Countywide.

The Project is inconsistent with Policy 2.12 because it claims to provide local jobs however no analysis of the development and implementation of potential public services available to the job-generation uses was provided.

The Project is inconsistent with Policy 2.13 because no County capital improvement program was analyzed resulting from increased traffic on Rodeo Flat Road and Timber Ridge Road.

The Project is inconsistent with Goal MV-4.1, MV-4.2, Goal MV-4.3 and Goal MV-4.4 by designating Rodeo Flat Road as a secondary assess road. Studies conducted by the Lake of the Pines Ranchos Community Services District show that traffic on Rodeo Flat Road, a local class 1 road, could grow from less than 400 ADT to over 10,000 ADT as a result of an unlocked gate at the terminus of Rodeo Flat Road.

Section 65300.5 of the California Government Code requires that:

“65300.5. In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.”

Approval of the proposed General Plan Amendment GPA 11-002 will render the following General Plan Land Use policies internally inconsistent because it would be in conflict with the 5 acre (RUR-5) rural designation of the surrounding area. As a result GPA 11-002 should not be approved. The DEIR is inadequate because it does not provide an analysis of the impacts of these changes countywide:

- Policy 1.1
- Policy 1.5.f
- Policy 1.6
- Policy 1.8
- Policy 1.14
- Policy 1.17
- Policy 1.18
- Policy 1.22
- Policy 1.24
- Policy 1.36

The General Plan is also internally inconsistent as reflected in Policy 1.35. The DEIR is inadequate because it does not provide this analysis.

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Cont.

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Policy 2.7 requires that the County shall require an economic analysis as an integral part of all General Plan amendments, addressing the impact on the County Economic Policy and its supporting policies and programs. The DEIR is inadequate because it did not include this analysis.

Policy 2.12 states "In support of the County Economic Policy, develop and implement a program that analyzes the existing and potential public services available to all job-generating land uses. Where the analysis determines a lack of a facility or service that restrict development potential, an action program to provide the needed facility or service shall be implanted". The DEIR is inadequate because it did not include a proper analysis of the required fire and Sheriff facilities needed for the project. As a result, it did not provide a proper analysis necessary for this policy.

The Nevada County General Plan includes Implementation Measures which provide for Completion dates from time of adoption for Policies found within the different Elements of the General Plan. According to the Nevada County web site, the Nevada County General Plan was adopted in 1996. The Safety Element was amended in 2008. The Circulation Element was amended in 2010. The Housing Element was certified in 2010. It is unclear when the Implementation Measures were approved if at all. If implementation measures were not approved within the time frames shown in the Implementation Measures document, the General Plan is internally inconsistent.

49-8
cont.

While the following are not items directly applicable to the Rincon del Rio DEIR, it is of note if Nevada County decides to continue to ignore public comments to the Rincon del Rio DEIR as it has other public comments to other EIR's.

EXCERPTS FROM CALIFORNIA GENERAL PALN GUIDELINES REGARDING GENERAL PLAN CONSISTENCY

INTERNAL CONSISTENCY

The concept of internal consistency holds that no policy conflicts can exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general plan. Different policies must be balanced and reconciled within the plan. The internal consistency requirement has five dimensions, described below.

Equal Status Among Elements

All elements of the general plan have equal legal status. For example, the land use element policies are not superior to the policies of the open-space element. A case in point: in *Sierra Club v. Board Supervisors of Kern County (1981) 126 Cal.App.3d 698*, two of Kern County's general plan elements, land use and open space, designated conflicting land uses for the same property. A provision in the general plan text reconciled this and other map inconsistencies by stating that "if in any instance there

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is a conflict between the land use element and the open-space element, the land use element controls.” The court of appeal struck down this clause because it violated the internal consistency requirement under §65300.5. No element is legally subordinate to another; the general plan must resolve potential conflicts among the elements through clear language and policy consistency.

Consistency Between Elements

All elements of a general plan, whether mandatory or optional, must be consistent with one another. The court decision in *Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90* illustrates this point. In that case, the county land use element contained proposals expected to result in increased population. The circulation element, however, failed to provide feasible remedies for the predicted traffic congestion that would follow. The county simply stated that it would lobby for funds to solve the future traffic problems. The court held that this vague response was insufficient to reconcile the conflicts.

Also, housing element law requires local agencies to adopt housing element programs that achieve the goals and implement the policies of the housing element. Such programs must identify the means by which consistency will be achieved with other general plan elements (§65583(c)).

A city or county may incorporate by reference into its general plan all or a portion of another jurisdiction’s plan. When doing so, the city or county should make sure that any materials incorporated by reference are consistent with the rest of its general plan.

Consistency Within Elements

Each element’s data, analyses, goals, policies, and implementation programs must be consistent with and complement one another. Established goals, data, and analysis form the foundation for any ensuing policies. For example, if one portion of a circulation element indicates that county roads are sufficient to accommodate the projected level of traffic while another section of the same element describes a worsening traffic situation aggravated by continued subdivision activity, the element is not internally consistent (*Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90*).

Area Plan Consistency

All principles, goals, objectives, policies, and plan proposals set forth in an area or community plan must be consistent with the overall general plan. The general plan should explicitly discuss the role of area plans if they are to be used. Similarly, each area plan should discuss its specific relationship to the general plan. In 1986, the Court of Appeal ruled on an area plan that was alleged to be inconsistent with the larger general plan. The court upheld both the area plan and the general plan when it found that the general plan’s “nonurban/rural” designation, by the plan’s own description, was not intended to be interpreted literally or precisely, especially with regard to small areas. The court noted that the area plan’s more specific “urban residential” designation was pertinent and that there was no inconsistency between the countywide general plan and the area plan (*Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal.App.3d 300*). However, the court also noted that in this particular case the geographic area of alleged inconsistency was quite small.

Text and Diagram Consistency

The general plan’s text and its accompanying diagrams are integral parts of the plan. They must be in agreement. For example, if a general plan’s land use element diagram designates low-density residential development in an area where the text describes the presence of prime agricultural land and further contains written policies to preserve agricultural land or open space, a conflict exists. The plan’s text and diagrams must be reconciled, because “internal consistency requires that general plan diagrams of land use, circulation systems, open-space and natural resources areas reflect written policies and programs in the text for each element.” (*Curtin’s California Land-Use and Planning*

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Cont.

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Law, 1998 edition, p. 18)

Without consistency in all five of these areas, the general plan cannot effectively serve as a clear guide to future development. Decision-makers will face conflicting directives; citizens will be confused about the policies and standards the community has selected; findings of consistency of subordinate land use decisions such as rezonings and subdivisions will be difficult to make; and land owners, business, and industry will be unable to rely on the general plan's stated priorities and standards for their own individual decision-making. Beyond this, inconsistencies in the general plan can expose the jurisdiction to expensive and lengthy litigation.

The Guidelines go on to discuss other issues relating to consistency. The Guidelines also define a "Policy" as:

Policy

A policy is a specific statement that guides decision-making. It indicates a commitment of the local legislative body to a particular course of action. A policy is based on and helps implement a general plan's objectives.

A policy is carried out by implementation measures. For a policy to be useful as a guide to action it must be clear and unambiguous. Adopting broadly drawn and vague policies is poor practice. Clear policies are particularly important when it comes to judging whether or not zoning decisions, subdivisions, public works projects, etc., are consistent with the general plan.

When writing policies, be aware of the difference between "shall" and "should." "Shall" indicates an unequivocal directive. "Should" signifies a less rigid directive, to be honored in the absence of compelling or contravening considerations. Use of the word "should" to give the impression of more commitment than actually intended is a common but unacceptable practice. It is better to adopt no policy than to adopt a policy with no backbone.

Solid policy is based on solid information. The analysis of data collected during the planning process provides local officials with the knowledge about trends, existing conditions, and projections that they need to formulate policy. If projected community conditions are not in line with a general plan's objectives, local legislative bodies may adopt policies that will help bring about a more desirable future.

The California General Plan Guidelines also speaks to Implementation Measures as:

Implementation Measure

An implementation measure is an action, procedure, program, or technique that carries out general plan policy. Each policy must have at least one corresponding implementation measure.

State law requires that the following General Plan Implementation tools be consistent with the General Plan: Zoning Code and Map (Government Code §65860), Specific Plan (Gov. Code §65359 & §65454), Subdivision Regulations (Subdivision Map Act found in Gov. Code (§66410, et seq.), Capital Facilities (Gov. code §65401 & §65402) (*Friend of B Street v City of Hayward* (1980) 106 Cal. App. 3d 988), Development Agreements (Gov. Code §65867.5), Building and Housing Codes (State Housing Law (Health & Safety Code §17910), and Acquisition

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Cont.

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City and county acquisition of real property rights can help to implement the plan proposals of the land use, circulation and open-space elements. In implementing the land use element, cities and counties may acquire land designated for government offices, police and fire stations, parks, access easements, etc., or for public purposes such as urban redevelopment. With regard to the circulation element, local governments may acquire land for public rights-of-way (e.g., streets, sidewalks, bicycle paths, etc.), transit terminals, airports, etc. Cities and counties may advance open-space element policies and proposals through the acquisition of open-space and conservation easements.

