

EXHIBIT A



COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

ADMINISTRATION

December 12, 2011

Thomas S. Archer
Law Offices of Thomas S. Archer
12010 Donner Pass Road, Suite 102
Truckee, CA 96161-4968

SUBJECT: Use of Public Roadways – The Retreat at Northstar Subdivision

Dear Mr. Archer:

The County has received your letter, dated November 1, 2011, regarding your client's concern that the County is not enforcing certain responsibilities related to the use of public roadways in the vicinity of the Retreat at Northstar residential subdivision. It is your contention that Martis Camp property owners, staff and personnel, as well as staff and personnel from Northstar, are using Mill Site Road beyond the "approved scope allowed by the restricted purpose easement described on both the Plat of Martis Camp (formerly known as Siller Ranch) and the Tract for the Retreat at Northstar." The purpose of this letter is to respond to the issues raised in your letter.

It is my understanding that staff from the Engineering and Surveying Department has met with your client on several occasions to discuss your client's concerns regarding the use of roadways (Schaffer's Mill Road, Mill Site Road) that connect the Martis Camp project with the Northstar-at-Tahoe property. As noted in your letter, there appears to be ongoing confusion regarding the public status of the roadways within the Retreat at Northstar subdivision and the private status of roadways within the Martis Camp subdivision. To address this confusion, this letter will articulate the rights and privileges associated with the public use of Mill Site Road, as well as the rights, privileges and restrictions associated with the private roadways within the Martis Camp development.

As has been discussed with your clients, and as you acknowledge in your letter, the owner/developer of the Retreat at Northstar subdivision – Trimont Land Company – offered certain easements for dedication, which were accepted by the Placer County Board of Supervisors on behalf of the public. The Retreat at Northstar subdivision was created by a Final Map recorded on May 16, 2006. Conditions 37A and 37C of the Tentative Subdivision Map for the project required the dedication of a 40-foot-wide highway easement to Placer County on Mill Site Road and Cross-Cut Court, respectively. Those Conditions of Approval were satisfied by the Owner's Statement and the Board of Supervisor's Statement found on the Final Map. Upon the acceptance of the project as complete on December 8, 2008, the Board accepted

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Mill Site Road and Cross-Cut Court into the County's *Maintained Mileage System*. For the County's purposes, that acceptance in the *Maintained Mileage System* creates a road that is open to the general public for the use of legally registered vehicles, pedestrian and other non-motorized transportation.

The capacity from a Level of Service standpoint (the County's standard Level of Service is LOS C) for a two-lane roadway in mountainous terrain would be approximately 3,400 vehicles per day per lane (for a two-way total of 6,800 daily trips). Accordingly, the design of Mill Site Road is capable of handling approximately 6,800 vehicles per day without violating any County Level of Service issues.

In contrast to the public roadways included with The Retreat at Northstar subdivision, the Martis Camp development was approved with a private roadway system – there are currently no County-maintained roadways within the Martis Camp development (including the entire length of Schaffer Mill Road from its intersection with State Route 267). While you are correct in stating that the plans approved for the Martis Camp project reserved for the County ingress and egress rights over Schaffer Mill Road for emergency access and transit service, the County is not aware of any restrictions that prohibits the residents of Martis Camp from utilizing the public roadways (i.e., Mill Site Road) that abut the Martis Camp development.

As you correctly note in your letter, Mill Site Road was constructed with two 11-foot-wide travel lanes and four feet of shoulder for a total of 26 feet of overall pavement width. However, your statement that, "The allowable use is for less than 50 units on a cul-de-sac or 75 units on a through-road" is incorrect. The County utilizes 11-foot-wide travel lanes in many areas throughout the County, and this lane width is considered to be an acceptable standard for both Minor Residential roadways as well as Local Collector roadways. For example, Eureka Road in the Granite Bay area of the County – which has residences and a public school fronting directly onto the roadway – is constructed with two 11-foot-wide travel lanes and carries an Average Daily Traffic volume of approximately 3,550 daily trips.

Regarding the Zone of Benefit that was created to address drainage, maintenance, snow removal, repair and replacement of Mill Site Road and Cross-Cut Court, you are correct in stating that the original property owner (Trimont Land Company) desired to maintain a higher level of service than provided by Placer County, and the County Service Area Zone of Benefit was self-imposed on the Retreat at Northstar subdivision to provide this higher level of service. Unfortunately, your statement that the "Zone of Benefit does not contemplate either public transit nor unrestricted access by the public or owners of property within the neighboring communities over Mill Site Road" is incorrect. As Zones of Benefit are only created for public roadways, any members of the public are entitled to use roadways included within Zones of Benefit – the County cannot prohibit the public from utilizing a public roadway. As a result, while your clients are able to enjoy a higher level of service over the identified public roadways, so too are other members of the public.

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On Page 4 of your letter you state, "Martis Camp did not secure a(n) easement or other mechanism allowing for local public transit across the Unsurveyed Remainder." In light of the Conditions of Approval referenced above and the actual development of Mill Site Road to the property line in accordance with those conditions, the County interprets Sheet 3 and Detail C of the Final Map for the Retreat at Northstar, including labeling in that Detail, as establishing Mill Site Road across the Unsurveyed Remainder. While this small triangle of public roadway may not be included within the Zone of Benefit for the subdivision, the small triangle of public roadway is still in fact a public roadway, and the public has rights to use this section of public roadway.

Your letter contends that the County is sitting idly while "Martis Camp improperly attempts to change a(n) Emergency Vehicle Access into a thoroughfare for the owners of lots within its subdivision to drive to and from Northstar for which there has been no CEQA study, compliance nor approval." For the record, while Martis Camp was required to provide Emergency Vehicle Access through its connection with Mill Site Road (which it has in fact provided), I can find nothing in the record that prohibits Martis Camp residents from utilizing the public roadways (i.e., Mill Site Road) that abut the Martis Camp development.

You do not give any specifics as to how the CEQA analysis prepared for both the Retreat at Northstar and Martis Camp projects are not adequate to address traffic generation associated with the respective projects. Further, the time for challenging those projects has long since passed. The usage of public roadways of which your letter complains arises not from a County action, or the County's approval of an action requiring a permit, but rather from the access rights pertaining to land abutting private roadways. Thus, there is no "current" project for purposes of CEQA analysis.

As noted above, Mill Site Road was designed with a 40-foot-wide roadway right-of-way, and Mill Site Road was constructed with two 11-foot-wide travel lanes and four feet of shoulder width. This roadway section is capable of accommodating Average Daily Traffic capacity of 6,800 vehicle trips. There is no indication that the roadway is experiencing anywhere near this level of traffic. The design width for Mill Site Road was predicated upon the intended volume of traffic as identified in the environmental analysis for the project, and the daily use of Mill Site Road is not exceeding the capacity of the roadway.

Based upon my analysis of both the Retreat at Northstar and Martis Camp projects, I cannot agree with your conclusion that the Martis Camp subdivision is not in conformance with its Conditions of Approval. Further, my review has concluded the County did in fact follow and comply with the requirements of the California Environmental Quality Act and the County's Environmental Review Ordinance as well as the Subdivision Map Act and the County's Subdivision Ordinance in its processing and approval of the Tentative and Final Maps for both the Martis Camp and The Retreat at Northstar projects.

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During some of the previous meetings with your clients, it is my understanding that County staff discussed options available to your clients, including the possible abandonment of the County's interest in Mill Site Road and Cross-Cut Court. As I am sure you are aware, the requirements to allow the County to abandon its interest in those roadways are quite onerous. Should you client choose to pursue an abandonment of the public rights-of-way, it would be my suggestion that further discussion with County staff be held to discuss the viability of such a request prior to investing time and resources into such an endeavor.

I hope that this letter has responded to your client's concerns regarding the public use of Mill Site Road. Should you have any questions regarding the information set forth in this letter, please call me directly at 530-745-3099.

Sincerely,



MICHAEL J. JOHNSON, AICP
Agency Director

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EXHIBIT B

THE RETREAT AT NORTHSTAR VESTING TENTATIVE MAP

THE RETREAT AT NORTHSTAR
VESTING
TENTATIVE MAP
APN: 10-090-082

SORTHEART AT FAHOCE
PLACER COUNTY

DAY'S GROUP

1. THE MAP IS BEING SUBMITTED AS A "TENTATIVE" MAP TO THE PLACER COUNTY BOARD OF SUPERVISORS FOR REVIEW AND COMMENT. THE BOARD OF SUPERVISORS MAY APPROVE, REJECT, OR REQUEST CHANGES TO THE MAP. THE BOARD'S ACTION IS SUBJECT TO THE PLACER COUNTY ZONING ORDINANCES AND THE PLACER COUNTY LAND USE ACT.	2. THE BOARD OF SUPERVISORS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED ON THIS MAP. THE APPLICANT SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED ON THIS MAP.	3. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED. ANY NECESSARY RELOCATION OF UTILITIES SHALL BE THE RESPONSIBILITY OF THE APPLICANT.	4. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	5. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	6. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	7. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	8. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	9. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.	10. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE PLACER COUNTY BOARD OF SUPERVISORS AND THE PLACER COUNTY PUBLIC WORKS DEPARTMENT.
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NO.	DESCRIPTION	DATE
1	PRELIMINARY	10/15/08
2	REVISED	11/10/08
3	REVISED	12/15/08
4	REVISED	01/20/09
5	REVISED	02/25/09
6	REVISED	03/30/09
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98	REVISED	11/30/16
99	REVISED	12/15/16
100	REVISED	01/20/17

PROJECT INFORMATION

PROJECT NAME: THE RETREAT AT NORTHSTAR

PROJECT ADDRESS: 10000 NORTHSTAR BLVD, NORTHSTAR, CA 95659

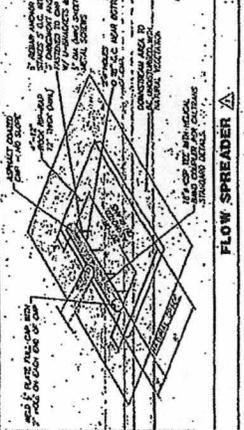
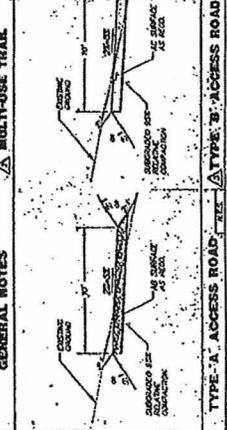
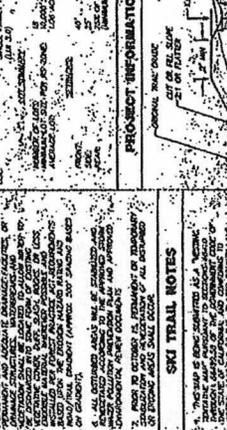
PROJECT OWNER: DAY'S GROUP

PROJECT ARCHITECT: [Firm Name]

PROJECT ENGINEER: [Firm Name]

PROJECT DATE: 10/15/08

PROJECT STATUS: TENTATIVE MAP



GENERAL NOTES

- The map is being submitted as a "TENTATIVE" MAP to the Placer County Board of Supervisors for review and comment. The Board of Supervisors may approve, reject, or request changes to the map. The Board's action is subject to the Placer County Zoning Ordinance and the Placer County Land Use Act.
- The Board of Supervisors shall not be responsible for the accuracy of the information provided on this map. The applicant shall be responsible for the accuracy of the information provided on this map.
- All existing utilities shall be maintained and protected. Any necessary relocation of utilities shall be the responsibility of the applicant.
- The applicant shall be responsible for obtaining all necessary permits from the Placer County Board of Supervisors and the Placer County Public Works Department.
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EXHIBIT C



**CONDITIONS OF APPROVAL - VESTING TENTATIVE MAP
"THE RETREAT AT NORTHSTAR " (PSUBT20040814)**

THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.

1. This Vesting Tentative Map authorizes the development of 18 building sites with two common area open space lots, called "The Retreat at Northstar".
Also approved is the development of one ski trail to access the subdivision and water lines to serve the development.

2. The following Sample Condition #'s: ip3, ip7, ip12(mm), ip15(mm), ip20, ip21, ip23(mm), ip24, ip25, ip26, ip27, ip29, ip30; g7(mm); rt12, rt13; ps5; mc7, mc9, mc10, and ep1, apply to this project as printed in Volume 7, Number 1, dated July 2004 as listed in this conditions A) thru U) below:
 - A)ip3 Staging Areas: Stockpiling and/or vehicle staging areas shall be identified on the Improvement Plans and located as far as practical from existing dwellings and protected resources in the area. (MM) (DPW)
 - B)ip7 The connection of each existing residence within this project to public sanitary sewers is required, shall be shown on the Improvement Plans, and shall be included in the engineer's estimate of costs for subdivision improvements. Note: Hook-up fees are not to be included in the Engineer's Estimate. (EHS/DPW)
 - C)ip12 Storm water run-off shall be reduced to pre-project conditions through the installation of retention/detention facilities. Retention/detention facilities shall be designed in accordance with the requirements of the Placer County Storm Water Management Manual that are in effect at the time of submittal, and to the satisfaction of DPW. The DPW may, after review of the project drainage report, delete this requirement if it is determined that drainage conditions do not warrant installation of this type of facility. In the event on-site detention requirements are waived, this project may be subject to payment of any in-lieu fees prescribed by County Ordinance. No retention/detention facility construction shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals. (MM) (DPW)

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widen Big Springs Drive from 24' to the Rural Secondary (Plate 3 LDM) standard (32' wide). The improvements to Big Springs Drive for the Plate 3-road section shall be shown on the improvement plans. (DPW)

24. Lots where subdivision roadway cuts/fills exceed four feet in vertical height (as measured from finished road grade at the point of access) or driveway grades would exceed 12 percent at any reasonable access location specific development standards for the lots shall be established for inclusion in the development notebook and with appropriate CC&R restrictions and notification to the satisfaction of the DRC. Said driveways shall have a paved width of not less than 10 feet, a minimum structural section of 2 inches AC/4 inches AB, and shall extend from the roadway edge not less than 50 feet into the lot, or as deemed appropriate by the DPW. These driveways shall be constructed such that the slope between the street and building site does not exceed 16 percent, or as otherwise approved by the servicing fire district and the DPW. (DPW)
25. Proposed road names shall be submitted to the DPW Addressing Division (530-889-7530) for review and shall be approved by the DPW prior to Improvement Plan approval. (DPW)
26. Mill Site Road shall be constructed at a minimum to the west property line for a future emergency access / transit access road connection.
27. Prior to final map approval, the project applicant shall pay its fair share (0.6 percent as identified in Mitigation Measure MM 4.4.7) to the construction of a traffic signal at the SR 267/Northstar Drive intersection. Should Caltrans not approve the signalization, the applicant shall provide p.m. peak hour traffic control for the duration of the construction activities. If a signal is not provided prior to commencement of construction, traffic control shall be provided between 3:30 p.m. and 6:30 p.m. Monday through Friday and from 3:30 p.m. to 5:30 p.m. on Saturday. In addition, construction traffic shall be prohibited during peak winter skier traffic periods. Specifically, construction traffic shall not be allowed to occur from 7:00 a.m. to 9:30 a.m. and 3:30 p.m. to 6:00 p.m. on peak holiday weekends and any peak skier days that occur from Christmas through President's Day weekend. (DPW)
28. Prior to final Map approval, the project applicant shall pay 0.6 percent of the improvements identified in the Comprehensive Traffic Monitoring and Reporting Program. (DPW)
29. Prior to final map approval, the project applicant shall pay its fair share (0.6 percent) of providing an eastbound left-turn lane and northbound through lane at the SR

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C) Equipment shall not be in operation if conditions are not appropriate (i.e., pre-heated fuels, low fuel moisture content, and up-canyon winds in the afternoon, which increase the likelihood of fire).

D) A fuel modification program consisting of a "shaded" fuel break of a size required by the California Department of Forestry and Fire Protection shall be required along the rear lot lines of lots located along the exterior boundary of the subdivision and shall include the removal of all "non-live" vegetation up to six feet off the ground and the taking down of all understory grasses. The shaded fuel break shall be implemented up to the applicant's property line unless otherwise directed and permitted by law. A fuelbreak easement shall be deeded to the Northstar Property Owner's Association or others. The fuelbreak shall be maintained by the Northstar Property Owner's Association or others.

E) Structures shall meet all applicable requirements of the California State Fire Marshall Title 19, California Code of Regulations Title 24 and 25, 1997 Uniform Fire Code, and Placer County Building Code.

F) Class A fire retardant roofing materials shall be installed.

G) Structures shall be provided with an approved monitored smoke detection system.

H) Adequate fire flow shall be provided within the project as required by the Northstar Fire Department.

A minimum of 1,500 gallons per minute for two hours and a minimum 20-pound per square inch residual fire flow will be required.

GENERAL DEDICATIONS/ EASEMENTS

37. Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the DPW and DRC: (DPW)

A) Dedicate to Placer County a 40'-wide (minimum) highway easement (Ref. Chapter 16, Placer County Code) along Mill Site Road for road and utility purposes. Prior to accepting the dedication, the applicant shall form or annex into a CSA Zone of Benefit for road and drainage maintenance, snow removal, etc.