In order for zoning and other measures to comply with consistency requirements, the general plan itself must first be complete and adequate (i.e., it must address all locally relevant issues and be internally consistent). In 1984, the Court of Appeal ruled that a finding of consistency based on an inadequate general plan was a legal impossibility (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184, based on 58 Ops. Cal.Atty.Gen 21, 24 (1975)). More recently, the appeals court ruled that a subordinate land use approval, such as a subdivision map, can only be challenged on the basis of an internal general plan inconsistency when there is a nexus between the particular approval and the claimed inconsistency in the general plan (*Garat v. Riverside* (1991) 2 Cal.App.4th 259).

The California Attorney General has opined that “the term ‘consistent with’ is used interchangeably with ‘conformity with’” (58 Ops.Cal.Atty.Gen. 21, 25 (1975)). A general rule for consistency determinations can be stated as follows: “An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.”

The city or county is responsible for determining whether an activity is consistent with the general plan. A city council’s finding of a project’s consistency with the plan would be reversed by a court if, based on the evidence before the council, a reasonable person could not have reached the same conclusion (*No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223).

In *Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors* (1998) 62 Cal.App.4th 1332, the court held that “[The] nature of the policy and the nature of the inconsistency are critical factors to consider.” A project is clearly inconsistent when it conflicts with one or more specific, fundamental, and mandatory policies of the general plan (*Families Unafraid, supra*).

ENFORCEMENT AND REMEDIES

Any resident, property owner, or other aggrieved party, including a public agency, may sue to enforce the requirements for the adoption of an adequate general plan (58 Ops.Cal.Atty.Gen. 21 (1975)). The same is true for zoning consistency with the general plan (§65860(b)), and for subdivisions (§66499.33). As the state’s chief law enforcement officer, the Attorney General may do the same (§12606 and California Constitution, Article V, §13). Additionally, persons living outside a city have standing to sue if the city’s zoning practices exclude them from residing in the city or raise their housing costs

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Cont.

Letter 49 Continued

by adversely affecting the regional housing market (*Stocks v. City of Irvine (1981) 114 Cal.App.3d 520*).

The courts may impose various remedies for failure to have a complete and adequate general plan or for inconsistency of zoning and subdivision actions and public works projects (§65750, et seq.). One is a writ of mandate to compel a local government to adopt a legally adequate general plan. The courts also have general authority to issue an injunction to limit approvals of additional subdivision maps, parcel maps, rezonings, and public works projects or (under limited circumstances) the issuance of building permits pending adoption of a complete and adequate general plan (*58 Ops.Cal.Atty.Gen. 21 (1975), Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988, Camp v. Mendocino (1981) 123 Cal.App.3d 334*). Where a court finds that specific zoning or subdivision actions or public works projects are inconsistent with the general plan, it may set aside such actions or projects. Under certain circumstances, the court may impose any of these forms of relief prior to a judicial determination of a general plan's inadequacy (§65757). These provisions, however, do not limit the court's authority to impose other appropriate remedies.

49-8
Cont.

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Los Angeles, California
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Rangel MC Comments
To RDR DEIR

3/19/2012

Letter 49 – Rangel Municipal Consulting, LLC

Response 49-1: The commenter states comments submitted on the Notice of Preparation (NOP) are the same as those submitted on the Draft EIR. Comments received on the NOP are included in Draft EIR Appendix 1.0-A. To the extent that NOP comments related to environmental effects of the project, rather than comments on the merits of the project, those comments were addressed in the technical sections of the Draft EIR.

Response 49-2: The comment states the Draft EIR is inadequate because the General Plan and zoning amendments constitute a project under CEQA. The Draft EIR evaluates the physical environmental impacts of the whole project, including the proposed General Plan and zoning amendments. See Response 34-4.

Response 49-3: The comment states there are “many inadequacies and deviations from the CEQA process,” but the comment provides no information as to specific inadequacies or deviations from the CEQA process. County staff considers the Draft EIR adequate and in compliance with CEQA.

Response 49-4: The comment states the NOP is inadequate because it does not adequately address the potential environmental effects. Public Resources Code (PRC) Section 21092(b) states, “The notice shall specify the period during which comments will be received on the draft environmental report or negative declaration, and shall include the date, time, and place of any public meetings or hearings on the proposed project, a brief description of the proposed project and its location, the significant effects on the environment.” CEQA Guidelines Section 15082a(1)(C) states a NOP must contain “probable effects of the project.” Neither the PRC nor the CEQA Guidelines provide information on the level of detail required for the probable effects; however, given that the NOP is intended to disclose to the public that an EIR is being prepared, providing EIR-level analysis of potential effects in the NOP would not be warranted. The County interprets those sections as requiring basic information about the issue areas to be addressed in the EIR, which is what the NOP contains.

Regarding preparation of a Master EIR, the County has the option of choosing the type of environmental impact report it deems appropriate. The project-level EIR adequately addresses impacts of the proposed project. As the changes to the General Plan are implementing General Plan Program HD-8.1.6, the General Plan amendments are not considered components of the Rincon del Rio project that would be appropriately addressed in a Master EIR. Any subsequent proposal for a CCRC would be analyzed at a project-specific level to determine any physical effects of that project.

Response 49-5: The comment states that the Notice of Availability (NOA) is inadequate because it does not include the General Plan policies proposed for amendment. The CEQA Guidelines do not define the level of detail required for the NOA. The NOA provides a brief description that includes identification of amendments to the General Plan, as required in CEQA Guidelines Section 15087(c)(1), and notifies the reader as to where the Draft EIR, which contains a complete project description, can be viewed. Regarding building permits, the

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

project applicant is not seeking approval of building permits as part of the approval of the project (see Draft EIR Section 2.0, Project Description, page 2.0-69, where building permits are characterized as subsequent approvals.) No additional project detail is required.

Response 49-6: The comment states the NOA must be noticed countywide because the General Plan amendments apply countywide. The commenter is referred to the Notice of Availability, posted in *The Union* on January 20, 2012. CEQA Guidelines Section 15087(a)(1) requires, among other options, "Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas." *The Union* is a newspaper of general circulation in the county.

Generally, because the policy amendments do not include changing General Plan designations at any other location in the county, the amendments would not result in physical impacts on the environment. Because no other sites are proposed for land use changes, any attempt to disclose site-specific physical effects would be speculative. However, to the extent that physical effects could occur for future CCRC projects, those effects are generally disclosed in the appropriate technical sections of Section 3.0 and Section 4.0 of the Draft EIR.

Response 49-7: The comment states the Draft EIR is inadequate because it does not assess why Rodeo Flat Road is "the best location for secondary access, but it did not assess alternatives to that access." The Draft EIR does not state that the access via Rodeo Flat Road is the best location; that location was developed during discussions with the County and Higgins Fire Protection District. The Draft EIR has no obligation to demonstrate that it is the best access, but only to analyze potential effects of that access. Because the access would not result in any significant effects, an alternative to that access point is not analyzed in the Draft EIR.

Response 49-8: The comment refers to perceived inconsistencies with the General Plan. See Master Response 3.

Letter 50

Brian Foss

From: Sietske Rauwendaal [sietske@rauwendaal.com]
Sent: Monday, March 19, 2012 9:05 PM
To: Brian Foss
Cc: Chris Rauwendaal; Karen Abbott
Subject: Re: March 8, 2012 hearing on Rincon Del Rio project

March 19, 2012

To the Nevada County Planning Department

Re: Rio Del Rio Project

Please add this correspondence to the Rincon Del Rio (RDR) project. This correspondence addresses issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

We moved onto our property on Rodeo Flat in 2006. We have owned the property before we built there and looked to living in a beautiful rural setting again. We had loved living in the rural Asheville, NC area from 1973-1977. The need for gainful employment brought us to the SF bay area where after 4 moves we lived on 1.25 acres as rural as we were able to get. We picked the Auburn area because it reminded us of Asheville but kept us close to our CA born and raised children. Now we live in the LOP Ranchos and have loved every minute of it. When we purchased our acreage we drove to the end of Rodeo Flat to make sure it was a dead end road. We also looked at the map of LOPR to make sure there would not be a major development nearby.

We strongly oppose the significant changes in the General Plan for Nevada County that are needed to allow the Rincon del Rio (RDR) project. Most Nevada County citizens do not know that there changes are contemplated. They should be made aware of the proposed changes and be able to vote on this change. By making this change to the General Plan you will change the rural ambiance that has made this county a pleasure to live in. Please look back at a note I wrote to the Union editor two years ago, which also became part of the public record for RDR. 50-1

We also oppose Rodeo Flat being used as a fire exit for so many residents. I have not seen an evacuation plan that makes these windy roads safe. We are told there will be buses for the residents. Will there be enough buses and drivers to take out all the residents at once? What guarantee is there that these will actually be there? Having a fire exit for RDR in the direction of the prevailing winds and going uphill could create another Oakland. 50-2

The best way out LOP and Dark Horse would be by way of Wild Iris Lane and the old bridge to Combie in Meadow Vista. The best way for RDR would be a second exit to 49. My husband's evaluation of Rodeo Flat Rd should be addressed properly and mitigated. 50-3

We are concerned that RDR will be a fire hazard for our community. The forgetfulness of the elderly to turn off their burners or to fall asleep with a cigarette in hand creates a major concern in the bowl type setting RDR wants to develop. Smoking on the trails is also a real concern and has not been addressed. In the Netherlands these types of communities have stoves that turn themselves off after 10 minutes. Even with that precaution my parents stove had to be disconnected completely as they would set dishes on the stove by mistake and cause a fire. None of these issues were properly addressed in the DEIR and should be mitigated. 50-4

The RDR community needs to be near medical services. Not out in the country where ambulances, paramedics 50-5

Letter 50 Continued

frequent visits will affect the rural neighbors. The communal center, restaurants, etc. will create other disturbances as well as additional car trips to RDR. All these matters need to be mitigated.

50-5
cont

The Young's had these plans drawn up initially with their home intended as a clubhouse from the start while aware that the zoning was for much less than they were planning for. We, the neighbors, have counted on the general plan to protect us. Why go through the lengthy process of developing a general plan and then not follow it? The lack of concern by some of the Supervisors as well as some members of the planning commission has been appalling to us. It feels like the friendship between our supervisor and the Young's is interfering with his objectiveness and he should abstain on voting for this project. As he appointed our planning commissioner she should abstain as well.

50-6

We also have a concern about the sewer line plan to come up Rodeo Flat Rd. This will certainly create a safety hazard for us. It will also create dust pollution and noise pollution. We believe that RDR should go along 49 which is not privately owned and paid for. This would also eliminate the pump house up on the hill creating noise pollution. No alternative was offered and I believe it should be looked into. Again this should be mitigated.

50-7

50-8

Additional concerns are Light pollution. This should be mitigated.

50-9

It was noted that very few of the proponents of this project at the public hearing came from Nevada County. Please be aware that you are representing Nevada County residents. Please take this letter in consideration and represent us Nevada County residents.

Sietske Rauwendaal
25126 Rodeo Flat Rd
Auburn, CA 95602



Letter 50 – Sietske Rauwendaal

- Response 50-1:** The comment notes that most residents are not aware of the proposed changes that will change the rural ambiance of the county. As noted on Draft EIR page 1.0-5 (Section 1.0, Introduction), efforts to notify the public of the proposed project have occurred in accordance with Sections 15082, 15083, and 15085 of the CEQA Guidelines. Impacts on the character of the site were addressed under Impact 3.1.2 on pages 3.1-14 through 3.1-16 of the Draft EIR (Section 3.1, Aesthetics).
- Response 50-2:** The comment expresses opposition to the proposed fire exit at Rodeo Flat Road and questions the ability to evacuate the project area during an emergency. On page 3.14-22 of the Draft EIR (Section 3.14, Traffic and Circulation), it is noted that the Nevada County Land Use and Development Code Chapter XVI (Fire Safety Regulations) and Chapter XVII (Road Standards) include standards for roads and private driveways to facilitate emergency access for evacuation and service response to structural and wildland fires. The on-site fire standard access road would be constructed consistent with County standards. Mitigation measure MM 3.8.7 on page 3.8-22 (Section 3.8, Hazardous Materials/Human Health) ensures that a plan to evacuate all residents, guests, and employees in a safe and efficient manner in the event of an emergency is prepared and implemented. See also Master Response 2.
- Response 50-3:** The comment suggests alternative access routes for the proposed project. The comment is noted.
- Response 50-4:** The comment expresses concern with the proposed project increasing fire hazards to the area due to smoking and leaving appliances on. These comments do not pertain to the adequacy of the Draft EIR. It should be noted, however, that the buildings would be constructed to the most current California Building Code standards, which would require fire sprinklers that would minimize any potential risk of fire hazards associated with the structures. Furthermore, as noted on page 3.13-5 of the Draft EIR (Section 3.13, Public Services and Utilities), all development related to the buildout of the proposed project will be required to meet the minimum standards of the California Fire Code and the requirements of Nevada County for fire flow, access, and fuel modification.
- Response 50-5:** The comment states that this type of use needs to be located near medical services and expresses concern about the increased trips. As noted on page 3.13-2 of the Draft EIR, there will be on-site nursing, two EMT personnel on site at all times (24/7), and contract physicians providing geriatric care for the residents. The on-site personnel are capable of handling most patient needs. There are plans to have a direct line notifying the hospital when transport is necessary. Therefore, the proposed project would provide on-site medical services. Increased trips associated with the project are addressed in Draft EIR Section 3.14, Traffic and Circulation, pages 3.14-17 through -20.
- Response 50-6:** The comment expresses opinions about the history of development on the project site. This comment is noted.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Response 50-7: The comment expresses concern regarding the sewer line on Rodeo Flat Road creating a safety hazard, dust pollution, and noise. It is unclear what the safety hazard concern is specifically regarding. The commenter is referred to Response 14-5 for a response to dust and noise pollution concerns.

Response 50-8: The comment expresses concern regarding noise generated by the pump house. The commenter is referred to Response 14-5.

Response 50-9: The comment expressed concerns regarding light pollution. The commenter is referred to Response 14-6.

Letter 51

LOPR Road Studies

Road Studies LOPR
(Lake of the Pines Ranchos)

Dr. Chris Rauwendaal
Rauwendaal Extrusion Engineering, Inc.
Auburn, CA 95602
www.rauwendaal.com

Cramer Engineering, Inc.

- Conducted weight and speed limit study, dated June 21, 1984
- Report presented to LOPRCSD*
- Findings: road structural section is too thin to determine a weight limit using normal road design formulas

* Hank Nugent

1 By Dr. Chris Rauwendaal

1

Letter 51 Continued

LOPR Road Studies

Design Options

- To satisfy Traffic Index (T.I.) of 3.5 (minor residential road serving 25 to 50 lots)
- Two designs for 9-ton axle load:
 - 1.5" AC pavement with 3" class 2 AB on existing AB
 - 2" AC pavement with 1.5" class 2 AB on existing AB

AC: asphalt concrete; AB aggregate base

Speed Limit

- Subdivision should post a 25 m.p.h. speed limit because of several short radius curves
- 15 m.p.h. warning signs should be posted at the severe curve adjacent to lot 132

2 By Dr. Chris Rauwendaal

Letter 51 Continued

LOPR Road Studies

Holdrege & Kull

(Consulting Engineers & Geologists)

- Report 06-25-'08 revised 09-09-'08
- Recommendations:
 - Pavement rehabilitation
 - Some portions require complete removal and reconstruction of structural section

Holdrege & Kull

(Consulting Engineers & Geologists)

- Assumption made that only minor truck traffic accesses the residential streets of LOPR
- Recommended installation of ~70 ft long 12-inch diameter corrugated metal pipe (CMP) culvert and drop inlet (DI)

3 *By Dr. Chris Rauwendaal*

3

Letter 51 Continued

LOPR Road Studies

Findings:

- Rodeo Flat has minimal AC (3/4") and AB (1/2")
- Nevada County minimum structural section standard: **2" AC and 6" AB**
- Numerous failed areas in need of total structural section replacement
- Ditches needed to direct water away from pavement

Asphalt Concrete, Causes of Failure

- **Traffic** – load and frequency
- **Water** - damage by poor drainage
- **Aging** – solvents evaporate out of pavement; this causes cracks

4 *By Dr. Chris Rauwendaal*

Letter 51 Continued

LOPR Road Studies

Installation Water Lines

- Heavy truck traffic during 2010 installation of water lines caused major damage to Rodeo Flat and Timber Ridge roads
- Portions of these roads (5200 ft²) required complete reconstruction of structural section

2010 Reconstruction

- Performed by Hansen Brothers
- Cost included:
 - Removing existing roadway material
 - Replacing with 6" base rock
 - Topping with 3" of asphalt
 - Cost \$4.46 per ft²
 - Total cost \$23,192

5 *By Dr. Chris Rauwendaal*

Letter 51 Continued

LOPR Road Studies

LOPR Road Reconstruction

- Length ~ 10,000 ft, width 18 ft
- Total area ~180,000 ft²
- Reconstructed section 5,200 ft² – less than 3% of total length
- Total reconstruction could cost as much as \$800,000

Rodeo Flat Traffic Density

- Now 400 average daily trips (ADT)
- Projected increase with open gate to RDR* to 10,643 ADT – increase of almost **27X!**
- Requires update from local class 1 road to major collector rural road

51-1

*RDR: Rincon del Rio project

6 By Dr. Chris Rauwendaal

Letter 51 Continued

LOPR Road Studies

Unlocked Gate Rodeo Flat

- Would make it a Regional Emergency Access Road (REAR)
- REAR has to reduce emergency travel distance by 1 mile or greater
- Rodeo Flat evacuation route is longer, steeper, narrower, and more windy than primary access road into RDR