B) A 40'-wide (minimum) private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along Cross Cut Court. (DPW)

C) An Irrevocable Offer of Dedication to Placer County for a 40'-wide (minimum) highway easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along Cross Cut Court for road and utility purposes. Said road shall be privately maintained until such time as the County Board of Supervisors accepts the offer of dedication. (DPW)

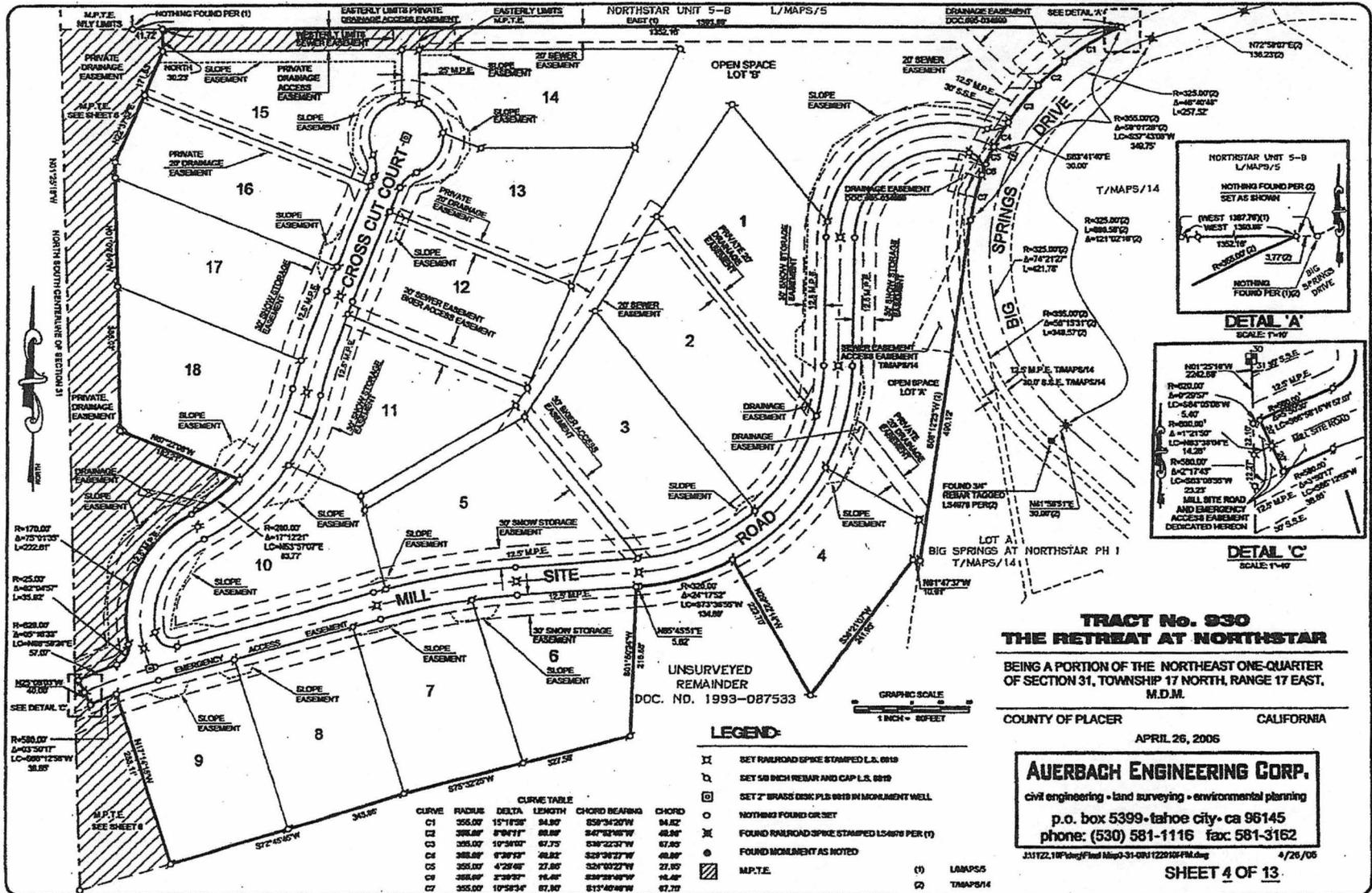
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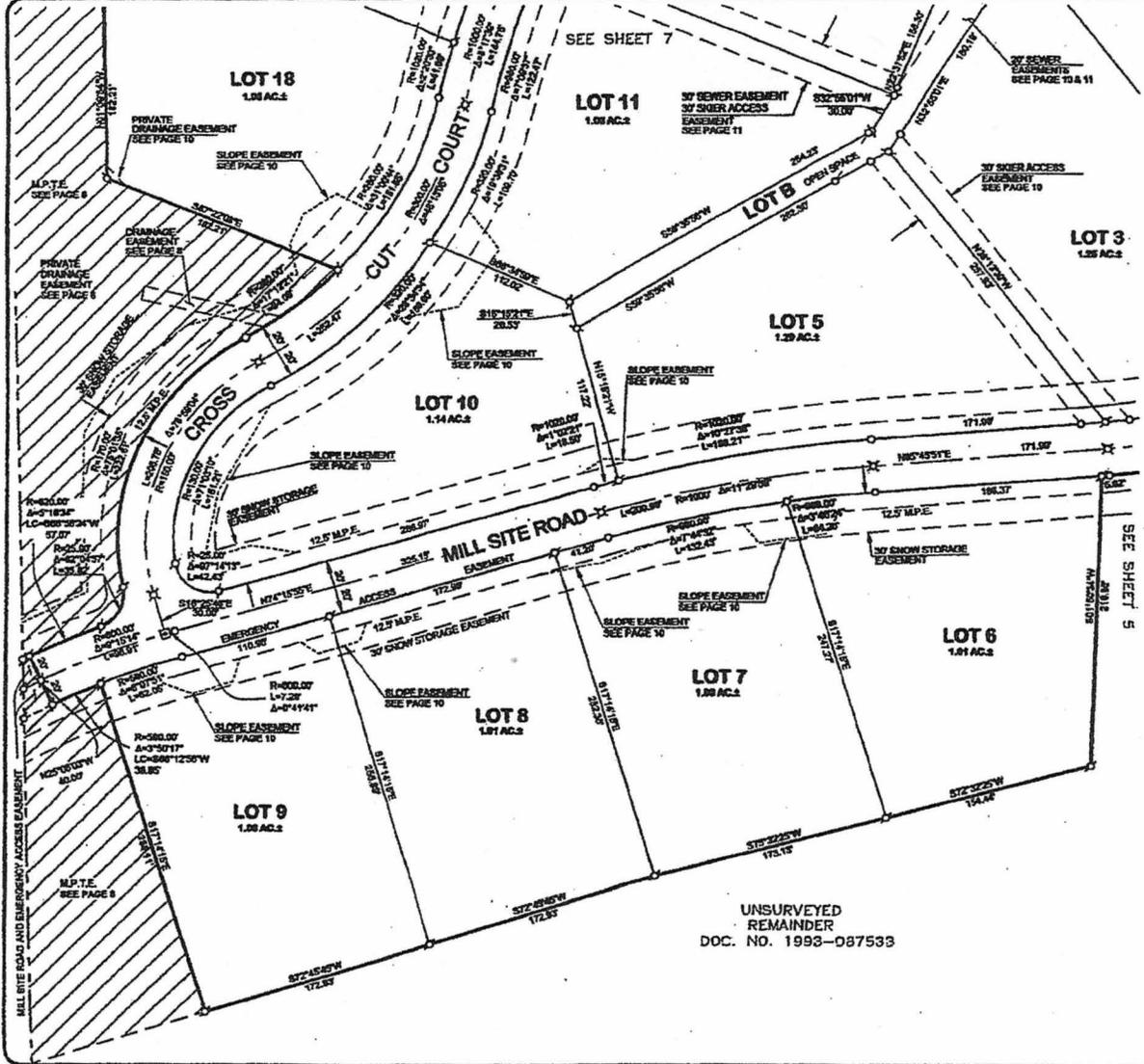
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EXHIBIT D



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- LEGEND:**
- ⊗ SET RAILROAD SPIKE STAMPED L.S. 0819
 - ⊗ SET 5/8 INCH REBAR AND CAP L.S. 0819
 - ⊗ SET 2" BRASS DISK PLS 0819 IN MONUMENT WELL
 - NOTHING FOUND OR SET
 - LAMP/PS
 - TRAPS/PS
 - ▨ M.P.T.E.

**TRACT No. 930
THE RETREAT AT NORTHSTAR**

BEING A PORTION OF THE NORTHEAST ONE-QUARTER
OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 17 EAST,
M.D.M.

COUNTY OF PLACER CALIFORNIA

APRIL 28, 2006

AUERBACH ENGINEERING CORP.

civil engineering • land surveying • environmental planning
p.o. box 5399 • tahoe city, ca 96145
phone: (530) 581-1116 fax: 581-3162

J:\1122\10P\eng\Final Map\31-081\220104-FM.dwg 4/26/06

SHEET 6 OF 13

UNSURVEYED
REMAINDER
DOC. NO. 1993-087533

748

EXHIBIT E



**CONDITIONS OF APPROVAL - TENTATIVE MAP/CONDITIONAL USE PERMIT - "NORTHSTAR HIGHLANDS"
(PSUB20040898)**

THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.

1. The following entitlements are approved for the Highlands project on a programmatic level:

A. MASTER CONDITIONAL USE PERMIT that provides master plan-level authorization for the following:

1. A planned development (per Section 17.54.080 of the Placer County Zoning Ordinance) for up to 1,450 clustered multifamily residential units, consisting of a mix of whole-ownership and fractional residences, located on the Large Lots 1 through 11;
2. Employee housing consisting of multi-family structures with a total of approximately 270 units generally in three locations. Phase 1 includes the development of 96 employee-housing units on Lot 13. The remaining employee housing will be constructed in future phases to the south and the southwest of this site;
3. A vehicle parking lot (intercept lot) for approximately 1,800 vehicles;
4. A vehicle parking lot (employee parking) for approximately 300 vehicles;
5. A hotel with up to 255 rooms and approximately 32,000 square feet of associated retail/commercial development space;
6. An expanded Big Springs Day Lodge with approximately 30,000 square feet of additional commercial/skier services;
7. Approximately 16,000 square feet of homeowners recreational facilities;
8. An outdoor grass amphitheatre with a capacity of up to 3,500 persons;
9. A new maintenance operations facility for Northstar Community Services District;
10. Relocation of Northstar's ski-area maintenance facility;
11. A satellite fire protection facility for the Northstar Community Services District;
12. Relocation of the Northstar Cross-Country facility;
13. Roadway circulation systems including the following:
 - a. Construct Highlands Drive from SR 267 intersection to Big Springs Drive;
 - b. Extend/Relocate Sawmill Flat Road from Highlands Drive to Northstar Drive, which would eventually include a roundabout on Northstar Drive;
 - c. Construct an emergency vehicle and shuttle connection from the south end of Big Springs Drive to the west end of Highlands Drive.
14. New/relocated recreational ski trails required for the future build out of the proposed project;

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NORTHSTAR HIGHLANDS (PSUB20040898)	Master CUP	First Phase				
		Large Lot TM	CUP			
			Condo/TH	Hotel	Employee Housing	X-Country
79. Prior to Improvement Plan approval for each phase, the applicant shall obtain approvals from the NCSD, CDF, and NFD and include the following elements: internal building sprinklers; on-site fire hydrants; unobstructed access to all buildings by emergency vehicles; fire retardant construction materials; fuel buffer zones; forest thinning; removal of dead and down understory fuels and thinning; removal of flammable vegetation; and an emergency plan for guests residents and visitors.	X	X	X	X	X	X
GENERAL DEDICATIONS/EASEMENTS						
80. Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the DPW and DRCCR) (DPW)						
A) An Irrevocable Offer of Dedication to Placer County for a 44' wide public road, public utility, and emergency access easement along Highlands Drive from the intersection with Sawmill Flat Road to the emergency access road. This portion of Highlands Drive shall not be accepted into the County's maintained mileage system, but the County reserves the right, but not the obligation, to provide road maintenance as funding is available through a PRD or other funding mechanism approved by the County. Funding for the maintenance of this portion of Highlands Drive may be by a PRD as referenced in the project conditions of approval. (DPW)	X	X	X	X	X	X
B) An Irrevocable Offer of Dedication to Placer County for a 44' wide highway easement along Sawmill Flat Road and Highlands Drive between Hwy 267 and Sawmill Flat Road for road, utility and emergency access purposes. After completion of improvements, Sawmill Flat Road and the portion of Highlands Drive between Hwy 267 and Sawmill Flat Road may be accepted into the County's maintained mileage system.						
C) An Irrevocable Offer of Dedication to Placer County for a minimum 30' wide emergency access and public utility easement from the end of the proposed Highlands Drive to the existing terminus of Big Springs Drive as shown on the Revised Tentative Map / CUP exhibits. Said roads	X	X	X	X	X	X

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NORTHSTAR HIGHLANDS (PSUB20040898)	Master CUP	First Phase				
		Large Lot TM	CUP			
			Condo/TH	Hotel	Employee Housing	X-Country
shall not be accepted into the County's maintained mileage system. Funding for the maintenance of this road may be by a PRD or other funding mechanism as may be approved by the County as referenced in these project conditions of approval. (DPW)						
D) A 44'-wide private road, public utility, and emergency access easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) from the proposed Highlands Drive to Large Lot 13 (the employee housing site) as shown on the Tentative Map. (DPW)	X	X			X	
E) A 44'-wide private road, public utility, and emergency access easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) from the proposed Highlands Drive to Lots 1, 2, 3, 4, 5, and 6 of the resubdivision of Large Lot 1 as shown on the Tentative Map upon the creation of each Lot or portion thereof. (DPW)	X		X			
F) A 44'-wide private road, public utility, and emergency access easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) from the proposed Highlands Drive to Lot 2 of the resubdivision of Large Lot 6 as shown on the Tentative Map upon the creation of the Lot. (DPW)			X			
G) A 40'-wide private road, public utility, and emergency access easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along the on site subdivision roadway with the resubdivision of Large Lot 7 as shown on the Tentative Map. (DPW)			X			
H) Public utility easements as required by the serving utilities, excluding wetland preservation easements (WPE). (CR) (DPW)	X	X	X			
I) Dedicate 12.5' multi-purpose easements adjacent to all highway, public road, and emergency access easements, unless all the serving utilities provide written confirmation that other acceptable easements have been provided to their satisfaction. (CR) (DPW)	X	X	X	X	X	X
J) Slope easements for cuts and fills outside the highway easement. (CR) (DPW)	X	X	X	X	X	X
K) An Irrevocable Offer of Dedication for drainage easements as appropriate, including any off site drainage easements. (CR) (DPW)	X	X	X	X	X	X

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NORTHSTAR HIGHLANDS (PSUB20040898)	Master CUP	First Phase				
		CUP				
		Large Lot TM	Condo/TH	Hotel	Employee Housing	X-Country
L) An Irrevocable Offer of Dedication for easements as required for access to, and protection and maintenance of, storm drainage water quality enhancement facilities (BMP's). Said facilities shall be privately maintained until such time as the Board of Supervisors accepts the offer of dedication. (MM) (DPW)	X	X	X	X	X	X
M) An Irrevocable Offer of Dedication for snow storage easements 20' in width adjacent to and on both sides of Highlands Drive, Sawmill Flat Road, and the emergency access road. (DPW)	X	X	X	X	X	X
VEGETATION AND OTHER SENSITIVE AREAS						
81. A Landscape Plan, prepared by a licensed landscape architect or similar professional, shall be submitted and approved by the DRC. The landscape plan shall address all trees to be saved and protected and include a plan to stabilize lands disturbed by construction within the village and all off-site locations affected by this approval. Said Plan shall be submitted with the project's Improvement Plans and the landscaping shall be installed to the satisfaction of the County prior to the County's acceptance of the subdivision's improvements. All non-turf landscaping shall consist of native-appearing drought-tolerant plant species with a water-conserving drip irrigation system to be installed by the developer prior to project level improvements. The property owners association shall be responsible for the maintenance of said landscaping and irrigation. (CR) (PD) ADVISORY COMMENT: If draught tolerant landscaping is used, permanent irrigation may not be required.			X	X	X	X
82. All areas that are disturbed as part of subdivision and on-site phased improvements, shall be temporarily re-established with hydro seeding and planting at the end of each construction season. A vegetation monitoring program report, prepared by a licensed landscaping architect, shall be submitted annually to the Planning			X	X	X	X

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EXHIBIT F



**CONDITIONS OF APPROVAL - VESTING TENTATIVE
MAP/MASTER PLAN USE PERMIT— "MARTIS CAMP" (aka
"SILLER RANCH") (SUB-424/CUP-3008/PCPMT20070758)**

***THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE
APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY
COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE
DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE
PLANNING COMMISSION.***

(mm) = conditions required as a part of the mitigation monitoring program discussed within the project Final Environmental Impact Report (FEIR).

1. This Subdivision (SUB-424) and Conditional Use Permit (CUP-3008) authorize the construction of a 726-lot Planned Residential Development (602-lot single family residential subdivision, 116 multi-family units and 8 golf cottage sites), an 18-hole golf course, 9-hole par 3 golf course, putting course, driving range, clubhouse, family recreation complexes, maintenance facility, trails, multi-purpose pavilion, community amphitheater, year-round mountain recreational facilities, nature center, sales offices, gatehouse, and other associated administrative and recreational facilities.

On January 10, 2008 the Planning Commission took action to approve the addendum EIR to allow for the extension and connection of the winter recreation facilities approved as a part of the Siller Ranch (now Martis Camp) project to the existing Northstar-at-Tahoe Lookout Mountain ski trails and Lookout Mountain Express Lift. (Condition 1 & 2 were modified)(Condition 193 was modified by staff)

2. This Subdivision (SUB-424) and Conditional Use Permit (CUP-3008) is proposed to be developed in nine phases. The EIR analysis assumed beginning of construction in 2004, with full buildout and occupation by 2023. The addendum EIR assumed development of the Lookout Martis winter recreation area in 2008 and completion no later than 2009. The tentative phasing program for improvements is as follows:

PHASE 1: Administration/sales, post office (Lot A); golf course, open space, practice facility (Lot G); golf maintenance (Lot B); 132 residential lot infrastructure, nature center (Lot F); cultural park (Lot I); golf course, open space (Lot L); logging, erosion control, storm drainage/ utility infrastructure, public trails, emergency access roads, and private community trails.

JANUARY 2005 BOS
JANUARY 2008 PC

o:PLUSVPLN\CONDFINAL\PSUB424 SILLER RANCH

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32. **mm 4.4.7a** The project applicant shall participate in the funding of the capital and ongoing operational requirements (e.g. establishment of a County service area) of a joint public transit service in the Schaffer Mill Road corridor, as well as expanded service in the Highway 267 corridor between Truckee and Kings Beach. This joint service shall provide service to the proposed project, as well as other planned and existing development along Schaffer Mill Road, to provide A.M. and P.M. commute-period shuttle service connecting with existing regional service along SR 267. Service on SR 267 to Truckee and Kings Beach would also be necessary with this and other projects in the Martis Valley Community Plan Area. If public transit service is not established and/or the project applicant does not wish to participate in the transit service, the project applicant shall be required to provide transit service for the project that provides links to existing public transit stops offsite. (DPW)

ADVISORY COMMENT: When demand for services reaches levels that warrant such service.

33. **mm 4.4.7b** The project applicant shall provide an easement or other mechanism acceptable to the County to allow the use of Siller Ranch Road (from the project entrance at Schaffer Mill Road to K Street and along K Street through the emergency connection to Northstar-at-Tahoe) by local public transit service vehicles. Local public transit is defined as public transit service provided by Placer County through Tahoe Area Regional Transit or through a contract provider. Local transit service does not include private carriers such as charter companies and tour buses. The easement or other mechanism acceptable to the County shall include provisions regarding hours of operation, number of stops, and security issues. (DPW)

ADVISORY COMMENT: This condition shall be implemented prior to the creation of lot 446 and with the Final Map.

34. **mm 4.4.2** Prior to the issuance of building permits for each recreational and non-residential facility, the project applicant shall identify parking areas and number of spaces on the facility site plans. The provision of parking shall generally be in accordance with the Placer County Zoning Ordinance requirements for parking, unless parking design and space requirement exceptions are approved by the County. (PD)
35. **mm 4.4.6** The project applicant shall pay its "fair share" for necessary intersection improvements as identified in Table 4.4-16 and 4.4-17 of the EIR. However, if better estimates of the cost for the improvements as identified in Tables 4.4-16 and 4.4-17 of the Draft EIR are available at the time of payment, these cost estimates shall be used to determine the project's fair share contribution. If the Placer County Board of Supervisors adopts a traffic mitigation fee program, or an update to the current traffic mitigation fee ordinance, and the new or updated program recognizes cross-jurisdictional impacts within the Town of Truckee, that action and program will supercede the fair share contribution requirements of this mitigation measure. (DPW)

51. If a Pipeline Extension Agreement (PLX) or other connection requirement with the domestic water purveyor is necessary in order to provide service to the subdivision, prior to Final Map approval, provide evidence of the agreement or work plan with the "will serve" or "water availability" letter to the DRC for verification of service for all lots of the Final Map. (EHS)
52. An agreement shall be entered into between the developer and the utility companies specifically listing the party(ies) responsible for performance and financing of each segment of work relating to the utility installation. A copy of this agreement or a letter from the utilities stating such agreement has been made shall be submitted to the DPW prior to the filing of the Final Map(s). Under certain circumstances, the telephone company may not require any agreement or financial arrangements be made for the installation of underground facilities. If so, a letter shall be submitted which includes the statement that no agreement or financial arrangements are required for this development. (ip25) (CR) (DPW)
53. Install cable TV conduit(s) in accordance with company or County specifications, whichever are appropriate. (ip26) (CR) (DPW)
54. Prior to the approval of the Improvement Plans, confer with local postal authorities to determine requirements for locations of cluster mailboxes, if required. The applicant shall provide a letter to DRC from the postal authorities stating their satisfaction with the development road names and box locations, or a release from the necessity of providing cluster mailboxes prior to Improvement Plan approval. If clustering or special locations are specified, easements, concrete bases, or other mapped provisions shall be included in the development area and required improvements shall be shown on project Improvement Plans. (ps5) (FR/CR) (DPW)

GENERAL DEDICATIONS/EASEMENTS

55. Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the DPW and DRC: (CR) (DPW)
- A) A 40'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along all on-site subdivision roadways, except golf cottage roads in Lot 605. (CR) (DPW)
 - B) A 30'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along all on-site subdivision roads accessing cottage lots. (CR) (DPW)
 - C) Public utility easements as required by the serving utilities. (CR) (DPW)

H, K, L, P, Q, R1, U, V, W, X, Z1, Z2, & Z3 on behalf of Placer County as necessary for access to and inspection of the creek and associated corridor and/or wetland areas, subject to any conservation easement approved by the U.S. Army Corps of Engineers as a part of the Federal Section 404 permit process. (CR) (PD/DFS)

ADVISORY COMMENT: A snow storage easement 20' in width adjacent to all road right-of-ways shall be dedicated to the Homeowner's Association. (DPW)

ADVISORY COMMENT: Provide private easements for existing or relocated water lines, service/distribution facilities, valves, etc., as appropriate. (CR) (DPW)

M) Easements as required for all emergency access roads to provide for the use of the roadway during emergencies.