51-2

Photographs, Road Edge



7 *By Dr. Chris Rauwendaal*

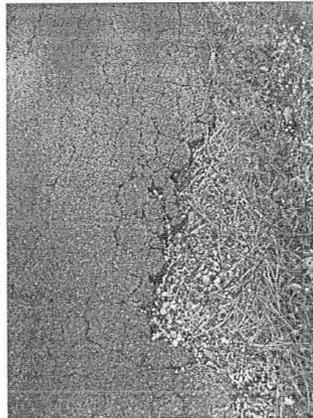
Letter 51 Continued

LOPR Road Studies

Photographs Road Edge



Photographs, Road Edge

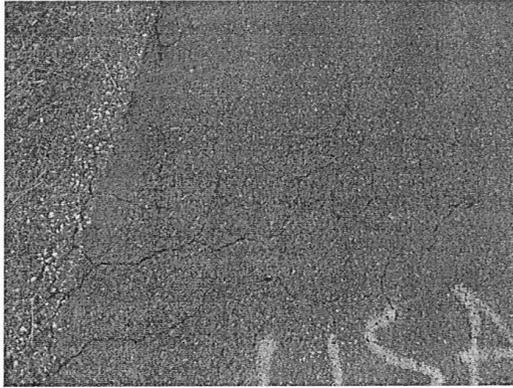


8 *By Dr. Chris Rauwendaal*

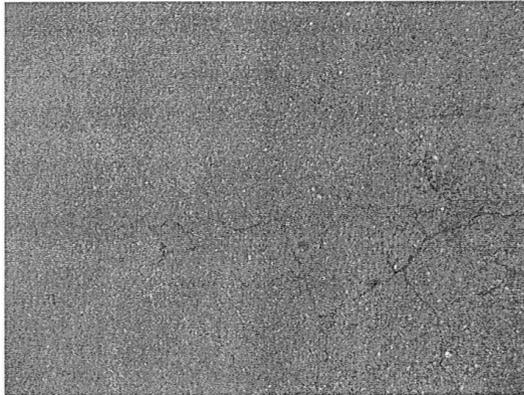
Letter 51 Continued

LOPR Road Studies

Photographs, Cracks



Photographs, Cracks

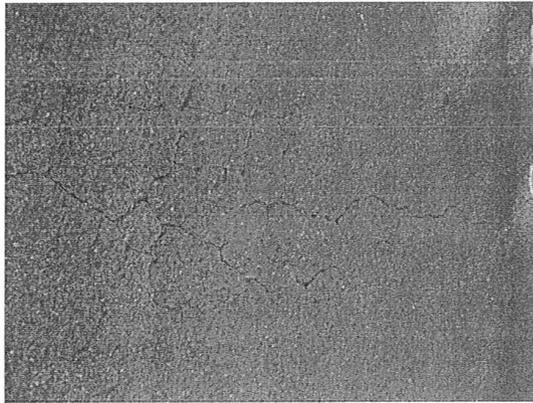


9 *By Dr. Chris Rauwendaal*

Letter 51 Continued

LOPR Road Studies

Photographs, Cracks



Conclusions

- LOPR roads do not meet standards for existing traffic and cannot safely handle significant increase in traffic
- Costly upgrades will be necessary
- LOPRCSD should not and cannot carry this burden
- Need peer review of traffic generation and distribution component of DEIR

51-3

10 *By Dr. Chris Rauwendaal*

11

Letter 51 – Dr. Chris Rauwendaal

The comment begins with information about the roads in Lake of the Pines Ranchos. This is not a comment on the project or adequacy of the Draft EIR. However, this information is noted.

Response 51-1: The comment states that the increase in average daily trips requires Rodeo Flat Road to be updated from a local class 1 road to major collector rural road. No daily trips would be routed to Rodeo Flat Road under the proposed project; this roadway is proposed for emergency access only under the proposed project. See Master Response 1.

Response 51-2: The comment states that an unlocked gate at Rodeo Flat Road would make it a Regional Emergency Access Road, which has to reduce emergency travel distance by 1 mile or greater. See Master Response 2.

Response 51-3: The comment states that Lake of the Pines area roadways do not meet standards for existing traffic and cannot safely handle significant increases in traffic and would require costly upgrades. The commenter also states that the LOPRCSD should and cannot carry this burden and that the traffic generation and distribution component of the DEIR needs to be peer reviewed. The project proposes no open roadway connection to roadways associated with the LOPR and would generate new daily traffic on LOPR roadways. County staff reviewed the traffic analysis provided in the Draft EIR and considers the results to be technically accurate.

Letter 52

February 27, 2012

Brian Foss, Interim Planning Director, Nevada County
950 Maidu Avenue
Nevada County, CA 95959-8617

**RE: Rincon Del Rio Draft Environmental Impact Report
State Clearinghouse No.2011052030**



Dear Director Foss,

This letter is in response to an invitation for written comment on the above referenced document. I have reviewed the document on-line and have the following comment regarding Rincon/Hidden Ranch Road(s). Please forgive me if I overlooked it in such an extensive document. My wife and I met with Supervisor Ed Scofield about 2 years ago to discuss our concerns. I wanted to briefly share one of them with you in the event it has not yet come to your attention.

We are residents of Hidden Ranch Road which is a private road governed by two separate road committees because the area was developed in two different phases. We live in the front section with a total of 12 parcels. Our road maintenance agreement assigns responsibility to that section of Hidden Ranch in front of our properties as well as the section (often referred to as Rincon Road) which runs east of the asphalt apron from Hwy 49 to where it curves to the north just beyond the mail boxes at the intersection with Rincon Road. The roadway surfaces are of chip seal construction designed for light rural use. Each of our 12 parcels is currently assessed \$300 per year for the purpose of maintaining our portion of Hidden Ranch Road. While our parcels are the only ones assessed for maintenance, other parcels traverse this section of the road. All traffic from the "back" portion of Hidden Ranch Road (who assess their residents for maintenance of their section) and those residing on Rincon Road, Connie Ct. and the River Estates parcels currently listed for sale (which are contiguous to this section of the road on the south side and will ingress/egress onto it when sold) must use this portion of Hidden Ranch Road which our 12 parcels maintain.

With the increase in material and labor prices, it becomes increasingly difficult to maintain a private road. In fact, our road committee increased its annual assessment for \$200 to \$300 for this very reason. If you look at the above referenced section of Hidden Ranch Road, especially following the winter season, you will see an annual need for repair. New pot holes are developing as I write this which will need attention this spring. If you or your staff were to carefully evaluate the road, you will see evidence of regular repairs, including large replacement "patches" and indications of a rapidly deteriorating road surface, including large "alligator" sections where the surface is failing.

This is the concern I would like to see addressed by the county. I have heard rumors that a new road meeting county standards would be required for the project to proceed. I've also heard rumors that the county will convert that section of Hidden Ranch Road to a public road. When we met with our county supervisor, understandably, it was too early for him to have any details on this issue. The increased

52-1

Letter 52 Continued

traffic created by this development will certainly hasten the deterioration of the roadway surface. With the aging of the remainder of Hidden Ranch Road in front of our parcels also a priority, it will become financially impossible for 12 parcels to continue to maintain this section of the road with increased traffic, nor would it be fair or reasonable to expect them to continue to do so on their own. The grade of the road is such that there is rapid runoff during heavy/steady rains. If the surface were to deteriorate back to dirt, this would increase silt runoff into the Bear River. Numerous attempts have been made to get all parcel owners who use this section of the road to contribute to its maintenance with very little success. However, there have been individuals over the approximate 25 years we have lived here who have pitched in occasionally.

The large sections of road repair usually follow a construction project by one of the local residents. I cannot imagine the number of heavy construction vehicles which will ingress/egress the proposed development and the damage they will cause to the road surface. I would not want to see a situation like the Dark Horse project and the development of the old Winds Aloft horse farm on Combie Road where the projects ended prior to completion without finishing the infrastructure first. I would hate to have the road destroyed, then have this project come to a halt, leaving us with the aftermath. My hope is the county will require the developers to improve the road from Hwy. 49 to the project site prior to its development should the project be approved.

Hopefully, the county has already addressed this issue and plans to mitigate the impact. If not, would you please take some time to consider this very important issue? When the original CC&R's were approved by the developer over 25 years ago, Rincon Del Rio was not even someone's dream. These roads, like many others in Nevada Co., were designed to service a limited number of rural residents on 5+ acre parcels. As the county grows and zoning changes, certain road surfaces will no longer support the new needs and should be upgraded.

Thank you for providing an opportunity to comment on this development. Forgive me again if the county has already addressed this issue. If you have any questions, please feel free to contact me. If it hasn't already occurred, I would encourage your department to visit the site and evaluate it for yourselves.


Dave and Sue Ritter

23058 Hidden Ranch Road
Auburn, CA 95602
dnsritter@yahoo.com 530.613.6293

cc: Supervisor Ed Scofield, District 2

52-1
Cont.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 52 – Dave & Sue Ritter

Response 52-1: The comment expresses concern regarding the use of a portion of Hidden Ranch Road and Rincon Way, which are privately maintained. There are no trips anticipated to be generated on Hidden Ranch Road by the proposed project. However, the proposed project would use Rincon Way as the primary access road, as noted on page 3.14-11 of the Draft EIR (Section 3.14, Traffic and Circulation). Since the projected volumes of traffic generated by the proposed project would not exceed the identified capacity of the local roadway, the trips generated by the proposed project would not result in a significant environmental impact, as described on page 3.14-17. As noted on page 2.0-65 of the Draft EIR (Section 2.0, Project Description), the proposed project includes a request for a Road Maintenance Agreement between the applicant and the County, which will provide a legal description of all properties that have the right to use Rincon Way (and Rodeo Flat Road), the way that responsibility for repairs is to be shared by the parties, how the costs for repairs will be incurred by the parties, and the consequences for non-participation in the maintenance.

Implementation of mitigation measure MM 3.14.4a (page 3.14-20 of the Draft EIR) will require the proposed project to pay for restriping westbound Rincon Way to include dedicated left and right turn lanes within a 30-foot-wide public roadway and utility easement, which will provide safety improvements. Although the proposed project includes a Petition for Exception for the Rincon Way easement, as the existing 30-foot-wide road width does not meet the County's 50-foot easement standard, Rincon Way has a 50-foot right-of-way between SR 49 and Hidden Ranch Road with a formal offer of public dedication and public utilities easement accepted for the 50-foot right-of-way, as noted on page 3.14-1 of the Draft EIR. Improvements to Rincon Way are planned as part of phase 1 project improvements.