VEGETATION & OTHER SENSITIVE NATURAL AREAS

56. If the property has been logged within six years prior to the hearing date of the Tentative Map, the applicant shall provide DRC with a letter from the California Department of Forestry stating that all requirements of the Z'Berg-Nejedly Forest Practices Act have been met to the satisfaction of the California Department of Forestry. Logging associated with an approved Timber Harvest Plan shall be allowed to continue after project approval. (SR/CR) (PD)

ADVISORY COMMENT: This project may be subject to review and approval by the State Dept. of Fish & Game, National Marine Fisheries Services (NMFS), and/or the U. S. Army Corps of Engineers. It is the applicant's responsibility to obtain such approvals, if necessary, prior to any grading, clearing, or excavation. (CR) (PD/DPW)

57. Prior to approval of Improvement/Grading Plans, the applicant shall furnish evidence to the DRC, if required by the DRC, that the California Department of Fish & Game, the U. S. Army Corps of Engineers, and the U. S. Fish and Wildlife Service have been notified by certified letter regarding the existence of wetlands on the property. If permits are required, they shall be obtained and copies submitted to DRC prior to any clearing, grading, or excavation work. (FR/SR/CR) (PD)

58. Permanent Protective Fencing: The applicant shall install permanent fencing, bollards, or the functional equivalent, as may be required by the DRC, with upright posts embedded in concrete along and around all wetland preservation easement boundaries and around all detention facilities to the satisfaction of the DRC. Such fencing shall provide a physical demarcation to future homeowners of the location of protected easement areas as required by other conditions of this project. Such fencing shall be shown on the Information Sheet recorded concurrently with each of the Final Maps as well as on the project Improvement Plans. (CR) (PD)

FIRE PROTECTION

146. **mm 4.11.1.2a** Unless otherwise agreed to by the appropriate district, prior to recordation of the first final map and approval of the improvement plans for the site, the project applicant shall submit these plans to the California Department of Forestry and Fire Protection (CDF) and the Truckee Fire Protection District (TFPD) for review and approval. The final map and improvement plans shall contain the following items, as appropriate: (SR)(CR) (DPW)

A) Designation of a fuel reduction zone or greenbelt established along the western and southern boundaries of the project. Perimeter fuel breaks would typically be a minimum of 100 feet (typically 300 feet) as required by the California Department of Forestry and Fire Protection (CDF) Fire Marshal. The developer, with the assistance of California Department of Forestry and Fire Protection (CFD) and Truckee Fire Protection District (TFPD), will determine the specific dimensions of each fuel modification zone located throughout the property and between open space and development areas based on the location, topography, access points, vegetation, degree of exposure, local weather conditions, and design and construction of structures.

B) The final map shall show the fuel modification zones on common property as property of the Home Owner's Association, Golf Club, or designated County-approved third party.

C) Fire hydrants shall be spaced at no more than 500 feet apart in residential areas, so that no point on any road is more than 250 feet from a hydrant. Additionally, hydrants shall be provided around commercial uses as required by the TFPD.

D) All hydrants shall provide at least 1,500 gallons per minute (gpm) of water pressure for a 2- to 4-hour duration with 20-psi residual in residential areas as required by the Truckee Fire Protection District. Fire hydrants in commercial areas shall provide a minimum fire flow of 1,500 gpm; however, TFPD may require a larger fire flow depending on the size of the structure. The minimum fire flow shall account for the demand of the largest fire sprinkler system.

E) All fire hydrants shall be dry barrel type and identified with an 8-foot snow stake. If necessary, hydrants shall also be protected with bollards.

F) The water system shall be installed and serviceable prior to any construction activities unless other options are approved by TFPD.

G) All non-residential structures that exceed 3,600 square feet in size shall have an approved fire sprinkler system installed. All residential units with four or more units in the same building shall be provided with a residential fire sprinkler system. All sprinkler systems shall comply with the National Fire

Protection Association (NFPA) 13 requirements and shall be approved by the Truckee Fire Protection District (TFPD) prior to installation.

H) The main entry road shall be a minimum of two 18-foot travel lanes; rural secondary roads shall have a minimum of two 16-foot travel lanes; and minor residential roads shall have a minimum of two 11-foot travel lanes.

I) Emergency access roads shall be designed and gated to meet District, County, and State standards unless exceptions are approved.

J) Emergency access into the Lahontan Community with a connection to the pre-existing access road adjacent to Lahontan that shall be provided with improvements to provide an acceptable emergency connection to State Route 267, separate from Schaffer Mill Road. These connections, or other acceptable alternative routes shall be provided with Phase 1 improvements (as shown in Figure 3.0-18 of the EIR) and maintained throughout subsequent phases.

K) Emergency access into Northstar-at-Tahoe with direct access to Big Springs Drive shall be provided with the phase five improvements.

L) A Knox box system, or equivalent, shall be provided at all gated entrances and emergency access roads to provide access to the fire district.

M) Roads and driveways shall have a minimum unobstructed height of 13-foot six-inches.

N) Roadways and driveways shall have a minimum 50-foot radius unless exceptions are provided by the Truckee Fire Protection District.

O) Cul-de-sacs shall have a minimum 40-foot radius unless exceptions are provided by the Truckee Fire Protection District.

P) Dead end roads exceeding maximum length shall provide adequate construction and fuel modification to facilitate evacuation.

Q) All construction shall comply with current codes and local ordinances, or shall achieve the same practical effect.

R) Mitigation fees shall be applied to all construction at the applicable rate.

S) Improvement plans for each phase shall be submitted to the TFPD for review and approval prior to construction.

T) No wood shakes or shingles of any kind shall be allowed for any exterior covering including roofing without TFPD's approval.

147. mm 4.11.1.2b During construction activities for the project, the following tasks shall be performed:

A) Prior to occupancy of residential lots, vegetation clearance around structures shall meet the minimum requirement of Public Resources Code 4291 (Defensible Space Standards) or the functional equivalent. Structures shall

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF PLACER, STATE OF CALIFORNIA**

In the matter of: A RESOLUTION DENYING APPEAL
OF SILLER RANCH MAJOR SUBDIVISION
CONDITIONAL USE PERMIT (SUB-424-CUP-3008)
AND ENVIRONMENTAL IMPACT REPORT (EIR-
STATE CLEARINGHOUSE #2003022122) and
ADOPTING FINDINGS AND CONDITIONS OF
APPROVAL

Resol. No: 2005-16

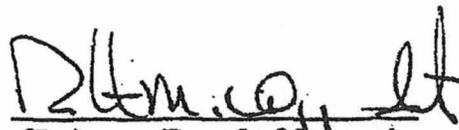
The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held January 18, 2005, by the following vote:

Ayes: SANTUCCI, GAINES, WEYGANDT (HOLMES & KRANZ ABSTAINED)

Noes: NONE

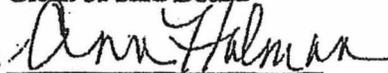
Absent: NONE

Signed and approved by me after its passage


Chairman, Board of Supervisors

ATTEST:

Clerk of said Board



Ann Holman

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY RESOLVE:

WHEREAS, an environmental impact report was certified and a conditional use permit and vesting tentative map for the Siller Ranch Major Subdivision/Conditional Use Permit Project (collectively "Siller Project") was approved by the Planning Commission on June 24, 2004; and

WHEREAS, Sierra Club, Sierra Watch, the League to Save Lake Tahoe, the Mountain Area Preservation Foundation, and the Planning and Conservation League together filed a timely appeal of the Planning Commission's approval of the Siller Project ("Appeal"); and

WHEREAS, the Board of Supervisors of the County of Placer, State of California, held public hearing, on October 5, 2004, in the time and manner prescribed by law to consider the Appeal, and further considered the Project at its meetings of December 7, 2004 and January 1, 2005; and

WHEREAS, the Board of Supervisors has considered the Appeal and evidence presented to the County and the Board; and

WHEREAS, the Board of Supervisors has determined the Appeal to be without merit;

NOW, THEREFORE, BE IT RESOLVED that the Appeal is overruled and the Project is approved. Furthermore, the Board of Supervisors adopts, approves and incorporates by reference herein the following:

1. CEQA findings including certification of the EIR, adoption of the mitigation monitoring program and adoption of a statement of overriding considerations.
2. The Siller Project findings, including subdivision findings, conditional use permit findings, and planned residential development findings.
3. The Recommended Conditions Of Approval - SILLER RANCH MAJOR SUBDIVISION\CONDITIONAL USE PERMIT (SUB-424-CUP-3008) are adopted, imposed and incorporated into the Project approval.

ATTACHMENT 4

Letter from Northstar Property Owners
Association to Jennifer Montgomery,
dated August 21, 2012

northstar property owners association

August 21, 2012

Jennifer Montgomery, Chair
Placer County Supervisor, District 5
175 Fulweiler Ave
Auburn, CA 95603

Re: Martis Camp/Retreat Emergency Access Road

Dear Jennifer,

Placer County will receive a letter from The Retreat at Northstar's attorney, Randy Faccinto, responding to the letter from Martis Camp regarding the use of the Emergency Vehicle Access (EVA) between Mill Site Road at Northstar and Martis Camp.

The Northstar community is united in its objection to the current use by private vehicles of the EVA between Martis Camp and Northstar and the serious impacts to our roads and neighborhoods. Equally important is maintaining confidence in our County government that it will enforce its promise.

The Martis Valley Community Plan, dated December 16, 2003 (MVCP) clearly states the County's decision that this would be an emergency access road only. All subsequent documents, including the County's written commitments during the CEQA process that this road would not be open to private vehicles without new public hearings and a further complete CEQA review, make the County's intent unequivocally clear.

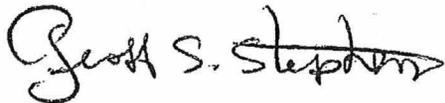
In a meeting that I attended last year, County staff admitted that the intent of the MVCP was not enforced but were not willing to change their position of non enforcement. As stated in the MVCP "*Additionally the proposed roadway system includes transit and emergency access **only** between Shaffer Mill Road and Northstar*". County staff apparently is now willing to overlook both the MVCP and the commitments made in the prior CEQA review.

In addition to considering the compelling legal argument supporting our position, we believe the County and the Board of Supervisors now have the opportunity to demonstrate good governance by righting a serious wrong of inadequate staff oversight and exercise their clear obligation of responsibility to the community they represent.

The Northstar Property Owners Association stands with the various Northstar communities and entities and hopes your leadership will bring about appropriate action to enforce what has always been the intent of the MVCP and the written commitments to a further CEQA review previously made by County staff.

If we can be of further assistance please call on us,

At the direction of the NPOA Board of Directors,

A handwritten signature in black ink that reads "Geoff S. Stephens". The signature is written in a cursive style with a large initial 'G' and a long, sweeping underline.

Geoff S. Stephens
General Manager

Cc: David Boesch
Michael Johnson
Rob Sandman
Lev Leytes

ATTACHMENT 5

Letter and Memorandum from
Randall M. Faccinto to Robert Sandman,
dated August 23, 2012



555 Montgomery, Suite 1288
San Francisco, California 94111
main 415 617 8900
fax 415.617 8907
www.stoel.com

August 23, 2012

RANDALL M. FACCINTO
Direct (415) 617-8910
rmfaccinto@stoel.com

VIA E-MAIL (rsandman@placer.ca.gov) and U.S. FIRST-CLASS MAIL

Mr. Robert Sandman
Deputy County Counsel – Placer County
175 Fulweiler Avenue
Auburn, CA 95603

Re: Unauthorized Use of Road Connection Between Martis Camp and Retreat at Northstar Subdivisions

Dear Rob,

Enclosed please find the Reply to DMB Position Memorandum (“Reply”) of our clients, the Retreat at Northstar Association and Mr. and Mrs. Leytes, which replies to the materials submitted by DMB Highlands Group, LLC (“DMB”) on July 24, 2012, received by us on August 6, 2012. DMB was responding to our clients’ request for enforcement of the Placer County set limitation on use of the road connection between the Martis Camp and Retreat at Northstar (“Retreat”) subdivisions, made and supported in our Memorandum dated and sent to you on May 1, 2012 (“Retreat Memo”). There is no basis in law or in fact for DMB’s arguments that it has a right to open up the restricted road connection between Martis Camp and Northstar. Its arguments are either irrelevant or inaccurate, as explained in the Reply and the Retreat Memo. It is necessary to read all of the Reply and the Retreat Memo to be fully informed of the falsity and attempted deception of DMB’s position. To summarize, the key points of the Reply are as follows:

1. DMB Memo Sections II A and B. “Abutter Rights” are irrelevant. The connection in question is not an unrestricted connection of a private road with a public road. The road connection is described by the County documents as, “between Shaffer Mill Road and Northstar”. It is subject to a specific Board of Supervisors adopted land use limitation that legally restricts DMB’s property rights at that road connection. If they exist, abutter’s rights cannot trump the County’s police power to set land use restrictions. To accept otherwise would undermine the County’s ability to control land use on any parcel abutting a public road. The public records cited by the Retreat in both of its memos include the clearly stated basis for the road connection restriction, which was publically debated and resulted in the mandate of the 2003 Martis Valley Community Plan (“MVCP”) that had to be and was implemented

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Mr. Robert Sandman
August 23, 2012
Page 2

by Placer County as the gated emergency and transit access only connection. In multiple county documents related to both the Retreat and to Martis Camp, the County prohibited a through connection between Northstar and Martis Camp and unambiguously eliminated the ability to travel through this connection for everyone except those it expressly authorized, namely emergency and public transit vehicles, thereby simply making Mill Site Road, like many other roads in the County, otherwise a "not a through road", whether public or not. These restrictions, which are on the record in many County documents, were obviously agreed to by DMB when Martis Camp was approved.

2. Section IIC. DMB's argument that "Dedication of Mill Site Road as a public street confers benefits on owners in the Retreat" is also irrelevant and is not the subject of the Request. Enforcement of the express restriction on through passage between Martis Camp and Northstar is the point, not what use can be made of roads in the Retreat by vehicles legally entering on Northstar roads.

3. Section IID. Attempting again to ignore the County's own actions as evidenced by the MVCP and Retreat and Siller Ranch conditions cited in the Retreat Memo and the Reply, DMB argues that the word "only" solely relates to Siller Ranch portion of the road connection. This is pure fabrication, as shown by the MVCP statement that, "...the proposed roadway system includes transit and emergency access only between Schaffer Mill Road and Northstar...". There is nothing in the MVCP, or the County approvals, supporting DMB's argument. The Retreat memos include multiple citations to the County's use of the limiting word, "only", to describe the similarly limited allowed use of the Retreat roads, including in the Retreat subdivision approval documents, which have nothing to do with Martis Camp's roads. There is no exception in the County records to the application of the limiting word "only", not for Martis Camp owners, their invitees, or anyone else. Only emergency and public transit vehicles are allowed.

4. Section IIE. At the top of page 19, DMB admits the foundational fact that requires the County to enforce the road use restriction as the Retreat has requested, where it states, "... it is true that there was to be (an is) no public connection between Truckee and Northstar via Siller Ranch/Martis Camp, (except for Emergency Access and Public Transit vehicles)..." it is not, however, correct to say this restriction does not apply to the Martis Camp owners. To be clear, the County documents specify that there will be no connection for through travel "between Schaffer Mill Road and Northstar", except expressly authorized emergency or public transit vehicles. Anyone using the roads is under this restriction, except emergency and public transit vehicles. DMB then tries to argue that the fact that there had to be a physical road connection (how else is an emergency vehicle to pass?) supports its "abutter's



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rights" theory. This has no effect on the existence or enforceability of the County's restriction on use of the road connection to emergency and public transit, or on legal priority of valid land use controls over "abutters rights". DMB then accuses the Retreat of, "false and illogical reading of the documents" (pg. 19). No. What the Retreat memos have provided to the County, unlike DMB, are references to the County's own actions and the documents that evidence the basis for those actions. For example, the Retreat asks the County to refer to its own general plan stating that, without further process, there is to be, "transit and emergency access only between Schaeffer Mill Road and Northstar." It is, rather, false and illogical for DMB to try to convince anyone that those words, and similar ones used by the County in other documents cited in the Retreat memos, mean something other than what they say. The letter and the spirit of the County documents are simple and clear – use of the road connection "between Schaeffer Mill Rod and Northstar" (using County's precise language,) is prohibited to anyone except those expressly authorized, namely emergency and public transit vehicles. Obviously, since the authorized users are all clearly listed there was no need to specifically list owners at Northstar, owners at Martis Camp, anyone's invitees, or anyone else for that matter, as excluded users. Thus travel by Martis Camp owners, or by anyone they wish to invite to drive through this connection, between two subdivisions is prohibited. That is the letter and the spirit of the County's actions.

5. Section IIF. DMB is here illogically proposing that anyone who they allow to pass through the emergency gate is not using it for through connection between Northstar and Martis Camp, which they agree is disallowed. Then for what are they using it? Of course it is a through connection, and it is expressly prohibited by the County, whether it is use by one member of the public who happens to be an owner at Martis Camp, or 600, or more, counting their invitees. The County cannot transfer to DMB its police power to regulate the public safety, traffic impacts and land use, and let DMB decide who is or is not allowed to go through the emergency access gate. The County has provided the answer to the question of who is allowed to drive through this emergency access gate by specifying emergency and public transit use only.

6. Section IIG. Again ignoring express language in its map conditions that it doesn't like (here the County's mandate in Siller Ranch condition 146(I) that emergency access roads "shall" be gated), DMB here imagines that the County did not require the installation of emergency access gates, but left it to the developer to decide if such gates should be installed at the emergency access connection. DMB's argument is based on the words "as appropriate" in the Siller Ranch Condition 146 introduction to its 20 mandatory conditions, all but the first one expressly saying that they "shall" be met. Obviously, there is not even a hint of the word "if" in the 146(I) mandate that the emergency access road shall be gated, or anywhere in



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Condition 146. Yet DMB falsely argues here that "shall" must mean "if". If the words "as appropriate" would leave all conditions listed below it to the discretion of the developer, as DMB argues, it would mean that items like fire hydrants, roadways and driveway specifications, mitigation fees, and other vital conditions would be subject to the developer's whim as well, an obvious impossibility in subdivision approvals. Like DMB's other arguments, this one is completely without substance, but it may be the most farfetched of the attempts to fabricate support for its groundless position (see Sections II D, E, F &H).

The enclosed Reply references the parts of the Retreat Memo and other parts of the County's own records that respond to DMB's submittal and that evidence the fact that a County imposed traffic control restriction is being violated by DMB and the Martis Camp owners who are using the emergency and public transit road connection to access Northstar. It illustrates how DMB is attempting to twist the facts and logic, including making statements that directly contradict written County approval documents in the public record. Our clients' request for enforcement is based on the public record, not strained distortions of and contradictions to that record.

The attached Reply and the Retreat Memo incorporate County documents that unquestionably prove that neither DMB, nor anyone else, has any rights for non-emergency and non-public transit use of the connection "between Shaffer Mill Road and Northstar", using the County's language. This elimination by the County of everyone's rights for an unrestricted through road connection, and replacement of it with emergency and public transit only connection between the two subdivisions was clearly stated in multiple documents that were reviewed and approved by both the County and by DMB itself. The elimination by the County of everyone's rights for non-emergency and non-public transit use of the connection was agreed to by DMB when Martis Camp was approved. Like its other arguments, DMB's final statements about being deprived of "fundamental property rights" is baseless and disingenuous. No property owner has the right to ignore a legally adopted restriction on its land use, including one that for public benefit, established in the MVCP adoption process, restricts access to a public road.

Placer County must weigh the substance of its own actions and records explaining those actions against the inapplicable ("abutter's rights") and misleading arguments of DMB. If the County was now to refuse to stop the illegal through traffic despite its well documented prior action to condition the Siller Ranch map with the MVCP required emergency access only gate, the public could only inevitably conclude that either,



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i) the County never intended to prohibit a through connection between Northstar and Martis Camp, except for only emergency and public transit traffic, misled the public by finding that the Siller Ranch approvals were consistent with that requirement of the MVCP, and therefore did not intend to fulfill the clear commitments it made to the public during the 2003 MVCP adoption process or in the mitigation measures it stated on the record in the Siller Ranch approval process, or

ii) the County did prohibit a through connection between these two developments, limiting this traffic to to emergency and public transit only, but is now allowing a private landowner, DMB, to change that approved land use for the convenience of those members of the public who are owners at Martis Camp and for anyone they wish to invite to pass through. The County would then be allowing that change, behind the public's back, without environmental review or the expressly required proper public review process, even though the County has committed on the record in the Siller Ranch approvals to such environmental review and public process in the event of a proposal to allow traffic other than emergency and public transit between Northstar and Martis Camp.

Following DMB's arguments leads to one or the other conclusion above. Our clients do not believe that the first conclusion is true and strongly feel that they have shown the County the validity of their request for enforcement. They, as well as the other communities in Northstar, trust that the County will act prudently to enforce the road connection use restriction, upholding a proper application of its land use regulatory power, preventing a certain public outcry and avoiding exposing the County to liability for knowingly creating dangerous traffic safety conditions that were identified by County staff during the Retreat approval process.

Unauthorized use of Mill Site Road is not just a convenience or lifestyle issue to the Retreat and other Northstar owners. It is a serious and dangerous increase in use of a road that was not intended and not allowed by the land use approvals of the two subdivisions and that the County specifically required be subject to further pubic process and environmental review – none of which has occurred.

The illegal use of the emergency road connection gate must be stopped by the County immediately.



MEMORANDUM

August 23, 2012

TO: PLACER COUNTY COUNSEL
PLACER COUNTY COMMUNITY DEVELOPMENT RESOURCE AGENCY

FROM: RANDALL M. FACCINTO

RE: MARTIS CAMP/NORTHSTAR ROAD CONNECTION – REPLY TO DMB POSITION

DMB Highlands Group LLC ("DMB"), the developer of the Martis Camp subdivision ("Martis Camp"), submitted to Placer County a Memorandum dated July 24, 2012, ("DMB Memo") in response to the request by the Retreat at Northstar Association ("Retreat Association") and Mr. and Mrs. Lev Leytes ("Leytes") that Placer County ("County") enforce the limitations on use of the road connection between Martis Camp and the Retreat at Northstar subdivision ("Retreat") approved by the County. As described in the Retreat Association and Leytes May 1, 2012 memorandum to the County ("Retreat Memo"), the County's intent to restrict use of the subject road connection to emergency and public transit, without any exceptions for any private party, is clear from the record of approvals of the 2003 Martis Valley Community Plan ("MVCP") and the two involved subdivisions. DMB is now attempting to change the approved land use and unilaterally lift this restriction. As explained below, the DMB Memo does not provide any basis, legal or factual, for the County to refuse to take the requested enforcement action.

Supported by the Northstar Property Owners Association ("NPOA", with over 1400 homeowners, and the Northstar Community Services District ("NCSD") (see Attachment "A" hereto, Board of Directors' Resolutions of both entities), the Retreat Association and Leytes made their request for enforcement based on the existence of the legally required prohibition of any through traffic, other than emergency and public transit vehicles, passing between Martis Camp and Northstar at the Retreat location of Mill Site Road. The DMB Memo repeatedly ignores, or mischaracterizes, the evidence of the existence of that restriction and its adoption by the County contained in the Retreat Memo, including its citations and references to indisputable County records that describe Placer County staff and Board of Supervisors ("Board") actions to limit use of the subject road connection to only emergency and public transit uses, without exceptions.

The DMB Memo is 23 pages of advocacy, almost entirely on two issues that are irrelevant to the existence of restrictions on use of the Retreat-at-Northstar road connection to Martis Camp. In addition to admissions of the emergency access character of this road connection, the first 20 pages of the DMB Memo relate to its interpretation of the public nature of Retreat's Mill Site Road to the boundary with Martis Camp and the legal theory of "abutter's rights". Neither issue relates to the core issue: The County imposed, legally required (by MVCP) restriction on through traffic included in the approval of the Siller Ranch (Martis Camp) subdivision map, which mandates that an emergency access gate shall be installed to restrict use of this road connection to emergency and public transit vehicles only, and to prevent any other through traffic, without any exception. Public or private, Mill Site Road is "Not a Through Road", like many others in the County. DMB was always fully aware of that restriction, and as the record shows, went along with it throughout Martis Camp application, review and approval process. DMB now attempts

to ignore and violate the restriction, illegally allowing through road access between Martis Camp and Northstar to members of the public who happen to own property at Martis Camp, and their invitees.

I. Irrelevancy of "Abutter's Rights".

The DMB Memo arguments about whether or not Mill Site Road is a public road all the way to the Martis Camp boundary and the existence in law of a theory of abutter's rights to use a public road do not require a lengthy response because both are irrelevant to the issue here. As with all land use regulation by the County, implementing the MVCP road connection restrictions by requiring an emergency gate to control traffic at the road connection of Martis Camp and Northstar was a common exercise of the County's police power to protect public health, safety and welfare. Cal Const art XI, Sec. 7: Scrutton v. County of Sacramento (1969) 275 CA2d 412. Landowner property use rights are limited by legally adopted land use conditions. Here, the Martis Camp owners' use of a road that joins with Mill Site Road is restricted by the County's implementation of the MVCP's limitation to emergency and public transit use only. Through the public process of adoption of the MVCP, which included "in depth analysis" and "community and landowners input" **on this precise road connection**, the County determined that the Martis Valley proposed road system would include "transit and emergency access **only** between Schaffer Mill Road and Northstar" (MVCP, Retreat Memo Sec. 1a., pg 4-5). To comply with the MVCP, the Board exercised the County's police power by restricting use of a road in Martis Camp that connects to Northstar by means of an emergency access gate (the common way to allow emergency access while preventing unauthorized passage). If abutter's rights might otherwise exist, like any other landowner rights, they are subject to restriction by land use regulation such as the MVCP and map conditions. Because road connection use is legally restricted at the boundary of Martis Camp with the Retreat, abutter's rights are not relevant. They cannot trump the County's right, and responsibility, to condition the Martis Camp map so as to comply with the MVCP.

The road connection use restrictions imposed by the County limit the rights of all persons, whether owners of interests in Martis Camp (abutters or not), their invitees or any other member of the public--anyone other than those making the allowed emergency and transit use. Of course Mill Site Road physically abuts a road in Martis Camp. How else is an emergency or public transit vehicle to pass through? Consistent with the conditions on the Siller Ranch map, the Retreat's map condition No. 27 required Mill Site Road to be constructed to the west property line for a clearly-stated, limited purpose - "for a future emergency access/transit access road connection", nothing more. It was never intended to be a through road serving any members of the public (including those who happen to own property at Martis Camp). The FEIR for the Retreat (certified by the Board of Supervisors) included no environmental impacts study and no analysis of traffic and public safety on Mill Site Road other than to serve the subdivision's 18 lots. The physical road connection does not trigger an abutter's right to violate restrictions on use of the road connection. The DMB Memo did not argue that somehow an abutting owner has a right to ignore legally imposed land use restrictions on use of the adjacent road. Of course, it could not, as no such right exists. The issue is not whether DMB is the holder of abutter's rights, but rather whether use of the road connection for anything other than emergency and transit uses is permitted by the applicable land use ordinances and subdivision map conditions.

It should also be noted that, where they do exist, "abutter's rights" apply only to a public street abutting landowner. California law has defined such rights as extending to only those lots "fronting upon a street." (*Williams v. Los Angeles R. Co.* (1907) 150 Cal. 592, 594.) The Martis Camp land that abuts Mill Site Road is owned by DMB, not by the many Martis Camp lot owners who have been using the road connection to Northstar. The abutter's right concept does not extend to non-abutting lot owners and it is highly unlikely that such limited rights can be distributed to non-abutting owners by permission, assignment or other arrangement. Could any abutting owner deed his property to an "association" with 600 members so that they could exercise the "abutter's rights" to circumvent a property's general plan

land use controls? Such a right is not found in the law. Also, the private roads in Martis Camp are themselves restricted in use at their east end, at the boundary with the Retreat, and do not freely abut a public road in the Retreat subdivision. Again, it is not necessary to spend anyone's resources on further abutter's rights analysis, since no one is permitted to use this road connection except for the expressly allowed uses.

Apparently, in 2011 after owners in the Retreat objected to the commencement of use of Mill Creek Road by private non-emergency cars traveling through the emergency road connection, to and from Martis Camp, representatives of the Martis Camp developer introduced the "abutter's rights" concept to Placer County staff, in particular to Community Development Director Michael Johnson. Mr. Johnson appears not to have then been informed of all the relevant background and legal basis for the restricted use of the Martis Camp-Northstar road connection, recently explained in the Retreat Memo. Without this key information, Mr. Johnson mistakenly believed that the public nature of Mill Site Road within the Retreat, abutting Martis Camp land, was reason to allow Martis Camp owners vehicle access into Northstar from an extension of Schaffer Mill Road, a private road in Martis Camp. Mr. Johnson's December 12, 2011, letter to the Retreat Association's former counsel to that effect is attached to the DMB Memo, which is trying to capitalize on this misinformed and therefore erroneous conclusion. That letter does not acknowledge or consider the most important fact affecting the allowed use of this road connection, that it is a gated emergency and transit only access, that installation of a gate for that purpose was a condition to the 2004 approval of the Martis Camp (then called Siller Ranch) subdivision map, and that the record contained many of the County's own explanations of its intent to limit use of the road connection, without any exceptions, including not excepting Martis Camp's private cars. Consideration of the MVCP requirement for the road use limitation and the Board's action to implement it by requiring the emergency access gate is missing entirely from Mr. Johnson's letter. Instead, he mentions that he could, "find nothing in the record that prohibits Martis Camp residents from utilizing the public roadways (i.e. Mill Site Road) that abut the Martis Camp development". However, a very clear and express record of that prohibition exists, and reference to it has now been provided by the Retreat Memo. That record is clear and un-contradicted by any evidence that the County's intent in requiring an emergency access gate was anything except to meet the MVCP's prohibition of all through traffic other than emergency and public transit. The conclusion of Mr. Johnson's letter on this issue can and must be reversed based on the County record cited in the Retreat Memo.

II. DMB's Other Arguments.

Once "abutter's rights" are put aside, the bulk of the arguments in the DMB Memo consist of attempts to mischaracterize, or are misstatements of, the County's records and the position of the Retreat and Leytes. Martis Camp presents nothing more than imaginative (though unbelievable, given the record) interpretations of the County actions to restrict use of this road connection.

No one looking at these circumstances should accept any argument, or imply from the arguments, that DMB was in the least misled by the County's approvals of Siller Ranch project as to its owners' ability to access Northstar through this road connection. DMB's recent advocacy of a right to make private vehicle use of the emergency road connection is not only in conflict with the record, but completely inconsistent with its own representations to the County during the Siller Ranch map planning, review and approval process. DMB did not propose any use of the connection other than for emergency and public transit in its application, including in its responses in the project's Environmental Impact Assessment Questionnaire ("EIAQ"), so such use was not studied or reported on in the Martis Camp's EIR. Attachment "B" hereto includes copies of relevant parts of DPW's Memorandum listing the intersections and roadway segments to be studied in the Siller Ranch DEIR. No study was done of Mill Site Road or its intersection with Big Springs Drive and no road impacts in the Retreat were discussed in public hearings, leaving no opportunity for the public to comment on it or for the County to consider

environmental and public safety impacts or impose traffic impacts mitigation measures. Attachment "B" also includes a copy of page 7 of the Siller Ranch EIAQ, signed by DMB's representative, Mr. Ron Parr, which informs the County that no new entrances onto County roads (such as Mill Site Road) were part of the project (an entrance at the west end of Schaffer Mill Road already existed) and refers to the project's traffic study to describe additional traffic expected to be generated by the project. Although carefully considering traffic impacts on locations much farther away, that traffic study, approved by the County, did not include any use of the Martis Camp road connection to Northstar for other than emergency and public transit vehicles. Obviously, no other traffic through this road connection was then contemplated by DMB, or the County.

This Siller Ranch-Northstar road connection was consistently referred to in both the Siller and Retreat subdivision map processes only as an emergency access roadway connection. At the end of the next to last paragraph on page 8 of the its memo, DMB admits that the connection point at Mill Site Road was with "the emergency access roadway to which it would connect..." On the next page, in paragraph 2 (and on the Memo's Figure 4, page 10) it is pointed out that the Vesting Tentative Map of Siller Ranch reviewed and approved by the County showed the potential point of connection between roads in Martis Camp with Mill Site Road in the Retreat subdivision labeled by Martis Camp as "EMERGENCY ACCESS CONNECTION". Mr. Parr presented DMB's project at the Planning Commission hearing on the Siller Ranch map and CUP on May 13, 2004. The audio tape of that hearing includes Mr. Parr referring to the road connection with Northstar as "the proposed emergency access connection". There was no mention at that hearing of any potential for any private (including Siller Ranch/Martis Camp owners) vehicles using the emergency access connection for through traffic between Northstar and Martis Camp. DMB did not apply for or otherwise seek approval of the road connection between the two subdivisions to be anything more than emergency access and, later, public transit. No use of that connection beyond those limited stated uses, the only ones studied for environmental impact, or voted upon by the Board of Supervisors, was approved by the County.

The current position of DMB is a fabrication that has no basis in the Siller Ranch, or Retreat, subdivisions approval processes. It is an attempt to make a significant land use change without the legally required public process, in the face of the County's express commitment that this exact change, if ever to be considered, will require such public process. (See below and Retreat Memo Section D, Appendix "1"-2, "1"-3). Ignoring the record and the County's land use regulations, at page 14 the DMB Memo attempts to argue that no County approval is needed for DMB to now allow any member of the public, in Martis Camp's discretion and under their control, to drive private vehicles through this emergency access connection. Placer County simply cannot and should not allow this landowner to change, at will, the MVCP requirements and the express direction of its own project's FEIR.

Section II.D., at page 18, of the DMB Memo attempts to redefine the County's direction that only emergency and public transit use of the road connection be made by trying to deceitfully redirect the application of this word solely to the Siller Ranch public transit easement. DMB conveniently ignores the use of the word "only" by Placer County as it directly applies to the allowed use of the entire road connection itself. It is a bald misstatement of fact when DMB says at page 18 that, "The County did not require that only an EAE/PTE connection exist between Siller Ranch/Martis Camp and Northstar", and "...the County did not at any time, during its general plan update process or its subdivision approval process or otherwise, take any action to prohibit a private connection from Siller Ranch to Northstar...." Of course it did. That exact requirement and that exact action is documented by Placer County as described in the Retreat Memo, including, a) at page 72 of the MVCP: "Additionally the proposed roadway system includes **transit and emergency access only between Schaffer Mill Road and Northstar**" (emphasis supplied; this is not referring just to the roads within Martis Camp; see balance of

the MVCP paragraph containing this conclusion at page 5 of the Retreat Memo); and b) in the Siller Ranch FEIR cited on pages Appendix "1"-2 and "1"-3 of the Retreat Memo (including, "...the project would be approved with the transit/emergency access only (consistent with the adopted Martis Valley Community Plan).") These are the County's own statements, not fabrications by a party to this dispute. The MVCP provision was adopted by the County as part of its General Plan and the FEIR was issued and certified as part of the Siller Ranch subdivision approval process. DMB again here attempts to mislead Placer County by rewriting the record, illustrating, once more, the lack of credibility of its late found changed position on use of this emergency road connection.

In reply to Section II.E. of the DMB Memo, the first sentence of its first paragraph appears to be contradicted by the last sentence of that paragraph, but regardless, both parties seem to agree that the "connection" to which the MVCP and Siller Ranch approvals apply is of the roadways at the junction of Martis Camp roads and the west end of Mill Site Road. As to the second paragraph, of course there is a physical connection - the emergency and public transit vehicles need to be able to pass through. It is the existence of that physical connection that requires the emergency access gate to be the means to restrict any other through traffic from passing between the two subdivisions. The question DMB poses is another attempt to fake blindness to the emergency gate requirement and intent of the MVCP and Siller Ranch approvals, as stated by Placer County. That there was intended to be a physical connection is obvious. That the connection was to be used for the expressly stated limited purposes only without further public review and approval process is just as obvious. This section ends with the admission, "Except as specifically set forth in the Conditions of Approval of the Siller Ranch project ...", the Martis Camp owners "private rights" were not restricted. That is the Retreat's and Leytes', and should be the County's, exact point. The County has stated that Siller Ranch Project's Conditions of Approval are "consistent with each aspect" of MVCP (see Attachment "C" hereto, pg. 11 of the Siller Ranch CEQA Findings of Fact) and that must include a clear land use restriction required by the MVCP. That restriction was unquestionably applied to the Martis Camp owners by agreement of DMB when it accepted these Conditions and the certification of the FEIR (for example, FEIR statements stating that Siller Ranch project would be approved with a Northstar road connection as "transit/emergency access only, and how this roadway was guaranteed to remain open by being approved for "emergency access/transit use only", cited below and in the Retreat Memo, pg. 3). That restriction is being violated by any use of the road connection in excess of emergency access/transit use only, by anyone. As for the need for Martis Camp owners to take the "circuitous route" to Northstar, that alternative was studied, debated and resolved in the MVCP adoption process. The outcome of that debate is set the County land use policy implemented by the emergency access gate that is now being used illegally by Martis Camp owners. (See MVCP page 72, quoted at pages 4-5 of the Retreat Memo).

DMB Memo Section II.F. attempts to argue that there should be a difference between no public connection between Northstar and Martis Camp and a "private" use by Martis Camp owners. However, no use beyond the approved emergency and public transit ones, private or public (or by any portion of the public such as the Martis Camp owners themselves) is permitted by the MVCP and Siller Ranch approvals. Of course non-emergency private use by Martis Camp owners and their invitees creates for them a prohibited through connection to and from Northstar. Why else would they use it? The traffic and environmental impacts mandated to be avoided by the MVCP restriction result from any vehicle use beyond that the MVCP allows. The residency of the driver is not relevant. What is relevant is solely whether the driver is an emergency vehicle or public transit driver. If not, the driver is just a member of the public. It is illogical and ludicrous to imply, as DMB does here and elsewhere, that any member of the public traveling on the Retreat public road who happens to own property at Martis Camp, or happens to be one of their invitees, is either temporarily no longer member of the public (they agree the road connection cannot be open to the members of the public) or is not entering into a through connection

between Northstar and Martis Camp, which they agree is prohibited. Every reference in the record cited in the Retreat Memo is to the road connection use restrictions that affect everyone, including the Martis Camp owners, in that all use other than emergency and public transit access is barred.