Letter 53

Annamaria S. Sauer
636 East Broad Street
Nevada City, CA 95959
478-1679



March 12, 2012

Mr. Brian Foss
Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959

RE: Rincon Del Rio Retirement Community

Dear Mr. Foss,

Last Thursday, March 8, I attended the Commission's meeting regarding the above mentioned development and its environmental impact. Due to time constraints I was unable to speak, therefore I am writing this letter to you and the Department regarding what I consider the impact on our community and economy.

I have been a resident and home owner in downtown Nevada City since 2003. In this relatively brief period of time I have seen many shops close and our economy and our tax base decline. Many consultants were paid, much money and effort has been spent to find a way to attract more tourists with no significant results.

My husband and I are of a certain age who will be looking for storage space in the not too distant future. I am not talking about furniture here. I am talking about a nice, comfortable senior retirement community for ourselves. Unfortunately, we have very few choices up here in that category.

There is still gold up here in these hills in the form of people of "the golden years". There are a huge number of citizens in our state who are of retirement age. Studies show that most people over sixty five have more money than any other age group in our country.

We met Carol and Jim Young, two people with lots of energy and a great vision for an active, abundant way of life in their planned community in an amazing setting. Yes, it will bring more traffic, but not only to our roads, but to our markets, stores, theaters, concerts. These retired citizens will have time and discretionary funds to support the arts, volunteer in our community, and pay taxes. Seems to me these folks would be a much more stable investment in our economy than relying on tourist dollars.

53-1

If we build it they will come! Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Annamaria S. Sauer".

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 53 – Annamaria S. Sauer

Response 53-1: The comment expresses support for the project. The comment is noted.

Letter 54



140 LITTON DRIVE
SUITE 240
GRASS VALLEY, CA 95945
TEL: 530.272.5841
FAX: 530.272.5880
GEN'L EMAIL: INFO@SCOPEINC.NET
TRUCKEE: 530.582.4043

March 13, 2012

Via email: Brian.Foss@co.nevada.ca.us

County of Nevada Planning Dept.
Attn: Brian Foss, Principal Planner
950 Maidu, Suite 170
Nevada City, CA 95959

Re: Rincon del Rio ~ Comments on DEIR Revisions

SCO Job No. 200803

Dear Brian:

Please find the following comments to the DEIR for the Rincon del Rio project:

1. General Comment.

Nevada County's existing General Plan and Zoning Ordinance do not contain any provisions that address land use designated CCRC. However, the County's Land Use and Development Code, ("LUDC") Section L-II 2.7.5, entitled "Planned Development Combining District (PD)" clearly addresses the suitability of an innovative project such as Rincon in a PD-zoned area. The Rincon property is zoned PD.

Further, when the General Plan was adopted, the concept of a CCRC in Nevada County had not been envisioned. Accordingly, there is an inconsistency in the more modern LUDC and the General Plan. It seems appropriate, therefore, that the General Plan be amended to be consistent with the LUDC, requiring land use designations of PD-CCRC. Recognizing the above, we would like the DEIR text 3.10.1 Existing General Plan Land Use Designation and Zoning amended to clarify that the proposed zoning text changes to add the definition CCRC with the accompanying design requirements for Clustering, Open Space, and Density Limits reflects the intent of the PD Combining District to promote and encourage innovation design concepts.

54-1

2. 2.0 Project Description, page 2.0-65.

We would like the EIR text to reflect that the three amendments proposed to the General Plan (GP) (i.e. General Plan Text Amendment, General Plan Land Use Diagram Amendment and

54-2

Letter 54 Continued

Zoning Text Amendment) reference the fact that these GP changes are directed by Nevada County's GP Housing Element ("HE"), Chapter 8, Program HD-8.1.6 which states:

"The County shall amend the zoning regulations to create a definition of development standards to allow Continuing Care Residential Communities or Life Care Residential Facilities in the PD and SDA designation where it can be determined that the PD/SDA has access to adequate infrastructure (public water and sewer) and adequate ingress and egress."

Even though the HE mandates these amendments by a date certain, the Rincon del Rio Project allows the County to implement these amendments in reality and within the timeframe specified in the HE. We believe that it is important the Project Description reflect the Housing Element Policy direction as it relates to these GP changes.

54-2
Cont.

3. 3.7 Geology and Soils:

The last paragraph on page 3.7-1 of the DEIR could lead the reader to assume that because of the rock outcrops, "significant excavation difficulty during construction" will occur and may require major aggressive grading techniques. To help clarify, we would like the Final EIR to incorporate the following text and proposed mitigation:

Excavation and embankment is expected to be completed in stages in accordance with the development plan. This includes excavation as required to remove and stockpile topsoil for reuse in landscaping, excavate to subgrade for all roadway and building areas and removal/replacement of existing colluvium/alluvium/uncompacted soils. Adjacent structures, utilities, pavements, tree retention areas and biologically sensitive areas will be protected during grading activity by use of setbacks for limits of grading and protective fencing. Erosion and sedimentation controls will be utilized during earth moving operations in accordance with State RWQCB requirements.

54-3

Moderately difficult ripping is expected based on the reported geotechnical investigations. Conventional earth moving equipment is expected to be utilized which could consist of a Cat D9 Dozer and/or 345 Cat Excavator. Specialized equipment methods such as rock coring and/or use of rock breaking tools may be required for removal of rock in some areas. This consists of drilling and placement of expansive grout to fracture the rock so that it can be removed with conventional equipment. Another common technique that will likely be utilized is the use of a Hydraulic Impact Hammer (Hoe Ram) excavator attachment to break the rock so that it can be removed. All excess material including oversize rock that cannot be placed onsite shall be off-hauled to a permitted disposal site. After breaking, the excavated slope can be configured to look like a part of the natural landscape, with the addition of boulders, topsoil and reseeding with native vegetation.

Blasting is not anticipated as being necessary for this project. If blasting is necessary for removal of rock in isolated areas, the Project Applicant will obtain written permission from

Letter 54 Continued

authorities having jurisdiction before bringing explosives to the Project site or using explosives on the Project site.

54-3
Cont.

4. 4.0 Cumulative Impact Summary. Section 4.4 cumulative impacts associated with GP and Zoning ordinance text amendments.

Section 4.4 is somewhat misleading. While Table 4.0-1 lists 28 properties within the PD or SDA Land Use Designation that could accommodate a CCRC, very few of those would meet the proposed development criteria to actually allow a CCRC to be located there. As noted in the DEIR project description, some of the development standards are as follows:

- Minimum lot size for a CCRC in the Community Region is 20 acres
- Minimum lot/parcel size for a CCRC in the Rural Region is 50 acres
- CCRC's must be able to be served by public water and sewer
- Each development shall have a minimum of 50% open space
- Minimum number of occupants is 100 and the maximum number of occupants is 400.

When these standards are applied to the various sites listed on Table 4.0-1, only a few would qualify for consideration. The following summary outlines the feasibility of the sites:

- **Eastern Nevada County** (Sites 1, 2, 19, 24 & 25).

In all of Eastern Nevada County, Site 25 (Raley Ranch) is the only site that would have the ability to accommodate a CCRC. This site meets the criteria for both water/sewer availability and parcel size. However, the site has limited access and significant resource constraints. Sites 1 and 24, also known as Soda Springs /Castle Peak properties, have limited sewer capacity. Upgrades to the Donner Summit PUD Sewer Treatment Plant are needed in order to accommodate such a use. Site 2 is owned by the Truckee Donner Airport District and is used for a buffer/open space for the Truckee Airport over-flight zone.

- **Grass Valley area** (Sites 4, 6, 10, 12, 21, 27 & 28).

In the Grass Valley area, only Sites 27 (Northstar property) & 28 (Loma Rica Ranch property) could effectively house a CCRC. However, these properties are in the City's Sphere of Influence and all development would have to be processed through the City of Grass Valley. In addition, these parcels have proposed development plans and are currently working through the City's development process.

- **Penn Valley area** (Sites 8, 9, 11, 14, 17, 20 & 26).

The only parcels within the Penn Valley area that are capable of accommodating a CCRC with the proposed development standards are Sites 11 & 20. Site 11 is known

54-4

Letter 54 Continued

as Lake Wildwood Campground and could accommodate a limited CCRC but has difficult terrain and limited sewer capacity. Site 20 is known as Lake Wildwood 6B & C and has an approved 300+ lot Tentative Map.

- **North County (Sites 3 & 23)**

These two sites consist primarily of the Milhous Ranch, North San Juan Town site and Ananda Village. Sewer is not available to these properties.

- **South County (Sites 5, 15, 16 & 18)**

The only two sites capable of accommodating a CCRC in South County would be 5 and 18. Sites 15 & 16 are a considerable distance from the LOP Sewer Treatment facility and extension of a sewer line would have considerable economic and R/W constraints and would conflict with the proposed CCRC Policy 1.xx. (*see pg. 2.0-14 of the DEIR*). Additionally, Site 15 has an approved Tentative Map known as Wolf Creek Estates. Site 18 may meet the minimum area criteria for a CCRC but would have limited density opportunity.

In summary, of the 28 parcels listed in Table 4.0-1 as potential sites for CCRC's, only Rincon del Rio (Site 5), Lake Wildwood Campground (Site 11) and Raley Ranch (Site 25) near Truckee are realistically capable of meeting the proposed development criteria for a CCRC.

We are requesting Section 4.4 to be amended to list the limiting criteria associated with each of the potential sites listed. As currently written, both the text and Figure 4.0.1 are misleading, suggesting that there are many sites in the County that could accommodate a CCRC. In reality, the strict standards outlined in the CCRC definition (*see pg. 2.0-14 of the DEIR*) would eliminate all but three of the sites listed in Table 4.0-1. Attached is an exhibit we believe clarifies the issue. We hope that the Final EIR will reflect the site constraints associated with these various sites.

As always, please feel free to contact our office with any questions or if you desire additional information.

Sincerely,
SCO PLANNING & ENGINEERING, INC.


Dale T. Creighton, A.I.C.P.
Principal

DTC/cr

Enclosures (*as stated above*)

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54-4
Cont.

Letter 54 Continued

Feasibility Assessment Summary of PD/SDA Site Listed in Table 4.0-1

Site	Common Name	Acreage	Constraints	Feasibility
1	Castle Peak	624.34	Limited Sewer Capacity	Significant resource property ear marked for resort development.
2	Truckee Airport Dist.	861.99	Lack of sewer. Flight zone protection for the airport.	Not feasible for CCRC.
3	Milhous Ranch	350.54	No sewer availability. Approved MP for rural lot subdivision.	Not feasible for CCRC.
4	Harmony Ridge	83.31	No sewer or water availability. Approved rural lot subdivision.	Not feasible for CCRC.
5	Rincon del Rio	218.53	Sewer and water Available	Suitable for CCRC.
6	Conway Ranch	274.64	Sewer only available through annexation to City of GV. Water available	Possible site for CCRC.
7	Eden Ranch	27.31	No sewer. Water available. Developed with subsidized housing. Subdivision.	Not feasible for CCRC.
8	Penn Valley Business Park	20.65	No sewer, limited water capacity.	Not suitable for CCRC.
9	Penn Valley Business Park	24.50	No sewer, limited water capacity.	Not suitable for CCRC
10	Gold Flat Property	42.99	Limited sewer only available through City of Nevada City.	Feasible only upon annexation to City of Nevada City.
11	Lake Wildwood RV Park	59.78	Sewer and water available through County Sanitation Dist.	Sloped terrain, but feasible for limited CCRC.
12	Kenny Ranch	369.90	No sewer availability.	Not feasible for CCRC without annexation to City of Grass Valley.
13	Alta Sierra Commercial	35.88	No sewer availability.	Not feasible for CCRC.
14	Penn Valley Commercial	5.92	Not large enough for CCRC. Minimal sewer available.	Not feasible for CCRC.
15	Wolf Estates	662.92	No sewer availability. Approved Residential Development.	Not feasible for CCRC without sewer availability.
16	Garden Bar Reserve	929.40	No sewer availability.	Not feasible for CCRC.
17	Penn Valley Hwy 20 Prop.	30.37	No sewer Availability.	Not feasible for CCRC.
18	Saddleback Ridge	24.08	Sewer availability.	Approved high density residential development. Feasible, could accommodate CCRC but has density constraints.
19	Hobart Mills	150.75	Lack of public water and sewer. Zoned Industrial.	Not feasible for CCRC.
20	Lake Wildwood 6B & 6C	285.93	Sewer and water available. Approved 300+ acre residential subdivision.	Could accommodate CCRC with change of use.
21	Deer Creek Park II	568.58	No sewer availability.	Could not accommodate CCRC.
22	Wolf Subdivision	38.52	Sewer not availability.	Not feasible for CCRC.
23	North San Juan Ananda	696.92	Sewer not available. Water limited.	Not feasible for CCRC.
24	Royal Gourage Ski	72.03	Limited sewer capacity, high elevation	Not feasible for CCRC.
25	Raley Ranch	3545.78	Western portion in Nevada County. Sewer and water available.	Could accommodate a CCRC.
26	New Town	7392.40	Sewer and water not available.	Not feasible for CCRC.
27	Northstar Property	762.49	Sewer available upon annexation to the City of Grass Valley.	Could accommodate CCRC.
28	Loma Rica Ranch	458.59	Sewer and water available. Approved residential development.	Not feasible for CCRC.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 54 – Dale T. Creighton, SCO Planning, Engineering & Surveying, Inc.

Response 54-1: The comment states that the General Plan amendment should designate the site “PD-CCRC” and include a definition for CCRC with accompanying design requirements that reflect the intent of the PD combining district in Section 3.10, Land Use, of the Draft EIR. Subsection 3.10.1 of the Draft EIR describes the existing setting. As noted on page 2.0-22 of the Draft EIR (Section 2.0, Project Description), the proposed project includes a zoning amendment to add Section L.II 2.7.11: Continuing Care Retirement Community Combining District (CCRC); therefore, this is not an existing zoning designation and would not be appropriate for discussion in Subsection 3.10.1.

The emphasis of clustering and preservation of open space is described in Section 2.0, Project Description, of the Draft EIR. As noted in the “Purpose” of the proposed combining district on page 2.0-22 of the Project Description, the Continuing Care Retirement Community Combining District (CRRC) shall be combined with a PD (Planned Development) District. The location and site planning characteristics of CCRCs shall be carefully considered pursuant to policy provisions contained within the General Plan and will emphasize clustering of development, preservation of open space, and minimizing adverse impacts to the character and lifestyles associated with neighborhoods near the project site.

Response 54-2: The comment requests that on page 2.0-65 of the Project Description, the Draft EIR reference the fact that the three proposed General Plan amendments are directed by the Nevada County General Plan Housing Element, Chapter 8, Program HD-8.1.6. Page 2.0-65 is a summary of requested entitlements and is not the appropriate location for requested clarification. However, in order to clarify that the proposed amendments are consistent with direction established in Program 8.1.6 of the Housing Element programs, the second to last paragraph on page 2.0-11 has been revised as follows:

“The project would require a General Plan Amendment to change the site’s land use designation from PD-EST, described above, to Planned Development-Continuing Care Retirement Community (PD-CCRC). Since the CCRC designation is not established in Nevada County, the Nevada County General Plan is proposed to be amended in order to establish a CCRC land use designation and to amend policies to allow CCRCs as an allowable use. The proposed project would also require a rezone of the site from RA-3-PD (Residential Agricultural, 3-acre, Planned Development) to PD-CCRC (Planned Development, Continuing Care Retirement Community). Similarly, as CCRC zoning has not been established in Nevada County, the project proposes to establish a CCRC definition and associated development standards. These proposed changes would allow for the development of a continuing care retirement community on the project site while allowing for flexibility in site design, including the clustering of uses to minimize adverse effects to the natural resources on the site. These changes would implement Program HD-8.1.6 of the Housing Element (2009–2014), which states, “The County shall amend the zoning regulation to create a definition of development standard to allow Continuing Care Residential Communities or Life Care Residential Facilities

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

in the PD and SDA designation where it can be determined that the PD/SDA has access to adequate infrastructure (public water and sewer) and adequate ingress and egress."

Response 54-3: The comment states the last paragraph on page 3.7-1 could lead readers to think that major aggressive grading techniques would be required to deal with rock outcrops.

In order to clarify the techniques to be used, text on page 3.11-20 (Section 3.11, Noise) has been revised as follows:

"Construction noise associated with future development would be limited to periods of construction and would vary depending on the nature of the construction activities being performed. Noise generated during construction is typically associated with the operation of off-road equipment, including excavation equipment, material handlers, and portable generators. Conventional earth-moving equipment is expected to be utilized. Specialized equipment methods, such as rock coring and/or use of rock-breaking tools, may be required for removal of rock in some areas. This would consist of drilling and placing expansive grout into fractures in the rock or use of a hydraulic impact hammer excavator attachment to break the rock so it can be removed with conventional equipment. If blasting is necessary for removal of rock in isolated areas, prior to bringing or using explosives on the project site, the construction contractor would be required to comply with any regulations related to the use of explosives."

Response 54-4: The comment notes that Table 4.0-1 lists 28 properties within the PD or SDA land use designation that could accommodate a CCRC; however, development standards would actually limit ability to develop some of those sites. The comment concludes that some of the sites could not be developed because there are currently limitations, such as existing availability of public services. However, with the extension of services or upgrades to the wastewater treatment plant, additional areas identified in the Draft EIR could be developed with a CCRC. However, the intent of the discussion in the Draft EIR was to disclose which sites had PD or SDA zoning, not to provide a final list of all potential CCRC sites in the county. To the extent that some of those sites could not actually accommodate a CCRC per the criteria for developing a continuing care retirement community, potential cumulative impacts would be less than disclosed in the Draft EIR.

Letter 55

Benton L. Seeley
25326 Rodeo Flat Rd
Auburn Ca 95602

March 8, 2012

Mr. Brian Foss
Nevada County Planning Department
County of Nevada
950 Maidu Avenue
Nevada City, CA 95959

Re: Rincon Del Rio Project (Young Enterprises, Developer)

Dear Mr. Foss:

The following comments are submitted on behalf of the Nevada County Rural Rights Coalition, NCRRC, of which I am a core member. Although the hearing currently scheduled for March 8th involves the EIR and not the Project per se it is not possible to make meaningful comments on the EIR without discussing certain major planning issues raised by the Project. We note that at least as of February 17th, the County's official calendar as displayed on its web site shows that no hearings on the project are currently scheduled or planned, thus potentially misleading persons into thinking they have an open-ended time period in which to file comments (see "Project Calendar"—"There are currently no upcoming events"—last entry May 3, 2012).