Complaints of inconvenience for the Martis Camp owners, or any other arguments for opening up the road connection for additional use are ones to be made, if at all, not here but in a public process asking to change the land use of the area. That is what the County contemplated in its response to comments incorporated in the Siller Ranch FEIR, stating that this road connection will remain open for emergency access/transit use only, unless a proper public review of environmental impacts of any traffic beyond stated emergency access/transit use is done. Now, the traffic is far beyond only emergency access/transit use and continuing to increase, creating a major, unpermitted land use change by DMB, with no public review process. The appropriate public process is required in part so that interested members of the public in eastern Placer and Nevada Counties, many of whom were very involved in the adoption of the Martis Valley Community Plan provisions restricting access between the two subdivisions, would have the opportunity to comment, and an environmental review of the potential impacts of such a change in land use would be completed to meet CEQA requirements. What is not permitted by law nor, the County will agree, by its land use policies, is a private land owner unilaterally changing a land use that requires permitting, such as has occurred at the subject road connection. The County needs to take action immediately to order the use of the gate restricted as intended by the MVCP and both Retreat and Siller Ranch subdivisions approvals. The "basic real property and land use planning law" cited by DMB on page 19 of its Memo requires the County to enforce its land use restrictions.

In the first paragraph on page 20, DMB makes the extraordinary claim that use by Martis Camp owners of this road connection merely for their convenience or for other private purposes, beyond transit and emergency access, would "not violate either the letter or the spirit of the Martis Valley Community Plan or the approval documents pertaining to Siller Ranch/Martis Camp or the Retreat at Northstar". Really? This is another attempt to ignore and completely misrepresent the MVCP and the subdivisions' conditions of approval. The MVCP direction that this road connection must be restricted expressly states that there shall be "...**transit and emergency access only between Schaffer Mill Road and Northstar**" (emphasis added) (See also the response to Section II D, above). That is the "letter" of the MVCP. Nor is it credible to say that the "spirit" of the MVCP somehow would allow an expansion of use of this road connection, beyond what is spelled out in no uncertain terms, without further public process. The same is obvious in the other Siller Ranch documents cited in Retreat Memo, such as DEIR Response 4-61, "(Siller Ranch) **project would be approved with the transit/emergency access only (consistent with the adopted Martis Valley Community Plan)**". All County approval documents state expressly just the opposite of this DMB claim. The complete lack of truth of this argument is further illustration of the lack of credibility of DMB's position.

Section II.G of the DMB Memo tries to create the impression that the emergency access gate to restrict vehicle use of the road connection was not a requirement at all. The mandatory nature of the emergency gate requirement and the reason why it was imposed are a matter of record, all described in the Retreat Memo. Nowhere in the record is there any use of the word "if" in relation to the installation of an emergency access gate, or any language even slightly implying that the installation and operation of an "emergency access" road gate (not an entrance or security gate) to control traffic at this "emergency access connection" (DMB's tentative map description) was voluntary. Conditions 146 (I), (K) and (L) required that the developer provide emergency access into Northstar, gate the emergency access road and provide a Knox Box or similar system to provide fire district access. DMB has admitted that the road connection is part of its required (Condition 146(K)) emergency access roads. The gate requirement in Condition 146 (I) ("Emergency access roads **shall be ... gated...**") made the gate mandatory. There is nothing in the record, and nothing other than the arguments recently created by DMB, indicating that this emergency access "may be" gated by, or gated "in the discretion of", DMB. It had to be gated. The

purpose of the gate had to clear to all parties involved in the Siller Ranch approval process, including the DMB and the public, because the gate conditions were part of, and must be interpreted with, the entirety of the County's project approval actions. Those actions include the simultaneous Board of Supervisors approval of the FEIR, with its unquestionable statements of emergency/transit being the "only" uses of the emergency access connection, and the express finding that the approvals were consistent with the MVCP, cited above and in the Retreat Memo. DMB again attempts to ignore the indisputable public record of the basis for the emergency access road gate, instead arguing an irrelevant legal point, "abutter's rights", and tortured theories of implications of the language the County used in implementing the MVCP on this issue. Those arguments are not based on facts or logic and are not credible. Placer County must take a strong stand against DMB's attempt to avoid the expressly required public process necessary before there could legally be a change in traffic use of the road connection.

Section II.H. adds nothing to DMB's position. Rather, the quotation from Note 13, Sheet 2 of the Martis Camp Final Map of Unit 7a relates to the abandonment of prior emergency and transit easements that became redundant when replaced by the EAE and TSE on the Unit 7a map and on the final map of the Retreat. It does not change the limited nature of the extension of Schaffer Mill Road as shown on the Unit 7a final map, a copy of which is attached to the Retreat Memo as its Appendix "3". Appendix page "3"-2 shows that, from the boundary of Northstar to the mapped end of Schaffer Mill Road shown on page Appendix "3"-1, the road is only a EAE, TSE and public utility easement. DMB's choice to have that extension be only a EAE, TSE and PUE on this 2008 final map shows, again, its own acknowledgement that the road connection with Northstar was required to be limited to these uses. DMB appears to here try to change its description of the road extension to the boundary to help its failed "abutter's rights" argument. The recorded final map is not changed by DMB's finesse. Although DMB admits that it is now being used by Martis Camp owners as a private access road to Northstar, that stretch of road is not today a part of the Martis Camp private roads and remains only a EAE, TSE and PUE. If it is added to the private roads later, it will remain subject the restriction on non-emergency or transit use described in the Retreat Memo.

The first sentence of the last paragraph of DMB Memo Section II.A. on page 15, describes the Retreat's interpretation of the Siller Ranch map as, "self-serving, result-driven and incorrect", because it cites no documents speaking to "abutter's rights". Of course, "abutter's rights" do not apply at this restricted road connection. DMB has here supplied an exactly applicable description of its entire position. By taking the record of County action that was unquestioned by anyone at the time it was taken, and that the Board of Supervisors expressly found was completely in accordance with each aspect of the MVCP, twisting individual words and claiming that County silence on irrelevant issues constitutes abandonment of its land use regulatory process, DMB has stated its own self-serving, result-driven and incorrect argument that it must be allowed to change the County imposed traffic controls at the road connection without a public review process by exercising irrelevant "abutter's rights". The County cannot accept DMB's position, as that would undermine its ability to control land use on private property that abuts a public road anywhere in the County. Acceptance of DMB's misconstrued arguments could only be done without exercise of reason and without basis in fact or law, that is, could only be arbitrary.

Part of DMB's argument is that its map conditions do not expressly say that its owners are barred from crossing into Northstar at the road connection. County subdivision approvals are of what was applied for and approved. They cannot be expected to list all of the land uses that were not applied for and are not permitted. More importantly, the Siller Ranch project's approvals expressly limit the road connection to emergency/public transit only, leaving no question that other use is barred. DMB did not even apply for a project with road access for its owners into Northstar through the Retreat subdivision. To have been legally possible, such a proposal would have had to include an application to amend the MVCP. Martis Camp knew and respected the fact that its project could not have road access into Northstar other than for emergency and public transit use. As explained in the Retreat Memo, the Siller

Ranch map proposal was that it provide "emergency access connections". Other than emergency and public transit, no through road connection, for anyone, public or private, was proposed, studied or approved by the County.

III. Confirmation In the Retreat Subdivision Process/Traffic Safety Responsibility.

The Retreat at Northstar tentative subdivision map was approved by Placer County only a few weeks after approval of the Siller Ranch map. County staff and the Board were therefore then well aware of the road connection issue. The County's actions on the Retreat map confirm the intent of its road connection use restrictions on the Siller Ranch Map. Condition 81 of the Retreat map requires,

"Notification to future lot owners of the emergency access and transit corridor roadway connection between Big Springs Drive and the adjacent property to the west along Mill Site Road".

The County did not intend that the Retreat roads serve any lots in Martis Camp, whether 650 (as it had just approved for Siller Ranch), 50 or 5. The Retreat FEIR informed the developer and the public that the Mill Site Road would, "eventually serve to connect with properties to the west as an **emergency access/transit corridor**, as discussed in the Martis Valley Community Plan." (emphasis supplied, Retreat Memo page Appendix "2"-1). The Retreat roads were approved by the County as public roads, but to serve the Retreat lots only. The Retreat's Mill Site Road was not designated as a through road. Contrary to DMB's statement on page 16, mentioning "public road or through connection" as interchangeable terms, making it a public road in does not cause it to become a through road, as evidenced by many County documents discussed below and in the Retreat Memo.

The Retreat developer dedicated the subdivision roads for public use and requested that the County approve formation of a Zone of Benefit within County Service Area 28 (Northstar) to fund special road maintenance services above general County services. On May 9, 2006, that Zone of Benefit was approved by the Board based on a Department of Public Works ("DPW") memo that incorporated an Engineer's Report describing the legally necessary basis for imposition of road maintenance fees on only Retreat property owners. Attached hereto as Attachment "D" are copies of relevant pages of that DPW Memo and Engineer's Report. Through this process County staff and the Board represented to the public and thus to the Northstar and Retreat property owners that the Retreat roads were to only serve the 18 Retreat lots, were not approved as through roads and, therefore, are not to have any through traffic to and from Martis Camp's 600+ lots. The Engineer's Report summarized clearly the County-intended use of Retreat roads, including, on page 3, that,

"An assessment may only be imposed in an amount which represents a special benefit to an assessed property. These services represent a special benefit to the Retreat Subdivision property in that **the services to be funded by the assessments will only benefit the Retreat Subdivision property and the individual lots in the Retreat Subdivision project.**" (emphasis supplied)

At page 210, it states, "...the roads of this subdivision serve **only the lots in this subdivision** and are not a part of a larger County traffic system...". (emphasis supplied)

It is not credible to argue that the County would have adopted and made public these statements if it had instead intended to allow the Maris Camp 600+ owners and their invitees to start using the Retreat roads at their will. Doing so would have meant illegally imposing fees on the Retreat owners, intentionally misrepresenting the allowed use of the roads. The DMB arguments would have you believe that the County Planning Department and Public Works staffs, and its Board of Supervisors, were misleading the public throughout the Retreat approval process. The Retreat and Leytes believe that the

County acted properly and consistently throughout both map approval processes, and that its actions in implementing the MVCP's restriction on through traffic from Martis Camp into Northstar cannot be reasonably interpreted otherwise.

Additionally, during the Retreat map approval process, the traffic study accepted as part of the Retreat FEIR was based on traffic in and out of Retreat only from the subdivision's 18 lots. No Martis Camp through traffic, other than emergency and transit use, was studied or considered, and, therefore, no mitigation measures for such a higher traffic volume were considered or adopted. During the map process, County Public Works staff acknowledged that traffic volume higher than just that of the Retreat lots would cause public safety hazards that required mitigation measures, once suggesting alternative road access at the back of Retreat lots that front on Mill Site Road. That was proposed because County staff was concerned that through traffic would make vehicle ingress and egress to Mill Site Road unsafe. However, based on the County accepting that there would be little through traffic – only that generated by the few Retreat lots, neither the back road alternative nor other traffic safety related mitigation measures were deemed necessary. (See Attachment "E" hereto, Retreat FEIR Executive Summary pg. 2.0-14) Failure to enforce the Martis Camp through traffic restriction on use of Mill Site Road creates a dangerous condition, known to the County, and exposes the Retreat and other Northstar property owners, their guests and invitees, to increased risks of injury and damages from a traffic volume many times (as Martis Camp builds out, up to 30(!) times) more than that of the 18 Retreat lots. Mill Site Road is fairly steep and sight lines are limited. Particularly when there is snow and ice accumulation, Retreat owners are put at serious risk by excessive use of that road. The traffic restriction must be enforced as soon as possible, but absolutely before the coming winter driving season. The County must recognize that it risks liability every day that it fails to stop the unauthorized road use.

IV. Conclusion.

The DMB Memo does not question the validity of the content of the public record on the two subdivision approvals and the MVCP quoted and referred to in the Retreat memo. Of course, it cannot. The emergency access gate conditions on the Siller Ranch map approval do not stand alone. They must reasonably be interpreted together with the entire record of the Siller Ranch map approval process, most importantly in conjunction with the certification by the Board of the project's FEIR, which occurred at the time the questioned conditions were adopted. As seen above and in the Retreat Memo, the intent of the conditions, to allow only limited road connection use, is unambiguously described in the Siller FEIR.

Neither the public or private nature of the west end of Mill Site Road, nor the existence of a legal theory of abutter's rights, can change the effect of the Board's required implementation of the MVCP direction that, "... the proposed roadway system includes transit and emergency access **only** between Schaffer Mill Road and Northstar." (Retreat Memo, page 5). There are no exceptions. That restriction could, in theory, be changed by an amendment to the MVCP and to the Martis Camp and Retreat subdivisions conditions, but such a land use change cannot be allowed to be made unilaterally by Martis Camp landowner. The County's land use regulations and its prior actions on this matter require any proposal for such change to be the subject of further public process.

There is no abutter's constitutional, or any other, right of DMB or the Martis Camp owners to violate the road connection use restrictions by unilaterally expanding the use of the emergency access gate beyond what is approved, for their private benefit. DMB's unilateral action to manipulate the gate controls to allow Martis Camp owners and their invitees to access Northstar illegally through the emergency gate is clearly in violation of its subdivision conditions and applicable law. There is no ambiguity. DMB's currently argued interpretation of the conditions and attempts to apply irrelevant legal theories to this particular road connection are disingenuous. DMB's willingness to put forward such

arguments does not constitute reason for Placer County to refuse to enforce its own clear restrictions on use of the road connection.

Respectfully, it is not reasonable to acknowledge the entirety of the record on both subdivision maps and still interpret the Board of Supervisors' approvals as intending to leave it up to the Martis Camp landowner to decide if it wants to use the road connection for private access to and from Northstar. DMB knew such use was not allowed by the MVCP and did not even apply for such use. Instead it represented its roads extending Schaffer Mill Road as ending in an "EMERGENCY ACCESS CONNECTION". Private non-emergency use of the through connection was, therefore, not a part of the Siller Ranch approval and it cannot be legally added years later without further public process and environmental review. Yet, it is occurring today. The County has been asked to stop this prohibited use and that can be very easily done by ordering the emergency access gate to be operated as such. That action needs to be taken before winter, when additional negative safety and road maintenance impacts will occur. The County's failure to act creates an otherwise unnecessary dangerous condition on Mill Site Road, leaving the Retreat and other Northstar owners at greatly increased risk of traffic accidents and the County exposed to liability.

The public relied on the MVCP and Siller Ranch and Retreat subdivision map approval processes to put in effect Martis Camp/Northstar vehicle traffic restrictions. That such restrictions on this exact site were and are the land use policy of Placer County cannot be credibly challenged. Given the clear evidence in the County's records, DMB's attempts to redefine its map conditions are groundless and unreasonable. The County's decision to enforce the approved emergency and public transit only road connection use restriction should not be difficult. That action is required to maintain the integrity of the County's land use ordinances and policies, as well as by law. Although enforcement action can be a discretionary act by Placer County, that discretion cannot be exercised unreasonably, arbitrarily or capriciously. Refusing to enforce the Board's clear intent, and actions directing County staff, to comply with the MVCP's unambiguous, express legal requirement for this road restriction, would be legally insufficient.

Due to DMB's actions, through traffic between Martis Camp and Northstar over Mill Site Road and Big Springs Drive is already far heavier than envisioned by the Retreat or Siller Ranch EIRs, with current and future significantly negative impacts on Northstar communities. Northstar owners were assured by the County that such increased traffic through Northstar would not be allowed at all without a public review process, in which they would have an opportunity to see an EIR and comment on environmental and other impacts. That process has not occurred. Yet the County's inaction is allowing the illegal increased use, despite the lack of public participation and the legally required process. If DMB's unauthorized opening of the road connection to non-emergency, private or public, use is not stopped, there undoubtedly will be a vigorous public outcry. The County is expected to follow reason, logic, good governance, public safety and public service principals which all require that the County must quickly act to have this illegal traffic stopped.

**northstar
property owners
association**

**BOARD OF DIRECTORS
NORTHSTAR PROPERTY OWNERS ASSOCIATION
RESOLUTION**

In the matter of: **SUPPORTING THE MARTIS CAMP EMERGENCY VEHICLE
ACCESS LIMITED USE CONDITIONS**

The Northstar Property Owners Association Board of Directors unanimously authorizes its General Manager to make immediate demand of Placer County to enforce the limitation of the connection between Mill Site Road and Shaffer Mill Road between Northstar and Martis Camp to "emergency and public transit only".

PASSED AND ADOPTED by the Northstar Property Owners Association this 30th day of June, 2012 by the following 6-0 vote:

AYES: Danto, DeNero, Howes, Mulloy, Paterson, Plishner

NOES: None

ABSENT: Ireton

ATTEST:



Richard Paterson
President

2200 NORTH VILLAGE LANE • TRUCKEE, CALIFORNIA 96161 • TELEPHONE (530) 562-0322
FAX (530) 562-0324 • E-mail: npoa@npoa.info • <http://www.npoa.info>

ATTACHMENT A-1

72297833 2 0046572- 00001



N.C.S.D

Northstar Community Services District
908 Northstar Drive, Northstar, CA 96161
P: 530.662.0747 - F: 530.561.1505 - www.northstarscd.org

Board of Directors
C. J. E. ...
M. ...
H. ...
P. ...
C. ...

General Manager
C. ...

**BOARD OF DIRECTORS
NORTHSTAR COMMUNITY SERVICES DISTRICT
RESOLUTION 12-16**

In the matter of: **SUPPORTING THE MARTIS CAMP EMERGENCY VEHICLE ACCESS
LIMITED USE CONDITIONS**

Whereas, the Northstar Community Services District ("the District") is responsible to repair and maintain certain roads and other improvements in the Northstar Resort area ("Northstar"), including Mill Site Road in the Retreat at Northstar subdivision, Big Springs Drive and connecting roads in Northstar ("Roads"); and

Whereas, at the time of Placer County's ("the County") review and approval of the Martis Camp subdivision, the County authorized construction of a road that connects the west end of Mill Site Road with a private easement road in the Martis Camp subdivision ("Connection"), on the specific condition that the Connection would be used only for emergency, public transit and utility purposes ("the Limited Uses"); and,

Whereas, this Board of Directors communicated its support of the Limited Uses to the County at the time of the County's consideration of the Martis Camp subdivision approvals; and,

Whereas, the District has become aware that private vehicle use is being made of the Connection in violation of the Limited Uses; and

Whereas, this Board has determined that the unauthorized use of the Connection poses a threat to the health and safety of Northstar residents and property owners, and will also result in negative impacts on the Roads and on the District's operations, and that therefore it continues to be in the best interests of the District and its residents and property owners that the County fully enforce the Limited Uses of the Connection;

NOW, THEREFORE, the Board of Directors of the Northstar Community Services District hereby resolves as follows:

That the Northstar Community Services District authorizes its General Manager to make request of Placer County immediately to enforce the Limited Uses of the Connection.

12-16-16
9/20/12

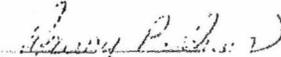
PASSED AND ADOPTED by the Northstar Community Services District this 20th day of June, 2012, by the following vote on call:

AYES: Directors Ives, Evans, Green and Seelig

NOES: None

ABSENT: Smith

ABSTAIN: None


Nancy P. Ives
President of the Board

ATTEST:

James Bowling
Secretary of the Board

By: _____

Title: _____

1. 05/1
1. 2. 2

2

MEMORANDUM
DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: LORI LAWRENCE, PLANNING DEPT. DATE: MARCH 31, 2003
BILL COMBS, PLANNING DEPT.