55-1

Planning: This Project will be a massive intrusion of housing units and commercial business in an almost totally undeveloped area designated as rural agricultural on the General Plan and Zoning plans of the County. Yet the EIR finds that there will be no significant impact on the environment arising from either the zoning changes or General Plan amendments needed to accommodate the Project. It does so because it finds that the changes themselves will make the Project consistent with the County General Plan and Zoning requirements (impacts 3.2.2 and 3.10.2)

55-2

CEQA does not sanction these types of findings or the methodology to arrive at the conclusion that no mitigation is required. CEQA requires that you analyze the Project in light of the current development already on the Project site or its surrounding sites, and not, as is done here, allow an analysis that starts with what the current zoning or General Plan would allow, or whether the project would have no environmental impacts once the approvals sought for the project are granted.

Population impacts: The EIR only looks at the impacts based on the increase over what could exist on the project site (72 units if the total zoning allowance was granted) (impact 3.12.1). CEQA requires that you analyze the population increases based on the change in use from the present use of the Project site (one 14,000 sq. ft. single family home) and not what might have been permitted if 72 units had been the scope of the project.

55-3

Air Quality: The EIR admits that air quality impacts in terms of both CO2 and PM10 particulate matter will not be met and that the Project is located in federal and state non-attainment areas where those pollutants are concerned. It is impossible to make a rationale "overriding" finding that placing seniors (an estimated 415+ of them), who already in many if not most cases will have impaired breathing due to the physical degeneration accompanying old age, is a smart idea, let alone one that rational county planning would sanction.

55-4

Page 1 of 3

Letter 55 Continued

Emergency Exit Waivers: The applicant for the Project has applied to the County to waive the road with and slope minimum requirements in order to connect emergency exits from the Project to the existing Rodeo Flat Road.

There is simply no justification for this and Rodeo Flat is not a road over which the County has any control according to the Attorney General and the County's own Counsel (Opinion of County Counsel June 8, 1984; Opinion No. 83-1106, April 10, 1984, California Attorney General, 67-145).

55-5

Therefore, not only are the emergency exit requirements ones that should not be waived they are also promulgated on the use of a road that can't be used by a private developer for any purposes that the Community Services District which maintains the roads does not concur with.

Sewer Line: The Project proposes a sewer line to run the length of Rodeo Flat Road. As already noted that is a road over which the County and hence the developer has no jurisdiction. The EIR has no description whatsoever of any environmental impacts from putting the sewer into Rodeo Flat Road even though that sewer line is clearly part of the project. Similarly, there is no description of any impacts from using Rodeo Flat Road as an emergency exit from the Project.

55-6

Commercial Impacts: Several commercial uses are proposed to be built as part of the project including grocery and sundry store, beauty shop/hair salon, barber shop, post office, retail gift shop, etc. There is no analysis in the EIR if these uses will further weaken the existing commercial uses in the Higgins's Corner area and the Combie Center, resulting in still more vacant retail space in the area. This could be particularly important if these commercial uses are open to the general public.

55-7

Impact on Residential Land Values: There is no economic analysis of the effect of this project on property values adjacent to the project or in the Ranchos along the proposed rights of way for emergency exits and sewers. There are already a number of foreclosed and vacant properties in the area and if prices of existing houses are driven further down by the development of the Project, further vacant and unkempt properties may result from the project causing blight.

55-8

Project Alternatives: The EIR rejects all project alternatives because essentially they are not what the developer wants even though several are less environmentally damaging than others. What the EIR does not do is to examine alternatives to the sewer line and emergency exit use of Rodeo Flat Road, by studying on a topographic and geologic basis the use of other road alignment alternatives, through properties not owned by the developer. For example, sewer lines could be placed in the Highway 49 right of way and run up Rincon Road. An emergency exit can connect up to other roads that exist in the area or that are planned for the area, such as the new-improved Higgins Road.

55-9

Waiver of Fire Safety Road Standards: The project proponent is asking for a waiver of fire safety emergency exit road standards. The slopes of both Rincon and Rodeo Flat Road exceed in part the maximum slopes for emergency vehicle traffic, and Rodeo Flat nowhere meets the minimum County width or road construction materials requirements. Rodeo Flat has never been inspected by the County or improved by the County nor is it part of the accepted County Road system.

55-10

Further, the proposed access gate from Rincon to Rodeo Flat is supposed to be unlocked at all times. It is not clear if the locked requirement is one that is sought to be waived along with the slope and width requirements. If the gate is to remain unlocked, or if there are to be paths around the gate accessible by motorized bicycles, there will be additional traffic on Rodeo Flat even if it is subject to a locked gate.

55-11

Letter 55 Continued

In any event there is no analysis in the EIR of the effects (safety) from additional traffic on Rodeo Flat. Further, there is no analysis in the EIR to support the required waiver findings of the Land Use Code (Sec. L-XVI 2.6) that the proposed waiver will result in safety impacts that are not adversely greater than if the County's regular standards were being met. This waiver if granted would in fact serve only to grant a special favor to a developer to the detriment of other private property owners' safety, traffic and aesthetic concerns.

55-12

Aesthetics: The "aesthetics" analysis of the EIR concludes there will be no adverse aesthetic impacts from the project because it is not visible from Highway 49. However, it does not analyze in any meaningful way, the aesthetic impacts on properties that are visible to and from the Project, or the impact of the construction related traffic on the aesthetics of the homes and ranches in the area, and the EIR simply concludes without any factual foundation that the aesthetic impacts on these properties are minimal.

55-13

General Plan Conformity: It has already been noted that the EIR finds that the Project conforms to the General Plan because the General Plan amendments the project is requesting, if granted, will ipso facto make it conform. We have already pointed out that CEQA does not allow this determination to be validly made because the EIR must compare future uses to current uses---not future uses to uses the developer proposes.

Further, the EIR fails to address the following objectives for the County's land use determinations as set out in the Goals, Objectives and Policies section of the 1995 General Plan: "Promote and encourage growth in Community Regions while limiting growth in Rural Regions" (Goal 1.1); the Project site is currently designated as a rural region; there is no compliance with the affordable housing exclusionary set-aside as required by Housing Policy 8.4, since there is merely a statement that such housing will be provided, but no demonstration that it financially will be provided---no rent or sales prices are given; there does not appear to have been a 5 year review of the General Plan within the last 5 years as required by Land Use Policy 1.35; the Safety Directive Policy that uses outside Community Regions having high hazard status where fires are concerned, low density land uses are required, and the present Project site is entirely within high fire threat zones (Safety Policy 10.6); in a county with no public parks at all the Project does not provide any public park (recreational) space nor does the County provide for the formation of a local park district to comply with Recreation Policy 5.3.

55-14

Finally, the County's planning by way of simply amending the General Plan to conform to a project, rather than doing thoughtful general planning first and then having a project conform to that planning effort, becomes simply "political" planning. Those with the money to hire consultants to promote their agendas and get the attention of the revenue hungry decision makers, get anything approved even when that process results in one unjustified amendment after another of the County's major planning document. As noted by The Sierra Business Council, an organization composed almost entirely of businesses operating in the Sierra Nevada:

"..piecemeal amendments of the general plan should be avoided whenever possible", and "The frequency of general plan amendments has created the impression in many counties that new entitlements can simply be obtained through political maneuvering. This impression has eroded public confidence in planning" (Sierra Business Council, "Planning for Prosperity", 1997, at pages 47 and 69 respectively).

We respectfully submit these critiques of the planning process and draft EIR for the Rincon del Rio Project and request that the County not proceed further with the Project until such time as it has before it a project for this site that conforms to the existing Nevada County General Plan, and to CEQA.

Sincerely,
Benton L. Seeley

Page 3 of 3

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3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 55 – Benton L. Seeley, Nevada County Rural Rights Coalition