FROM: ROBERT VROOMAN, LAND DEVELOPMENT, DPW

SUBJECT: NOP: SILLER RANCH

DPW has completed our review of the above referenced application and request that the following items/comments be included in the Environmental Impact Report that is being prepared for the project:

GEOLOGIC PROBLEMS

Initial Study Discussion:

The proposed project will have probable environmental impacts that are considered to be potentially significant due to the proposed grading and alteration of the existing ground surface required for the proposed golf course, clubhouse and roadway improvements. Appropriate mitigations, as determined by an appropriate geotechnical investigation, should be proposed that will reduce the impacts as a result of these improvements. A specific description of the proposed BMP's both during and after construction of the project's components should be made to determine if proper mitigation for erosion will be incorporated into the project's design.

1. The proposed project will have probable environmental impacts that can be considered potentially significant unless appropriate mitigations are proposed. Therefore, an analysis of the proposed grading on the project site should be prepared to an appropriate level so that an accurate environmental finding can be made and proper mitigations proposed to reduce or eliminate potential impacts or that unmitigated impacts be clearly identified. The analysis should include but not be limited to the following:
 - a) Creation of a specific grading plan that shows pre- and post-development grading for the site that shows the impacts of the proposed grading and the specific location of all grading that is proposed.
 - b) Topographic information such as existing and proposed elevation contour lines. Specific attention should be given to proposed work or improvements in areas of steeper terrain or in areas of potentially unstable geologic conditions.
 - c) Identification of the areas of potential erosion or concentrated runoff. Once the areas are identified, specific measures for the prevention or reduction of erosion or concentrated runoff should be made and proposed as specific mitigations. Discussion should also be made as to the impacts of the projects

mitigations or impacts determined by the preliminary drainage report should be specifically listed and a discussion should be made about these findings.

3. Comments from the Town of Truckee, CalTrans and Nevada County should be solicited for their view of the potential impacts the their downstream facilities if any. These comments should be included and discussed in the project's EIR.

TRANSPORTATION / CIRCULATION

Initial Study Discussion:

The probable environmental impacts are considered to be potentially significant unless mitigation is incorporated because of the increase in vehicle, bicycle and pedestrian traffic created by the proposed project. Appropriate mitigations should be based on a traffic analysis that evaluates all potential project related traffic impacts to existing traffic as well as any special needs created by the project that may impact off-site County or State public roads.

1. The EIR must include a traffic impact analysis of the proposed project. The analysis should include the following:

- a) An analysis of the roadway network for the Peak Summer Weekday and the Winter 30th Highest Hour for existing conditions, a short-term analysis, and a cumulative analysis.

- b) The following intersections and roadway segments will need to be included in the analysis.

Intersections:

- State Route 267/Airport Road/ Schaffer Mill Road
- State Route 267/Northstar Drive
- State Route 267/Highlands Drive
- State Route 276/State Route 28
- Project Entrance/Schaffer Mill Road
- Schaffer Mill Road/Eaglewood Entrance
- Schaffer Mill Road/Lodgetrail Drive (Lahontan Entrance)

Roadway Segments:

- State Route 267 north of Airport Road/Schaffer Mill Road
- State Route 267 south of Airport Road/Schaffer Mill Road
- State Route 267 south of Northstar Drive
- State Route 267 north of State Route 28
- State Route 28 east of State Route 267
- State Route 28 west of State Route 267
- Schaffer Mill Road between SR 267 and Hopkins Ranch Entrance
- Schaffer Mill Road east of the project entrance

- c) In addition, the Town of Truckee, Caltrans, and Nevada County should be contacted to identify intersections and roadway segments within their respective jurisdictions that need to be included in the traffic analysis.

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS DATE: MAY 9, 2008
FROM: KEN GREHM ^{KD}

SUBJECT: ESTABLISH ZONE OF BENEFIT NO. 187 IN COUNTY SERVICE AREA 28
(NORTHSTAR AT TAHOE - RETREAT SUBDIVISION) AND SET A FEE FOR SERVICES

ACTION REQUESTED / RECOMMENDATION

Conduct a public hearing, consider all protests, tabulate ballots, and adopt a Resolution creating Zone of Benefit No. 187 and setting charges to provide road rehabilitation, storm drain maintenance and snow removal services for the Northstar at Tahoe Retreat subdivision.

HILL SITE ROAD PRIVATELY FUNDED BY
MAINTENANCE IS RETREAT

BACKGROUND

Zones of benefit are created within County Service Area No. 28 to fill the services funding gap between general County services and special services. This particular developer's conditions of approval require the formation of a CSA Zone of Benefit to fund road rehabilitation, storm drain maintenance and snow removal. The roads in this subdivision will be accepted into the County maintained mileage. The CSA charge pays for long-term road rehabilitation including skyny seals, crack seals and overlays. The property owner has requested a higher level of service than that provided by Placer County; therefore, Northstar Community Services District (NCS D) will be providing the road maintenance and snow removal services. The charges for these items are based on NCS D actual costs.

The Northstar at Tahoe Retreat subdivision is tentatively approved for 18 residential units. It is located on the northwestern face of Mt. Pluto at an elevation between approximately 8180 feet and 8370 feet in the Northstar area. The area is specifically described in Exhibit "A", attached hereto and made a part hereof.

Pursuant to Proposition 218, the property owner of record of the existing parcel of the Northstar at Tahoe Retreat subdivision has signed a ballot. The property owner approved, by way of this ballot, an annual charge of \$2,885 per parcel and/or dwelling unit for the existing parcel and each new parcel and/or dwelling unit created as final maps are recorded. In lieu of receipt of mailed notice of this hearing, the owner of the existing parcel has executed a waiver. Your Board is required to conduct a Public Hearing to consider all protests and tabulate the ballots. Your Board must also adopt a Resolution to impose the parcel/dwelling unit charge.

ENVIRONMENTAL CLEARANCE

This is an administrative action required pursuant to the conditions of approval for this subdivision. As such, it is not a separate project and is not subject to further environmental review.

FISCAL IMPACT

The \$2,885 charge will be levied on each existing parcel /dwelling unit and each new parcel created by each new final map. The ballot also allows for an annual cost of living increase for this CSA charge. These charges are supported by a detailed engineer's report prepared by a registered professional engineer.

Attachments: Resolution
Exhibit A

On file with Clerk of the Board: Engineer's Report

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ATTACHMENT C-1

ENGINEERS REPORT
A SPECIAL ZONE OF BENEFIT
FOR
Northstar at Tahoe - Retreat Subdivision
ZONE OF BENEFIT 187
COUNTY SERVICE AREA NO. 28
PLACER COUNTY, CALIFORNIA

*final -
for approval
by BOS 5/09*

- 4) 36" storm drain pipe in and out of inlet #2 noted above (70 LF)
- 5) 24"x36" concrete DI in shoulder 4' deep (including 1' sump bottom) (left side of Mill Site Rd. 880' from Big Springs Dr.)
- 6) 24"x36" concrete DI in shoulder 4' deep (including 1' sump bottom) (left side of Mill Site Rd. 1,180' from Big Springs Dr.)
- 7) 18" storm drain pipe out of Inlet #6 noted above (320 LF)
- 8) 24"x36" concrete DI in shoulder 6' deep (including 1' sump bottom) (left side of Mill Site Rd. 1,495' from Big Springs Dr.)
- 9) 18" storm drain pipe out of Inlet #8 noted above (255 LF)
- 10) 24"x36" concrete DI in shoulder 7' deep (including 1' sump bottom) (left side of Mill Site Rd. 1,750' from Big Springs Dr.)
- 11) 24" storm drain pipe out of Inlet #10 noted above (51 LF)
- 12) 36" OMP Inlet in shoulder 8' deep (including 2' sump bottom) with side opening (right side of Cross Cut Ct. 280' from Mill Site Rd.)
- 13) 24" storm drain pipe out of inlet #12 noted above (134 LF)
- 14) 48" concrete DI in shoulder 9' deep (right side of Cross Cut Ct. 780' from Mill Site Rd.)
- 15) 36" storm drain pipe in and out of inlet #14 noted above (55 LF)

The CSA will levy a charge to each residential lot within the subdivision to fund the services. In November 1996, the voters of California approved Proposition 218, which changed the assessment law governing benefit zones. Among those changes was a requirement that the assessment must be supported by an Engineers Report prepared and signed by a registered Engineer in the State of California. This report complies with that requirement. Proposition 218 also changed the requirements of how a legal entity can impose an assessment to a property. An assessment may only be imposed in an amount, which represents a special benefit to an assessed property. These services represent a special benefit to the Retreat Subdivision property in that the services to be funded by the assessments will only benefit the Retreat Subdivision property and the individual lots in the Retreat Subdivision project.

Should the Board of Supervisors abolish the CSA, the project homeowners association would be responsible for these services.

The remaining maintenance items as indicated in condition 35 will be maintained as follows:

The project homeowners association will provide the maintenance for storm water detention facilities and storm drain maintenance facilities located outside of the street right-of-way and public easements including stormwater enhancement facilities (best management practices, BMP's). Additionally, the homeowners association proposes to and shall contribute and be responsible for an amount equal to one half of the annual inspection and maintenance costs associated with the storm water detention basin on Northstar Properties Owners Association property immediately uphill of the subdivision and this responsibility shall be formalized and recorded in the subdivision's CC&R's.

II. LEGAL REQUIREMENTS

A County Service Area is required to be established as indicated in the Conditions of Approval for the tentative subdivision map for the Retreat Subdivision.

In November 1996 the voters of the State of California passed Proposition 218 which made significant changes in Assessment Law. Among those changes was a requirement that a detailed Engineers Report be prepared and signed by a Registered Professional Engineer in the State of California. This report is being prepared in response to that requirement.

Another requirement of the new law is that the report must establish a substantive "special benefit" to property for the valid levy of an assessment. In the case of this assessment, the "special benefit" to

waters are not being maintained or controlled for some reason within the designated flow path, remedial work should occur. This may consist of clearing debris from the drainage inlets, swales, storm drain piping or manholes, reshaping any nearby areas that may have eroded, and removing debris from all drainage conveyances and/or manholes. In the event that any drainage conveyances have become damaged due to any reason, repairs would be necessary.

Estimated Frequency: 2 times per year for clearing and disposing of debris, sands, silts, etc. 1 time per year for any repairs.

The annualized cost for drainage facility maintenance services was obtained from Gary Davis Engineers and is attached in the Appendix ("Budget Worksheet 2 -- Storm Drainage System Maintenance Cost Estimate"). Annual maintenance, replacement, and repair costs were accounted for in the estimate. The total cost of drainage facility maintenance included in the CSA is \$2,057.50.

The annualized cost expenditures for insurance, collections, administration, management and contingencies are included in the actual assessments for each assessable lot. The actual cost breakdown worksheet and cost spread are included in the appendix of this report. The assessments as calculated are necessary to ensure the funds are available when needed. By using actual and current cost, the assessments are justified, yet the assessments should not be more than what is necessary for the estimated costs.

V. CALCULATION OF SPECIAL BENEFIT

Pursuant to Section 4 of Article XIII D of the California Constitution, the lots of the subdivision receiving a special benefit from the assessment must be identified and the proportionate special benefit must be determined in relationship to the total expenses estimated to be necessary to maintain the road and drainage improvements. It is my opinion that the benefits are wholly special benefits and each of the lots within this subdivision receive an equal proportion of special benefit in that the roads of this subdivision serve only the lots in this subdivision and are not a part of a larger County traffic system. In addition, the drainage being maintained by this zone of benefit serves only lots within the subdivision. Because it cannot be said that any one lot is benefiting greater than any other lot, the amount of assessment which is to be imposed on each lot is equal and does not exceed the reasonable cost of the proportional special benefit conferred on that lot. Accordingly, I find that each lot in this subdivision receives a special benefit from the proposed programs. I find that each lot would receive the following annual special benefit:

and addressed. Section 5 of the DEIR presents a summary of the potential cumulative impacts of the Project and the Mitigation Measures identified to substantially reduce those impacts.

In Appendix 4 of the DEIR, as explained on page 4.0-1 of the DEIR, the Project is evaluated for consistency with the Placer County General Plan and the Martis Valley Community Plan. The DEIR and the FEIR conclude that, with mitigation, the Project is consistent with each aspect of those Plans. Additionally, Sections 4.1 – 4.12 of the DEIR consider each of the regional environmental protection plans which pertain to the Project and require consistency with those plans. For example, on pages 4.7-28 through 4.7-37, the DEIR describes the regulatory plans and programs of the Federal, State and local agencies which regulate water quality, including the Water Quality Objectives of the Water Quality Control Plan for the Lahontan Region (Basin Plan.) On page 4.7-53 of the DEIR, it is noted that the Project could potentially "result in an increase in urban contaminants in surface runoff which could adversely affect Martis Creek." However, the DEIR and FEIR prescribe Mitigation Measures 4.7.2 and 4.7.3 a, b & c, which require that, "[P]ermanent water quality control features described in the [final drainage] report shall demonstrate (such as through routine water quality monitoring) that the water quality controls are adequate to prevent any increase in sediment of other pollutants in the on-site drainages and Martis Creek over pre-development conditions through water quality monitoring. . ." and that "[S]torm water discharge shall be in compliance with all current requirements of the Lahontan Regional Water Quality Control Board," and which require a water quality sampling program with reporting to the Lahontan Regional Water Quality Control Board. Thus, the EIR complies with Guideline 15125.

As described above and in Sections 3.0, Sections 4.0 – 4.12 and Section 5 of the DEIR and the FEIR, the project description for the Siller Ranch Project fully describes all aspects of the approval and build-out of the Project as well as reasonably foreseeable impacts likely to occur as a result of the Project in conjunction with other reasonably foreseeable development in the North Tahoe/Truckee region, consistent with CEQA Guidelines Sections 15124 and 15378(a) and case law. Similarly, those sections provide the setting information and the general and regional plan consistency analysis required by CEQA Guideline Section 15125. Accordingly, the County finds that Project description and setting information and analysis complies with the requirements of CEQA.

E. CEQA Requirement of Impact Analysis and Mitigation Measures.

CEQA Guidelines Section 15126, 15126.2 and 15126.4 require the discussion and analysis of a number of individual categories of potential adverse

Siller Ranch Vesting Tentative Subdivision Map and Golf Course CUP Approval - CEQA Findings of Fact and Statement of Overriding Considerations - 11

ATTACHMENT D

2.0 EXECUTIVE SUMMARY

Impact	Level of Significance Without Mitigation	Mitigation Measure	Resulting Level of Significance
Subdivision would likely contribute to exceedance of the LOS at four Intersections in the Northstar area under the 2008 plus project conditions.		applicant shall pay 0.4 percent of the Improvements Identified in the Comprehensive Traffic Monitoring and Reporting Program. Timing/Implementation: Prior to Final Map Approval. Enforcement/Monitoring: Placer County Department of Public Works.	
Impact 4.4.8 The proposed project would not significantly increase the demand for transit services within the Northstar area.	LS		
Impact 4.4.9 Placer County General Plan Policy 3.A.4 and Maris Valley Community Plan Policy 5.A.17 state that the number of driveway encroachments along collector roadways should be minimized. Under the Maris Valley Community Plan, the project access drive is designated a collector roadway, thereby requiring that the number of driveways be limited. However, as the roadway would only be open to transit through traffic, traffic levels along this roadway are expected to remain relatively low and the safety and delay implications of allowing driveway access along the roadway are considered negligible.	LS		
Impact 4.4.10 Implementation of the project	LS		

S - Significant
 PS - Potentially Significant
 Northstar Retreat
 Final Environmental Impact Report

LS - Less Than Significant
 CS - Cumulative Significant

SU - Significant and Unavoidable
 B - Beneficial
 Placer County
 December 2004

ATTACHMENT 6

Letter from Lanny Winberry to
Robert Sandman, dated
September 14, 2012

LANNY T. WINBERRY
email:ltw@winberrylaw.com

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September 14, 2012

Mr. Robert Sandman
Deputy County Counsel – Placer County
175 Fulweiler Ave.
Auburn, CA 95603

Re: Private Rights of Abutting Landowner;
West end of Mill Site Road

Dear Mr. Sandman:

Thank you for allowing me the opportunity of responding to Mr. Faccinto's most recent letter and Memorandum to you dated August 23, 2012. It should be noted that Mr. Faccinto has now abandoned his previous argument and effectively admits that Mill Site Road is a public roadway from its junction with Big Springs Drive to its terminus upon the western property line of The Retreat at Northstar. However, Mr. Faccinto contends that, in its approval of the Martis Valley Community Plan, (December 16, 2003) in its approval of the Vesting Tentative Map of Siller Ranch (January 18, 2005) and in its approval of the Vesting Tentative Map of The Retreat, (February 23, 2005) the County intended to prohibit the owner(s) of the Siller Ranch land from exercising its/their abutter's rights in the event that a public roadway should, at some point thereafter, be dedicated and constructed so as to touch upon Siller Ranch. The record is devoid of any prohibition upon the exercise of abutter's rights – and no abutter's rights arose until the County's acceptance of the dedication of Mill Site Road as a public road on May 9, 2006. The Retreat developer offered that dedication on the face of the Final Map of The Retreat at Northstar. No record has been found in which the developer proposed that Mill Site Road be approved as a private roadway. .

None of the three approval documents on which Mr. Faccinto and his client now base their arguments prohibit the owner(s) of the Siller Ranch Land from accessing or exiting any public roadway at any point. In a rather, spirited, if not vitriolic, defense of his client's mistaken position, Mr. Faccinto repeatedly contends that such a prohibition must have been intended and that the County must have intended to require the owner(s) of Siller Ranch to install a gate at the eastern edge of the Siller Ranch property to keep the owner(s) of the Siller Ranch Property from exiting or entering their own property anywhere other than at the northwestern entrance to Siller Ranch some two and one half miles to the west of Mill Site Road. But the record on which Mr. Faccinto relies contains absolutely no restriction on the private use of the private roadways envisioned in Siller Ranch. Those private roadways may be used to reach any public roads on which they touch, whether such public roads were in existence in 2003 or came into existence thereafter. It goes without saying that the County does not, as a matter of policy require owners of private property to install gates to

keep those owners from entering or leaving their own properties. Yet, that is exactly what Mr. Faccinto and his client argue in this instance.

In considering Mr. Faccinto's arguments, one must ask, what would have happened if, in 2005, the developer of The Retreat had proposed that Mill Site Road be approved as a private roadway subject only to an emergency access easement and a public transit easement. Approval of such a request would have eliminated any potential abutter's rights and would have prevented the owner(s) of the adjacent property, (Siller Ranch) from entering and exiting Siller Ranch via Mill Site Road, absent a private easement agreement. The possible outcomes of such a proposal are limited: A), the County might have decided that Mill Site Road should be dedicated as a public roadway all the way to the property line so that if, in the future, the County proposed to open a public roadway across the Siller Ranch, the County would have only one landowner with which to deal, in addition to completing the environmental review that such a public roadway project would entail; B), the County might have decided that Mill Site Road need not be offered for dedication as a public road on whatever grounds might have been advanced for that proposal; or, C) the County might have chosen to reconsider the entire issue as to whether there should be a public, through connection from Truckee to Northstar other than via State Route 267.