- Response 55-1:** The comment states the County's official calendar on the website shows no hearings on the project are currently scheduled. As noted on page 1.0-5, public notification of the proposed project has occurred in accordance with Sections 15082, 15083, and 15085 of the CEQA Guidelines.
- Response 55-2:** The comment states that CEQA does not sanction the types of findings or the methodology to arrive at the conclusion that no mitigation is required for Impacts 3.2.2 and 3.10.2. See Master Response 3.
- Response 55-3:** The comment states that the analysis for Impact 3.12.1 only looks at the impacts based on the increase over what could exist on the project site and does not address the change from present use. See Response 15-11.
- Response 55-4:** The comment states it is impossible to make a rational "overriding" finding for persons with impaired breathing in an area that is in nonattainment for CO₂ and PM₁₀. There is no "attainment standard" for carbon dioxide (CO₂). As noted on page 3.3-3 (Section 3.3, Air Quality), the region is nonattainment for federal ozone standards and nonattainment for state ozone and PM₁₀ standards. Only under cumulative conditions (see Impact 3.3.8) would the long-term operation of the proposed project, in combination with existing, approved, proposed, and reasonably foreseeable development in the Mountain Counties Air Basin contribute to cumulative increases in emissions of ozone-precursor pollutants (ROG and NO_x) and PM₁₀ that could contribute to future concentrations of ozone and PM₁₀, for which the region is currently designated nonattainment. The County does not restrict land uses due to the current nonattainment status, as this would limit any population increases because sensitive populations, such as children or elderly persons, could occupy any residential use. Instead, the County encourages incorporation of measures to reduce emissions and reduce contributions of these pollutants.
- Response 55-5:** The comment states the County has no jurisdiction over Rodeo Flat Road. This comment is noted and is forwarded to the decision-makers for their consideration. See Response 3-21.
- Response 55-6:** The comment states the County has no jurisdiction over Rodeo Flat Road to install a sewer line. As disclosed in Response D-1, there is a public utility easement on Rodeo Flat Road that would be utilized. See also Response 3-21 regarding the Road Maintenance Agreement that would be required for the project.
- Response 55-7:** The comment states there is no analysis of the proposed commercial uses' effect on existing commercial businesses. See Response 15-14.
- Response 55-8:** The comment states there is no economic analysis of the effect of the project on the nearby properties. The comment provides no evidence to suggest the project would lower nearby land values. See Response 3-32 regarding economic issues.
- Response 55-9:** The comment states the project rejects all alternatives. The commenter is referred to Response 15-16.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- Response 55-10:** The comment states concern with the waivers of fire safety emergency exit road standards and that Rodeo Flat Road does not meet minimum County requirements. Adequacy of emergency access is discussed on pages 3.14-21 through -22 of the Draft EIR. See also Master Response 2.
- Response 55-11:** The comment states it is unclear whether the gate at Rodeo Flat Road is to be locked or not. As noted on page 3.14-22 of the Draft EIR, the connection would be gated but not locked. This access gated is intended for emergency access and is not expected to be used as a through road.
- Response 55-12:** The comment states there is no analysis of the effects of additional traffic on Rodeo Flat Road and no analysis to support that the proposed waiver findings of Land Use Code Section L-XVI 2.6 will result in safety impacts that are not adversely greater than if the County's regular standards were met. The commenter is referred to Response 55-10. As noted on page 3.14-22 of the Draft EIR, the Fire Captain/Deputy Fire Marshall and Fire Marshall does not oppose the proposed emergency vehicle access/requested exception because the roadway grade is an existing condition, the length of roadway exceeding the standard is limited, and the project design includes a number of fire safe features, including site design, the use of sprinklers and alarms, on-site water storage, and hydrants. There would be no additional traffic generated on Rodeo Flat Road except during an emergency.
- Response 55-13:** The comment states concerns that the aesthetic impacts to adjacent private property were not analyzed in any meaningful way. Typically, aesthetic impacts are analyzed for public viewing areas (i.e., roadways), and private views are not afforded the same protection as public views. Impact 3.1.2 starting on page 3.1-14 of Draft EIR Section 3.1, Aesthetics, evaluates the change in the visual character of the site and its surroundings. The portions of the project that will be visible to surrounding residences are disclosed on page 3.1-15 of the Draft EIR. This discussion further describes how the site layout, design guidelines, and landscaping will minimize visual impacts.
- Response 55-14:** The comment states that the EIR fails to address the following General Plan goals, objectives, and policies: Goal 1.1, Housing Policy 8.4, Land Use Policy 1.35, Safety Policy 10.6, and Recreation Policy 5.3. Consistency analysis with General Plan policies is provided in Appendix 3.0 of the Draft EIR. Consistency with applicable housing policies is provided on page A3-20; consistency with applicable land use policies is provided on pages A3-16 through -20; consistency with applicable safety policies is provided on pages A3-12 through -13 and A3-21 through -23; and consistency with applicable recreation policies is provided on page A3-28.

Letter 56

Brian Foss

From: pat seeley [pjb1seeley@yahoo.com]
Sent: Monday, March 05, 2012 10:14 AM
To: Brian Foss
Subject: Rincondelrio

Patrica Seeley
25326 Rodeo Flat Rd
Auburn Ca, 95602

Response to Rincon Del Rio Draft EIR.

To the Planning Dept.

Please add this correspondence and any attachments as part of the public record and the administrative record related to the Rincon Del Rio project. This correspondence addresses serious issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

I would like address the Sewer Pump Station #1 North that will be located 120 feet from our Residence.

On Page 22 under Sewer lift stations.

The DEIR says

"The proposed project includes the construction of two onsite sewer lift stations, including one station located along the emergency access road, approximately 120 feet south of the project site's northern property line;"

Sewer Lift pump station # 1 north is the lift station located 120 ft. from our Home.

Continuing on,

The DEIR says,

"The booster pump would be located below grade within an underground vault. The remaining equipment would be located above ground and housed within an enclosed structure. Based on data obtained from similar pump stations, operational noise levels associated with pump station equipment can reach combined levels of up to approximately 78 dBA Leg at 50 feet from the structure, depending on the equipment installed and structural design. Detailed equipment specifications have not yet been identified for the proposed pump stations."

I contend,

To Mitigate the Potential Significant Impact of excessive noise levels to County Standards, the County should require RDR to list equipment to be used at sewer pump station #1 and test levels to meet county standards. County should test current noise levels at proposed sewer lift station, and because of rural setting should restrict noise levels to those of current rural surrounding noise levels.

The DEIR says,

Under Sewer lift Stations, "As indicated in TABLE 11 and TABLE 12 and depending on the hour of day, predicted operational noise levels at the nearest onsite and

56-1

Letter 56 Continued

offsite receptors for both of the proposed pump stations would exceed the County's applicable average-hourly and maximum intermittent noise standards."

I contend,

To Mitigate the exceeded County Noise Standards, the County should require RDR to move the Sewer Pump Station number 1 a minimum of 300 ft. from current location and retest for noise levels. If current noise levels exceed county standards at new location, relocate site farther away until County standard on noise can be satisfied.

Table 11 and Table 12 on page 25 and 26 says in Bold, Noise levels would exceed County noise standards Day, Evening and Night.

The DEIR says,

Continuing on, " Actual noise levels would vary depending on final building design, construction material and techniques, and the equipment installed. Noise generated by the proposed onsite pump station would be considered POTENTIALLY SIGNIFICANT.

Nevada County's

Policy 9.7 Appendix 3.0-A General Plan Consistency Tables page 3.0.A-19

in the DEIR states,

Policy 9.7 Strongly discourage those General Plan amendments and zone changes that would likely create land use conflicts relative to noise.

The DEIR is Flawed in its Analysis. It says "Projected future noise levels within the project area would NOT exceed County noise standards for land use compatibility with County noise Standards."

Table 11 and Table 12 on pages 25 and 26 suggest noise levels would exceed County noise Standards Day, Evening and Night, and predicted noise levels that exceed corresponding noise thresholds.

The Analysis to Policy 9.7 continues to say, "Mitigation measures have been incorporated, where necessary, to require compliance with County noise standards and long-term operation of the proposed project would be subject to County noise standards."

The Sewer Pump Station # 1 by County Noise Standards can not be put on the proposed location the Developer is requesting due to exceeded noise standards. The DEIR Did not come out and say that and should. It should be changed for the final EIR that the Noise levels of the Sewer Pump Station number 1 next to the rural residence on Rodeo Flat does not meet County Standards and can not be put in current location.

The DEIR is incomplete in it studies on the noise levels of Pump station #1. The Mitigation Measure on page 27 is inconsistent with Table 11 and Table 12. The Sewer Lift Stations will exceed County Noise Standards. Our Rural quality of life will no longer exist. We will here noise generated 24/7 from Sewer Pump Station #1.

To Mitigate the Sewer pump stations, the Sewer line should be run down Hwy 49 to proposed site. A pump station could be put at the corner of Combie and Hwy 49 intersection, where noise would not be a factor. An alternate route should be discussed for sewer. Routing Sewer up a very steep hill, tearing up privately maintained roads and having two pumping stations that exceed County Noise Standards should not be considered for RDR.

The current Land Use for the adjacent property is 3 acres. The proposed Urban Development Rincon Del Rio will Exceed County noise standards. The Noise inflicted on our rural location by rezoning the adjacent property to Urban would not be consistent with the General Plan.

Thank-you

Patricia Seeley

56-1
Cont.

56-2

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 56 – Patricia Seeley

Response 56-1: The comment expresses concern with sewer pump station #1 noise impacts and references General Plan Policy 9.2 that General Plan amendments and zone changes with lands use conflicts related to noise should be discouraged. Noise associated with sewer pump stations is discussed in Draft EIR Section 3.1, Noise, pages 3.11-23 through -24. Implementation of mitigation measure MM 3.11.3 (page 3.11-29 of the Draft EIR) requires that the sewer pump stations be designed so that operation noise levels at nearby noise-sensitive receptors would not exceed applicable Nevada County noise standards. Design measures may include, but are not limited to, selection of low-noise-generating equipment, incorporation of equipment shielding and enclosures, and use of sound-rated doors and vents. With these measures, noise associated with the sewer pump station would be reduced to a level that does not exceed County standards, which was determined to be less than significant. Therefore, the project would not be inconsistent with Policy 9.7.

Response 56-2: The comment states that the sewer line should run down SR 49 to the project site and a pump station installed at the corner of Combie and SR 49. The location of the sewer lines and pump station(s) is part of the project and was evaluated as part of the project. Mitigation provided on page 3.11-29 would ensure that the noise standards are not exceeded in the proposed location.