In response to such a proposal, the County might well have elected to delay the approval of The Retreat so that the appropriate level of environmental review of the proposal could be completed. Full reconsideration might well have been warranted, because the decision to not require a public roadway through Siller Ranch to act as a public through connection is one thing, but going further, and requiring the present and future owner(s) of Siller Ranch to needlessly drive an additional nine miles (much of that on already crowded public roadways) to reach a destination only one mile away, is quite another. From a practical standpoint, it is easy to see why the developer of The Retreat made no objection to having private roads on one side of the property line and public roads on the other. The making of such a proposal posed a risk that, in re-examining the matter, the County might have decided, once again, to favor an alternate public, through connection from Sierra Meadows/Ponderosa Palisades (or from State Route 267 at Airport Road) through Siller Ranch to Northstar Drive. The direct access and use of Mill Site Road by owners in Siller Ranch was not seen as a matter worthy of discussion. Indeed, that developer might well have wanted to encourage such use.

Mill Site Road was approved as a public road and was eventually dedicated and accepted by the County as a part of the County's public road system. There simply is no credible evidence of an intent, on the part of the County, to prohibit private access to Mill Site Road by persons whose property abuts it. Yet, more than seven years later, Mr. Faccinto and his client ask the County to re-write history in order to accommodate their ill defined concerns. The record is clear that Siller Ranch Road and K Street (later named Schaffer Mill Road for simplicity) were approved as private roads, and only an emergency access easement and a public transit easement over those roads were required as Conditions of Approval of the Siller Ranch Vesting Tentative Map (COA's 33, 39 and 55(A) & (M).)

At the risk of being redundant, I would ask that the County consider the following:

A. The Martis Valley Community Plan Does Not “Trump” or Prohibit the Exercise of Abutter’s Rights.

Mr. Faccinto’s arguments ignore the relevant chronology and erroneously interpret documents written in 2003 and 2005 as though they had been written on or after May 9, 2006, when Mill Site Road was dedicated as a public roadway to the common property boundary between Northstar and Siller Ranch. Ignoring the time-line makes it easier for Mr. Faccinto to “misunderstand” the meaning of the phrase, **“through connection between Schaffer Mill Road and Northstar Drive,”** as used in the 2003 Martis Valley Community Plan, (at page 72.) In December 2003, Schaffer Mill Road was a private road which began at the intersection of State Route 267 and Airport Road and terminated at the entrance to the Lahontan Community approximately one mile to the south and west of State Route 267. Although an Irrevocable Offer of Dedication over that roadway was recorded on September 20, 1996, as Document Number 96-55821, the County still has not accepted that offer as of this date and this portion of Schaffer Mill Road remains a private road. On April 8, 2004 the owners of the land underlying that roadway recorded, as Document Number 2004-40976, a “Reciprocal Grant of Easements” confirming their rights to joint use of that segment and making provisions for its maintenance as a private roadway. Thus, in December 2003, the southern end of the private roadway known as Schaffer Mill Road lay some two and one-half miles to the west of the Northstar land that is now mapped and developed as The Retreat, and some three miles west of Northstar Drive. Therefore, the “connection” actually described in the Martis Valley Community Plan was a then non-existent stretch of road some three miles long. The 2003 planning document does not mention the point at which the roadway connection under discussion would cross the property line between Siller Ranch and Northstar. Nevertheless, Mr. Faccinto’s newest letter and Memorandum attempt to reduce the three-mile roadway connection to a single point on that roadway “at” the property line between Siller Ranch and Northstar. Mr. Faccinto argues that that point may not be traversed by the owner(s) of Siller Ranch, now known as Martis Camp.

In 2003, the term “through connection” referred to a roadway some three miles long that the County might permit to be developed as and when the Siller Ranch land and the Northstar land now known as The Retreat was subdivided and developed. The question before the County in 2003 was whether, in order to serve public traffic and circulation needs, the Martis Valley Community Plan would require that any future approval of the subdivision of the 2,200-acre Siller Ranch be conditioned upon the owner of Siller Ranch offering such a roadway for dedication as a public roadway. (There was never a question raised as to whether the Northstar portion of the roadway connection would be offered for dedication as a public road.) A Community Plan requirement that subdivision and development of the Siller Ranch would be conditioned upon an offer of dedication of a roadway traversing the length of Siller Ranch would have mandated the eventual creation of a public “through connection” from Truckee to Northstar as an unrestricted circulation alternative to State Route 267. That is the alternative rejected by the County in the Martis Valley Community Plan. When read in the light of the conditions that existed in 2003 and in light of the issue actually under discussion, the provisions of the Martis Valley Community Plan relied upon

by Mr. Faccinto actually defeat his argument. Private rights of access to public roadways were not under discussion.

Ignoring the facts as they existed in 2003, and ignoring the words found in the Martis Valley Community Plan, Mr. Faccinto conflates the meaning of the phrase, "a through connection between Schaffer Mill Road and Northstar Drive" as it was understood in 2003, with the point of connection between the present end of the still private Schaffer Mill Road and the western end the public Mill Site Road. In essence, Mr. Faccinto asks that the words in the 2003 Martis Valley General Plan quoted above be read to mean the point of connection between the private roadway system in Martis Camp and the public roadway system in Northstar. But, history cannot be changed, and the words in the 2003 Martis Valley Community Plan must be interpreted in accordance with their meaning at that time.

Mr. Faccinto's premise is that the Martis Valley Community Plan as updated during 2003 and the approval documents for Siller Ranch and the approval documents for The Retreat at Northstar forbid passage of Martis Camp owners and guests "at" the point where the current east end of Schaffer Mill Road "connects" with the west end of Mill site Road in Northstar. (See paragraph numbered "1" at line 5 in the latest Faccinto letter.) The phrase partially quoted by Mr. Faccinto is clarified and placed in context in the same two-paragraph passage from page 72 of the MVCP quoted on pages 4 and 5 of Mr. Faccinto's previous Memorandum dated May 1, 2012. However, that passage does not support Mr. Faccinto's argument and is contrary to it. The passage on which Mr. Faccinto relies reads as follows:

The County had an in-depth analysis performed for two road networks for the development of this plan. One scenario included a through connection between Schaffer Mill Road and Northstar Drive, through connections between Eaglewood and Sierra Meadows/Ponderosa Palisades developments and a through connection from Big Springs Drive into the Highlands development in Northstar-at-Tahoe. The second scenario removed the through connections from Schaffer Mill Road to Northstar and from Eaglewood to Sierra Meadows/Ponderosa Palisades developments.

Of these two roadway network scenarios, the one with the connections was the proposed roadway network originally presented to the community at public meetings due to the overall circulation benefits. Based on community and landowners input however, this Plan proposes the second scenario and further proposes that the Northstar Highlands to Northstar Village connection via Big Springs Road be limited to transit, pedestrian, bicycle and emergency access. Additionally the proposed roadway system includes transit and emergency access only between Schaffer Mill Road and Northstar.

(Martis Valley Community Plan at page 72.) Note that the Plan uses the word, "includes" with respect to the roadway system proposed in the Plan. The use of the word "only" in the last sentence simply means that the Plan no longer proposed a requirement for a full access, public, through connection, roadway connecting Truckee and Northstar via Siller Ranch.

On page 73, the Martis Valley Community Plan continues, stating:

Schaffer Mill Road is classified as a collector road and will be the access to a majority of the large land holdings remaining within Martis Valley.

...
This roadway will be extended to make a connection with Northstar-at-Tahoe via Big Springs Drive as an emergency access and as a local transit route when conditions on SR267 warrant.

Note that the immediately foregoing quotation does not include the word "only." The foregoing passages from the Martis Valley Community Plan make it clear that, during Community Plan update process, the County considered two potential road networks as a part of the public traffic circulation plan. One potential network included a "through connection between Schaffer Mill Road and Northstar Drive" and a through connection between what was then known as Eaglewood and the Sierra Meadows/Ponderosa Palisades neighborhoods. The two latter communities were then, and still are, served by public roads. Because Eaglewood, later called Timilick and now called Schaffer's Mill, was adjacent to Siller Ranch and was traversed by a portion of the then existing Schaffer Mill Road, there can really be no doubt that the "through connections" under consideration were public, through connection, roadways which would have allowed vehicles operated by members of the general public traveling on existing public roads in Sierra Meadows/Ponderosa Palisades to reach Northstar Drive, a public roadway in Northstar-at-Tahoe, via a public roadway running through Siller Ranch. The passage quoted above, and provided in Mr. Faccinto's previous Memorandum, makes it clear that the County simply decided not to require such public, through connection, roadways as a part of the County's general plan roadway system. Instead, the County chose to "propose" (read require) emergency access and public transit vehicle easements across Siller Ranch as a part of the County's public circulation plan and not to require full access public roadways across Siller Ranch so as to provide a connection from Sierra Meadows/Ponderosa Palisades, (or from State Route 267 at Airport Road) through Siller to Northstar as an alternative to State Route 267. Clearly, the County has allowed the development of the private roadways in Siller Ranch and has allowed the residents and guests to use those roadways as private roadways in addition to their dedication as public emergency access easement roadways and roadways that may be used by public transit vehicles.

If Mr. Faccinto's interpretation of the Martis Valley Community Plan were applied, the residents and guests in Martis Camp would not be allowed use Schaffer Mill Road to reach their homes because that road could be used "only" for emergency access and by transit vehicles. Such an interpretation of the Martis Valley Community Plan is simply preposterous. Faced with the reality that Martis Camp residents and guests are allowed to use the roadways discussed in the Martis Valley Community Plan as private roadways for access to their residential lots, Mr. Faccinto attempts to transmogrify the Martis Valley Community Plan so that the word "connection" refers, not to a proposed roadway across Siller Ranch and a portion of Northstar to Northstar Drive, but rather to the point "at" which the west end of Mill Site Road becomes the east end of the present day Schaffer Mill Road.

The eastern portion of the present day Schaffer Mill Road was originally approved in January 2005 as Siller Ranch Road, H Drive and K Street. (See Figure 6 at page 10 of my Memorandum to you dated July 24, 2012, depicting those roads in the Vesting Tentative Map of Siller Ranch)

In his latest letter, Mr. Faccinto has chosen to use only a portion of a phrase from the last sentence of the two paragraphs from page 72 of the Martis Valley Community Plan quoted in his previous Memorandum. That sentence is a summary and does not actually mention the phrase "through connection" and does not include the word "Drive" following "Northstar." Mr. Faccinto has taken the liberty of choosing the shorter phrase so as to conflate the concept of a two-mile roadway connection, which was then non-existent, with a single-point of "connection" between Mill Site Road and the present-day Schaffer Mill Road. The more complete statement of the public "roadway network" considered by, and ultimately rejected by, the County is found in the second sentence of the passage from page 72 of the Martis Valley Community Plan quoted above, to wit: "a through connection between Schaffer Mill Road [at the entrance to Lahontan] and Northstar Drive."

If the phrase "between Schaffer Mill Road and Northstar" repeatedly quoted by Mr. Faccinto had been found in a planning document written in 2006 or later, that phrase might actually refer to the precise point "at" which Schaffer Mill Road meets Mill Site Road at the boundary between Martis Camp and The Retreat at Northstar. If that were the case, it might be reasonably argued that the document referred to a point on the common boundary as the "connection." However, in the light of history, Mr. Faccinto's argument is erroneous. In 2003, the County had no occasion to consider whether to prohibit a land owner on one side of a property line from entering a public roadway which might one day be dedicated and developed to that property line.

Moreover, Mr. Faccinto's argument, it is directly contrary to the planning principles expressly set forth in the Martis Valley Community Plan. Goal 5. of that Plan, found at page 65 thereof, states that the goal is:

to maximize the efficient use of transportation facilities so as to: 1) **reduce travel demand on the County's roadway system**; 2) reduce the amount of investment required in new or expanded facilities; 3) **reduce the quantity of emissions of pollutants from automobiles**; and 4) **increase the energy efficiency of the transportation system.** (Emphasis added.)

Requiring the residents of Martis Camp to drive an additional and unnecessary 9-mile loop in order to reach Northstar rather than directly accessing the abutting public road, Mill Site Road, would violate three of those four County planning precepts which are Goal 5. (See Figure 1, at page 2 of my Memorandum to you dated July 24, 2012.) There is not the slightest hint in the public record that such an absurd requirement was ever intended by the County. No such prohibition on crossing the property line and entering Mill Site Road was adopted by the County.

B. The Siller Ranch Conditions of Approval Do Not Prohibit the Owner(s) of the Land Abutting Mill Site Road from Accessing That Road Directly.

As noted above, in 2003 Schaffer Mill Road ended at the entrance to the Lahontan community which was also at the entrance to the Siller Ranch parcels. The same was true in January 2005 when the Vesting Tentative Map of the Siller Ranch project was approved. That approved Map did not identify any road in Siller Ranch as being named "Schaffer Mill Road." The proposed (and approved) Tentative Map of Siller Ranch depicted "Siller Ranch Road" as a main road, ending well short of Northstar, and "K Street" as a spur road extending from the east end of Siller Ranch Road and H Drive to the Northstar line. See Figure 4 at page 10 of my Memorandum dated July 24, 2012.) Mr. Faccinto's response to my Memorandum to you dated July 24, 2012 steadfastly and deliberately ignores that indisputable historical fact. We know that Mr. Faccinto is aware of this fact because, in Appendix "1"-3 to his Memorandum to you dated May 1, 2012, Mr. Faccinto quoted mitigation measure 4.4.7b of the final EIR for Siller Ranch. That provision states:

The project applicant shall provide an easement or other mechanism acceptable to the County to allow the use of Siller Ranch Road (from the project entrance at Schaffer Mill Road to K Street and along K Street through the emergency connection to Northstar-at-Tahoe) by local public transit vehicles.

That Mitigation Measure simply means that even though Siller Ranch Road, H Drive and K Street were approved as private roadways on January 18, 2005, the County required an easement allowing their use by public transit vehicles.

Mitigation Measure 4.11.1.2a (presented in Mr. Faccinto's Appendix "1"-4) provides that "[E]mergency access into Northstar-at-Tahoe with direct access to Big Springs Drive shall be provided with the phase 5 improvements." The words "allow" and "provide" are not words of limitation. There is not the slightest suggestion anywhere in the public record regarding the approval of Siller Ranch that the owners in Siller Ranch would be prohibited from using Siller Ranch Road, H Drive and K Street to reach the other streets in Siller Ranch or to thereby access their own residential lots or to reach any other point on the Siller Ranch property to which those roads led. As we now know, one of those places is the connection to Mill Site Road, which was dedicated in 2006 as a public road.

Mr. Faccinto now concedes that Mill Site Road is public all the way to the property line between The Retreat and Martis Camp. (See, e.g., the paragraph numbered 1 in his letter of August 23, 2012 and the first paragraph of Section I (on page 2) of his Memorandum of that date.) Rather than address the evidence presented in my Memorandum, consisting of the Vesting Tentative Map and the Final Map of the Retreat which shows that Mill Site Road is a public road all the way to the property line, Mr. Faccinto now argues that that is a moot point because abutters rights are "irrelevant." It must be noted that Mr. Faccinto no longer overtly contends that the residents and guests in Martis Camp are prohibited from using any of the roads lying within Martis Camp, including Schaffer Mill Road as it currently exists, as much as they want. After all, they are the persons who pay for the

maintenance of those roads, including Schaffer Mill Road. Instead, Mr. Faccinto now contends that the provisions he (mis)quotes somehow prevent the residents of Martis Camp from entering the west end of Mill Site Road, a public road, "at" the point of connection between Mill site Road and Schaffer Mill Road.

Boiled down to its essence, the current argument is that the owner of the land in Martis Camp that abuts on Mill Site Road may not enter the west end of Mill Site Road even though Mill Site Road is a public road. No longer does Mr. Faccinto argue that the owner of that land is prohibited from driving to the owner's own property line – just that the owner may not drive onto the public roadway "at" that point. Mr. Faccinto contends that an owner of the abutting land in Martis Camp may drive on the west end of Mill Site Road only if that owner reaches that point on Mill Site Road by first driving several miles on other public roads. Similarly, Mr. Faccinto contends that an owner of land in Martis Camp which abuts on Mill Site Road may not exit the west end of Mill Site Road and enter the owner's own property at that point. He contends that the owner must turn around while on the west end of Mill Site road and drive several unnecessary miles on public roads in order to access his own property. If the County had intended such an absurd result, would not the Martis Valley Community Plan and the approval documents for Siller Ranch spell that out in no uncertain terms? The answer is YES. However, the County did not intend that. Therefore, the documents do not say that.

In his latest letter and Memorandum, Mr. Faccinto adds an argument that both public and private access to the west end of Mill site Road is prohibited by the Martis Valley Community Plan and the conditions of approval for Siller Ranch. However, in the response to Comment 4-61, quoted in Appendix "1"-3 to Mr. Faccinto's initial Memorandum, he notes that, "the opening of the roadway to the public would be a separate project subject to its own environmental review process." (Emphasis added.) That provision in no way supports the idea that the owners in Martis Camp may not use the private roadways in their community to reach the east boundary line of Martis Camp and may not exercise their private property rights to enter or exit Mill Site Road at that point. In fact, nothing in any of the documents cited by Mr. Faccinto supports such a preposterous idea. The residents in Martis Camp are free to use the roadways which they own and maintain to reach their own property boundaries, and they are not, and may not be, prohibited from accessing any public roadways which abut the property on which they have a right to drive, even if that abutment occurs at a point where an internal private street abuts upon a public roadway at a boundary of Martis Camp. The only thing prohibited by the Martis Valley Community Plan (without further environmental review) is passage by the general public across Siller Ranch (now Martis Camp) so as to provide a public, though connection, roadway between the entrance to Lahontan and the public roads in Northstar.

It should be noted that Attachment B-1 to Mr. Faccinto's most recent Memorandum is an extract of an application form signed in October of 2002 with respect to Siller Ranch. At that time, Mill Site Road did not exist as a public road and had not yet been approved, much less dedicated as a public road. The argument is that, because the application stated that the Siller Ranch Project would not include "new entrances onto County roads," the Siller Ranch project was forever barred from asserting abutter's rights. Such an argument is specious and

has no relevance to the issue at hand. As noted above, the abutter's rights on which DMB/Highlands Group, LLC relies did not arise until Mill Site Road was dedicated in May of 2006. The same is true with respect to Mr. Faccinto's Attachment B-2 and B-3, a Memorandum dated March 31, 2003. That document predated the December 2003 Martis Valley Community Plan by several months and predated the dedication of Mill Site Road by some three years. Naturally, Mill Site Road was not mentioned as a roadway segment to be evaluated in connection with the development of Siller Ranch.

Additionally, it must be noted that none of the County's approval documents referenced by Mr. Faccinto with respect to the approval of Siller Ranch mention the word, "only." As demonstrated above, Mr. Faccinto completely misconstrues the word "only" as used in the 2003 Martis Valley Community Plan and attempts to graft that misconception onto the Siller Ranch approval documents. The absence of the word "only" in the Siller Ranch approval documents argues against Mr. Faccinto. In Appendix 1 to Mr. Faccinto's prior Memorandum, the word "only," appears in an extract from a Northstar Community Services District comment letter. (See Appendix 1, at page "1"-2.) At page "1"-3 of Appendix "1," the word "only" appears in "Comment 4-60." The response to that comment does not adopt the word "only," but simply uses that word in restating the question posed by the commentor. With all due respect to Mr. Faccinto, a "comment" letter does not serve as a statement of the County's interpretation of its documents.

Comment 4-61, quoted by Mr. Faccinto on page "1"-3 of Appendix "1" asserts that "if Siller Ranch and Retreat plan to share facilities, the [Siller Ranch] EIR must analyze the potential for the emergency access road to become a full access road." In essence, the commentor recognized that the residents and guests in Martis Camp would be using the emergency access connection roadways in both Martis Camp and in The Retreat and asked what would happen in the event it was proposed that such use was expanded to allow the public to use the Schaffer Mill Road to travel to and from Northstar as a "full access road." The response to that comment states in pertinent part:

the opening of the roadway to the public would be a separate project subject to its own environmental review process. Opening of the roadway would be subject to CEQA and would not change the nature or scope of the Siller Ranch project. (Emphasis added.)

Taken in context, that response acknowledges that the Siller Ranch project envisioned use of the emergency access connection roadways as an integral part of the private roadway system within the project, and that the public would have "only" an emergency access easement and a public transit vehicle easement. The comment quite properly pointed out that if it were proposed that Siller Ranch Road H Drive and K Street be opened to the general public, further CEQA study would be required because public use of the Siller Ranch roadway system was not a part of the proposed Siller Ranch project. The response to the Comment does not in any way suggest that the owners and guests in Martis Camp could not use their private roadway system to access any public roadways that might in the future abut upon Siller Ranch.

C. Whether a Gate Is Required, or Is Merely Allowed, is a False Issue.

Mr. Faccinto, in his letter of August 23, 2012 and in his Memorandum of that date, at page 6, again argues that Condition of Approval 146 of the Siller Ranch project requires that the emergency access connections be gated. As pointed out in my prior Memorandum, that provision is intended to mean that if the owner desires to put up a gate to keep the public out the owner may do so, provided that the gate meets District, County and State standards to allow the passage of emergency vehicles and transit vehicles. That intent is made clear by custom and practice as well as by the introductory provisions of Condition of Approval 146 which states that the items listed therein shall be installed "as appropriate." Condition of Approval 146 is under the heading "FIRE PROTECTION." Clearly, the fire fighting services would prefer that there be no gates. But, in recognition that owners have a fundamental property right to regulate or prevent public entry, they allow the installation of gates provided such gates can be opened quickly in emergencies.

As was also pointed out in my previous Memorandum, DMB/Highlands Group, LLC has always sought permission to keep its roads private and has always sought permission to erect gates to control and prevent unpermitted entry by the general public, but not to keep owners and guests in, (or out). Regardless of whether the east gate is a requirement or a concession, the fact is that **DMB/Highlands Group has erected a gate meeting applicable standards and that gate is being operated so as to keep the general public from entering or leaving Martis Camp via Mill Site Road.** Mr. Faccinto can point to no provision in any Plan or approval document that in any way indicates that the owner and operator of a "required" gate is prohibited from opening and closing the gate so as to allow the owner and the owner's guests, invitees and permittees to enter or exit through the gate.

It is beyond dispute that the gate at the east end of Schaffer Mill Road is being operated, (together with the main gate at the northwest entrance to Martis Camp) so as to prevent Schaffer Mill Road from being used as a "through connection." The public cannot come through. Reason tells us that the owners in Martis Camp, and their guests, are stopping in Martis Camp to enjoy its amenities and/or their homes before deciding whether to directly access Mill Site Road. Regardless, private use of Martis Camp roadways by property owners and their invited guests does not constitute public use nor create a through connection. As pointed out in the County's responses to a comment letter discussed above, if, at some point in the future, Martis Camp, were to stop preventing the public from driving through Martis Camp, the County could take action to terminate such public usage until such time as the appropriate studies were concluded and a decision was made as to whether to amend the Martis Valley Community Plan to allow such a public, through connection to be opened.

If the Conditions of Approval for Siller Ranch had been intended to prohibit the owner of a gate from controlling the gate so as to allow the owner ingress to, and egress from, the owner's own land, that would have been spelled out in clear detail. That was not done because no such intent was ever present.

D. The Retreat Approval Documents Do Not Prohibit Direct Private Access to the West End of Mill Site Road.

With respect to the word "only," it must be noted that in Appendix "2" to his prior Memorandum, with respect to the approval of The Retreat, Mr. Faccinto fails to include any passages pertaining to the approval of The Retreat which include the word "only." Likewise, Appendices 3, 4, and 5 do not include the word "only." Thus, none of the references in the approval documents provided by Mr. Faccinto with respect to The Retreat purport to prohibit private access to Mill Site Road by those having abutter's rights. Of course, Mr. Faccinto attempts to graft his misconstruction of the Martis Valley Community Plan onto the approval documents, but that does not change the fact that the approval documents for The Retreat do not purport to "trump" or supersede abutter's rights.

E. Concluding Summary.

Near the beginning and the end of his letter, and throughout his Memorandum, Mr. Faccinto conflates the phrase "through connection between Schaffer Mill Road [as it existed in 2003] and Northstar Drive" with the phrase "connection between Martis Camp and Northstar." It is that erroneous, unsupported and illogical conflation that forms the basis for his argument that the County's non-existent prohibition on private passage pertains to the point at which Schaffer Mill Road and Mill Site Road now meet. At the time the Martis Valley Community Plan was written and adopted, there was no such thing as "Martis Camp." That name did not become a part of the public record until the Final Map of Unit 1 of Martis Camp was filed for record on July 5, 2006. In May 2006, only two months before Siller Ranch became Martis Camp, Mill Site Road was dedicated as a public road. They say that "timing is everything." When the documents on which Mr. Faccinto are read in chronological context, Mr. Faccinto's arguments fall apart.

There can be no doubt that the use of Schaffer Mill Road by the owners of Schaffer Mill Road does not, and will not, interfere with the County's or the public's use of Schaffer Mill Road for emergency access purposes or its use by public transit vehicles. Mr. Faccinto and his client's real goal is not to insist that Schaffer Mill Road remain private, but rather to prevent the use of a public road, Mill Site Road, by owner(s) whose property abuts Mill Site Road. Mr. Faccinto and his client beseech the County to restrict access to a public road in a manner calculated to deprive property owners and taxpayers of their abutter's rights. Those rights have been recognized by the Courts of California as fundamental private property rights. Having no defense to the legal precedents regarding abutter's rights set forth in my prior Memorandum, Mr. Faccinto engages in a fiction as to the meaning of the words "between Schaffer Mill Road and Northstar." In each instance in which the word "connection" is used in the documents on which Mr. Faccinto "relies," it is clear that the "connection" is a stretch of future roadway rather than a point at which two existing roads connect.

It is beyond reasonable dispute that the owners and guests in Martis Camp have a fundamental real property right to use all the roadways in Martis Camp. The controlling fact

is that when the developers of The Retreat voluntarily offered, and the County accepted the dedication of Mill Site Road as a public road in 2006, abutter's rights sprang into existence. There is not the slightest evidence that the County, had it considered abutter's rights, would have attempted to pre-empt them – whether in the Martis Valley Community Plan, in the approval of Siller Ranch or in the approval of The Retreat. The record is absolutely clear that the County never intended to prevent, and certainly took no action to prevent, persons lawfully in Siller Ranch/Martis Camp from accessing Mill Site Road directly from Siller Ranch/Martis Camp.

It is not surprising that Mr. Leytes is mistaken in his understanding of the Martis Valley Community Plan, having not been a participant during the years in which it was under discussion and judicial review. Nevertheless, the County is not allowed to deprive one citizen of that citizen's private property rights in order to avoid disappointing another citizen. The County must reject Mr. Faccinto's repeated requests and demands. They are groundless and contrary to law.

Please do not hesitate to contact me if further discussion is warranted.

Sincerely,

Lanny T. Winberry

ATTACHMENT 7

E-mail from Randall M. Faccinto to
Robert Sandman, dated
September 24, 2012

Michael Johnson

Subject: FW: Martis Camp Letter

From: Faccinto, Randall M [<mailto:RMFACCINTO@stoel.com>]
Sent: Monday, September 24, 2012 4:26 PM
To: Robert Sandman
Cc: levjl@generation-capital.com
Subject: Martis Camp Letter

Rob,

Our clients feel strongly that some, by no means all, of the frustratingly repeated inaccuracies in Martis Camp's position statements need to be pointed out now.

First, Mr. Winberry states in his Section D an opinion that that because word "only" is not mentioned in the parts of the Retreat approval record attached to the Retreat's first, May 1, 2012, memorandum, it should be implied that "private" (Martis Camp owner) access to Mill Site Road was not intended to be prohibited by the County. The Retreat map approval County records supplied to the County by the Retreat in this matter include the background (MVCP and Siller Ranch approval processes) citations to the County's statements of its intent to condition the use of the Martis Camp road connection to Mill Site Road. At the time of the Retreat approval, no through traffic connection, other than emergency and public transit, was proposed by the applicant or was before the County for comment. All references to the connection in the Retreat record documents (including those attached to its Memos by the Retreat) identify it as emergency access and/or public transit. No other use being proposed, non-emergency/public transit use (public or private) wasn't an issue and it was unnecessary for the County to add any further specific limitation. Traffic was already then required to be limited by an emergency access gate on the Martis Camp side. Mr. Winberry also fails to mention that the County DPW adopted engineer's report for the approval of the Retreat's zone of benefit, relevant pages of which are attached to the Retreat's second, August 23, 2012, Memorandum to which he was responding, includes DPW's acknowledgment that "...the roads of this subdivision serve **only** the lots in this subdivision and are not part of a larger County traffic system". Again, our clients are asking that the County enforce what it did require—the limitation of through traffic to two very specific uses beneficial to the public. **No other use, public or private, is allowed.** If it was later proposed, additional use requires further public process and environmental review. That is not argument or wishful conjecture; it is the express wording of the County's own controlling land use regulation, the MVCP.

Second, Mr. Winberry states in his Section E that, "Mr. Leytes is mistaken in his understanding of the Martis Valley Community Plan, having not been a participant during the years in which it was under discussion and judicial review." This is another example of Martis Camp's attempts to deflect attention from the real issue. This is not about Mr. Leytes' understanding. This issue is much broader. Both the Northstar Property Owners Association (NPOA), with more than 1,400 members, and Northstar Community Service District (NCS D) have been very involved participants in Martis Valley Community Plan discussions since their beginning. Their representatives have described to Mr. Leytes their clear recollection of what the County committed to, namely emergency and public transit access only, and both are very much involved with this issue now. You will recall their participation at our meeting with you, Mr. Johnson and Supervisor Montgomery, and I presume you have seen their subsequent communications to County officials requesting and expecting that the County will follow through on its clearly made commitments to the public, including the recent NPOA and NCS D Board of Directors' Resolutions, as well as communications to the Supervisor Montgomery and Mr. Johnson regarding this matter. I have been copied on at least four such documents this summer.

The many other inaccuracies and improbable or misleading arguments and conclusions of Mr. Winberry's letter would take too long to respond to now and most, if not all, have already been dealt with in the content of the Retreat's two earlier memos. I would repeat that this matter is not a dispute over private rights between neighboring landowners. Rather, it is a request for Placer County action to follow through on an important part of its own plan for Martis Valley traffic circulation and to control environmental impact of traffic in that area. To fail to do so undermines the County's land use regulation credibility and discards years of work on environmental review and public process that led to that regulation.

Failing to enforce can, and would in this case, result in a significant change in land use without necessary public process. Informed County senior staff and attorneys in your office will confirm, as I am confident you know, that if ever allowed, an increase in traffic volume from a maximum of 18 homes to over 650 homes would require traffic impact mitigations, none of which were considered in the review of either involved subdivision because this increased use was not proposed or considered, and certainly was not intended to be allowed. It cannot reasonably now be permitted based on an application "abutter's rights". That such a legal theory is inapplicable in these circumstances, where the County has spoken explicitly on what traffic is allowed between the two subdivisions, is a call you can make. It does not take the Superior Court to see through Martis Camp's subterfuge.

I would be happy to discuss this further with you at your convenience.

Randy

Randy Faccinto | (415) 617-8910
STOEL RIVES LLP | SFO

From: Robert Sandman [<mailto:RSandman@placer.ca.gov>]
Sent: Thursday, September 20, 2012 9:30 AM
To: Faccinto, Randall M
Subject: Letter 10-0843

Randy, copy of Lanny Winberry 9/14/12 letter, attached.

Rob

Robert K. Sandman
Deputy County Counsel
Placer County Counsel's Office
175 Fulweiler Ave.
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COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

ADMINISTRATION

December 12, 2011

Thomas S. Archer
Law Offices of Thomas S. Archer
12010 Donner Pass Road, Suite 102
Truckee, CA 96161-4968

SUBJECT: Use of Public Roadways – The Retreat at Northstar Subdivision

Dear Mr. Archer:

The County has received your letter, dated November 1, 2011, regarding your client's concern that the County is not enforcing certain responsibilities related to the use of public roadways in the vicinity of the Retreat at Northstar residential subdivision. It is your contention that Martis Camp property owners, staff and personnel, as well as staff and personnel from Northstar, are using Mill Site Road beyond the "approved scope allowed by the restricted purpose easement described on both the Plat of Martis Camp (formerly known as Siller Ranch) and the Tract for the Retreat at Northstar." The purpose of this letter is to respond to the issues raised in your letter.

It is my understanding that staff from the Engineering and Surveying Department has met with your client on several occasions to discuss your client's concerns regarding the use of roadways (Schaffer's Mill Road, Mill Site Road) that connect the Martis Camp project with the Northstar-at-Tahoe property. As noted in your letter, there appears to be ongoing confusion regarding the public status of the roadways within the Retreat at Northstar subdivision and the private status of roadways within the Martis Camp subdivision. To address this confusion, this letter will articulate the rights and privileges associated with the public use of Mill Site Road, as well as the rights, privileges and restrictions associated with the private roadways within the Martis Camp development.

As has been discussed with your clients, and as you acknowledge in your letter, the owner/developer of the Retreat at Northstar subdivision – Trimont Land Company – offered certain easements for dedication, which were accepted by the Placer County Board of Supervisors on behalf of the public. The Retreat at Northstar subdivision was created by a Final Map recorded on May 16, 2006. Conditions 37A and 37C of the Tentative Subdivision Map for the project required the dedication of a 40-foot-wide highway easement to Placer County on Mill Site Road and Cross-Cut Court, respectively. Those Conditions of Approval were satisfied by the Owner's Statement and the Board of Supervisor's Statement found on the Final Map. Upon the acceptance of the project as complete on December 8, 2008, the Board accepted

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Mill Site Road and Cross-Cut Court into the County's *Maintained Mileage System*. For the County's purposes, that acceptance in the *Maintained Mileage System* creates a road that is open to the general public for the use of legally registered vehicles, pedestrian and other non-motorized transportation.

The capacity from a Level of Service standpoint (the County's standard Level of Service is LOS C) for a two-lane roadway in mountainous terrain would be approximately 3,400 vehicles per day per lane (for a two-way total of 6,800 daily trips). Accordingly, the design of Mill Site Road is capable of handling approximately 6,800 vehicles per day without violating any County Level of Service issues.

In contrast to the public roadways included with The Retreat at Northstar subdivision, the Martis Camp development was approved with a private roadway system – there are currently no County-maintained roadways within the Martis Camp development (including the entire length of Schaffer Mill Road from its intersection with State Route 267). While you are correct in stating that the plans approved for the Martis Camp project reserved for the County ingress and egress rights over Schaffer Mill Road for emergency access and transit service, the County is not aware of any restrictions that prohibits the residents of Martis Camp from utilizing the public roadways (i.e, Mill Site Road) that abut the Martis Camp development.

As you correctly note in your letter, Mill Site Road was constructed with two 11-foot-wide travel lanes and four feet of shoulder for a total of 26 feet of overall pavement width. However, your statement that, "The allowable use is for less than 50 units on a cul-de-sac or 75 units on a through-road" is incorrect. The County utilizes 11-foot-wide travel lanes in many areas throughout the County, and this lane width is considered to be an acceptable standard for both Minor Residential roadways as well as Local Collector roadways. For example, Eureka Road in the Granite Bay area of the County – which has residences and a public school fronting directly onto the roadway – is constructed with two 11-foot-wide travel lanes and carries an Average Daily Traffic volume of approximately 3,550 daily trips.

Regarding the Zone of Benefit that was created to address drainage, maintenance, snow removal, repair and replacement of Mill Site Road and Cross-Cut Court, you are correct in stating that the original property owner (Trimont Land Company) desired to maintain a higher level of service than provided by Placer County, and the County Service Area Zone of Benefit was self-imposed on the Retreat at Northstar subdivision to provide this higher level of service. Unfortunately, your statement that the "Zone of Benefit does not contemplate either public transit nor unrestricted access by the public or owners of property within the neighboring communities over Mill Site Road" is incorrect. As Zones of Benefit are only created for public roadways, any members of the public are entitled to use roadways included within Zones of Benefit – the County cannot prohibit the public from utilizing a public roadway. As a result, while your clients are able to enjoy a higher level of service over the identified public roadways, so too are other members of the public.

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On Page 4 of your letter you state, "Martis Camp did not secure a(n) easement or other mechanism allowing for local public transit across the Unsurveyed Remainder." In light of the Conditions of Approval referenced above and the actual development of Mill Site Road to the property line in accordance with those conditions, the County interprets Sheet 3 and Detail C of the Final Map for the Retreat at Northstar, including labeling in that Detail, as establishing Mill Site Road across the Unsurveyed Remainder. While this small triangle of public roadway may not be included within the Zone of Benefit for the subdivision, the small triangle of public roadway is still in fact a public roadway, and the public has rights to use this section of public roadway.

Your letter contends that the County is sitting idly while "Martis Camp improperly attempts to change a(n) Emergency Vehicle Access into a thoroughfare for the owners of lots within its subdivision to drive to and from Northstar for which there has been no CEQA study, compliance nor approval." For the record, while Martis Camp was required to provide Emergency Vehicle Access through its connection with Mill Site Road (which it has in fact provided), I can find nothing in the record that prohibits Martis Camp residents from utilizing the public roadways (i.e., Mill Site Road) that abut the Martis Camp development.

You do not give any specifics as to how the CEQA analysis prepared for both the Retreat at Northstar and Martis Camp projects are not adequate to address traffic generation associated with the respective projects. Further, the time for challenging those projects has long since passed. The usage of public roadways of which your letter complains arises not from a County action, or the County's approval of an action requiring a permit, but rather from the access rights pertaining to land abutting private roadways. Thus, there is no "current" project for purposes of CEQA analysis.

As noted above, Mill Site Road was designed with a 40-foot-wide roadway right-of-way, and Mill Site Road was constructed with two 11-foot-wide travel lanes and four feet of shoulder width. This roadway section is capable of accommodating Average Daily Traffic capacity of 6,800 vehicle trips. There is no indication that the roadway is experiencing anywhere near this level of traffic. The design width for Mill Site Road was predicated upon the intended volume of traffic as identified in the environmental analysis for the project, and the daily use of Mill Site Road is not exceeding the capacity of the roadway.

Based upon my analysis of both the Retreat at Northstar and Martis Camp projects, I cannot agree with your conclusion that the Martis Camp subdivision is not in conformance with its Conditions of Approval. Further, my review has concluded the County did in fact follow and comply with the requirements of the California Environmental Quality Act and the County's Environmental Review Ordinance as well as the Subdivision Map Act and the County's Subdivision Ordinance in its processing and approval of the Tentative and Final Maps for both the Martis Camp and The Retreat at Northstar projects.

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During some of the previous meetings with your clients, it is my understanding that County staff discussed options available to your clients, including the possible abandonment of the County's interest in Mill Site Road and Cross-Cut Court. As I am sure you are aware, the requirements to allow the County to abandon its interest in those roadways are quite onerous. Should you client choose to pursue an abandonment of the public rights-of-way, it would be my suggestion that further discussion with County staff be held to discuss the viability of such a request prior to investing time and resources into such an endeavor.

I hope that this letter has responded to your client's concerns regarding the public use of Mill Site Road. Should you have any questions regarding the information set forth in this letter, please call me directly at 530-745-3099.

Sincerely,

A handwritten signature in black ink, appearing to read "MJ Johnson", with a vertical line extending downwards from the end of the signature.

MICHAEL J. JOHNSON, AICP
Agency Director