

CSU **The California State University**
 OFFICE OF THE CHANCELLOR
Capital Planning, Design and Construction
 401 Golden Shore, 2nd Floor
 Long Beach, CA 90802-4210
www.calstate.edu

Elvyra F. San Juan
 Assistant Vice Chancellor
 (562) 951-4090
 esanjuan@calstate.edu

Letter 15

Transmitted via e-mail to: cdraecs@placer.ca.gov

February 21, 2019

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

Subject: Sunset Area Plan/Placer Ranch Specific Plan
 Draft Environmental Impact Report
 State Clearinghouse No. 2016112012

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Sunset Area Plan/Placer Ranch Specific Plan.

The California State University (CSU) extends knowledge and learning throughout California and in local communities, which allows educated individuals to contribute to California’s schools, economy, culture and future.

To help fulfill this mission, the CSU has an interest in a potential California State University, Sacramento - Placer Center (Center) within the Placer Ranch area and may possibly be the recipient of a gift of approximately 300 acres within the Placer Ranch Specific Plan (PRSP) for this Center. At present, the site is owned by Placer Ranch, Inc.

As indicated in the report “Potential Economic Benefits of a CSU Campus in Placer County” by Sacramento Regional Research Institute,” the establishment of the campus would provide a key role in meeting the needs of local businesses by educating the area’s workforce, would bring cultural opportunities, and add value to the local economy through the addition of jobs and expenditures associated with employee compensation, campus operations and project construction. The positive economic impact was recognized in a September 2016 report to the County of Placer Board of Supervisors which indicated that the Sacramento State-Placer Center has the potential to act as a catalyst for investment and development in the Sunset area.

CSU Campuses
 Bakersfield
 Channel Islands
 Chico
 Dominguez Hills
 East Bay

Fresno
 Fullerton
 Humboldt
 Long Beach
 Los Angeles
 Maritime Academy

Monterey Bay
 Northridge
 Pomona
 Sacramento
 San Bernardino
 San Diego

San Francisco
 San José
 San Luis Obispo
 San Marcos
 Sonoma
 Stanislaus

Placer County Community Development Resource Agency
Environmental Coordination Services
February 21, 2019
Page 2

The Sunset Area Plan/Placer Ranch Draft Environmental Impact Report (DEIR) evaluates the Sac State-Placer Center at a programmatic level of detail for educational use. Although no formal timeline has been established for a possible educational center, there is a potential that a CSU and/or California Community College could tier from this DEIR in order to support any subsequent project-specific California Environmental Quality Act (CEQA) analysis that may be required in the future.

In the event the Board of Trustees of the CSU accepts the property on behalf of the State of California, the site will be under the land use and permitting jurisdiction of the CSU. This transition will permanently relieve Placer County of jurisdictional authority over the site. Specifically, when the transfer is complete, the governing policies of the Placer County General Plan and the PRSP as adopted, as well as the mitigation measures or assessments identified in the DEIR will no longer be applicable to the site. The same limitations will apply with respect to the regulatory jurisdiction of other local and regional agencies or districts.

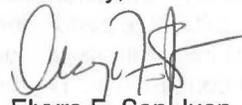
15-1

Prior to action on a master plan or specific campus development project for the Center, the CSU will conduct its own project-specific environmental review. Since a master plan or specific campus development project is not currently under consideration by the CSU at this time, it would be inappropriate to prejudge the next stage of environmental review, in terms of either impacts or how the university might elect to approach mitigation and the selection of project alternatives to the extent required by law. However, the university is acutely focused on ensuring compliance with the procedural and substantive requirements of the CEQA and to fully addressing potential environmental impacts to the extent feasible and required by law.

The CSU looks forward to working with the County of Placer, the local community, and Placer Ranch.

Should you have questions, please do not hesitate to contact Steven Lohr, Chief of Land Use Planning and Environmental Review, at (562) 951-4120, slohr@calstate.edu.

Sincerely,



Elvyra F. San Juan
Assistant Vice Chancellor

ESJ:SCL:kk

Placer County Community Development Resource Agency
 Environmental Coordination Services
 February 21, 2019
 Page 3

Distribution:

Todd Leopold, County Executive Officer, County of Placer
 Dave Defanti, Deputy County Executive Officer, County of Placer
 Clayton Cook, Deputy County Counsel, County of Placer
 Michele Kingsbury, Principal Management Analyst, County of Placer
 Crystal Jacobsen, Principal Planner, County of Placer
 Robert S. Nelsen, President, Sacramento State
 Jonathan Bowman, Vice President, Administration & Business Affairs and Chief
 Financial Officer, Sacramento State
 Justin Reginato, Associate Vice President, Facilities Management, Sacramento State
 Steven Relyea, Executive Vice Chancellor and Chief Financial Officer,
 CSU Office of the Chancellor
 Dawn Theodora, Assistant Vice Chancellor and Chief Counsel, Business and Finance,
 CSU Office of the Chancellor
 Chris Fowler, University Counsel, CSU Office of the Chancellor
 Paul Gannoe, Chief, Facilities Planning, CSU Office of the Chancellor
 Steven Lohr, Chief of Land Use Planning and Environmental Review, CSU Office of the
 Chancellor

Letter 15	The California State University, Office of the Chancellor Elvyra F. San Juan, Assistant Vice Chancellor February 21, 2019
----------------------	---

- 15-1 The comment notes that a CSU and/or California Community College could tier from the Draft EIR in the future. The comment also notes that in the event the CSU campus site is donated and CSU accepts the property on behalf of the State of California, the campus site would be under the land use and permitting jurisdiction of the state and that this transition would relieve the County of jurisdictional authority over the site. The comment goes on to note that following that transition, all County governing documents, policies and provisions would not apply to the CSU campus site, and that the CSU would be responsible for ensuring CEQA compliance to fully address any potential environmental impacts associated with any future planning for the CSU campus site.

Chapter 1, "Introduction," of the Draft EIR notes that the CSU campus site has been analyzed at a programmatic level. However, revisions have been made to clarify that once the CSU campus site has been accepted by the State of California, the governing policies of the Placer County General Plan and PRSP would no longer be applicable to the site. This section also states that the CSU would conduct its own project-specific environmental review to ensure CEQA compliance for any future planning of the CSU campus site. Specifically, the second paragraph on page 1-2 of the Draft EIR is revised as follows:

This EIR evaluates the potential environmental impacts associated with implementing the SAP and PRSP. The SAP is a policy document intended to guide growth in the SAP area over a 20-year planning horizon; buildout of the SAP area is expected to occur over 80 years or more. In accordance with Section 15168 of the State CEQA Guidelines, a program EIR may be prepared on a series of actions that can be characterized as one large project and, among other things, are related geographically or in connection with issuance of rules, regulations, or plans to govern the conduct of a continuing program. In accordance with Section 15161 of

the State CEQA Guidelines, a project EIR focuses on the changes in the environment that would result from a development project. Because of the broad geography, long timeframe anticipated for buildout, and policy-oriented nature of the SAP, the impact analysis of the SAP is prepared at a programmatic level—that is, a more general analysis with a level of detail and degree of specificity commensurate with that of the plan itself, focusing on the effects that can be expected to follow from adoption of the plan. The PRSP, however, is assessed at a project level in this EIR, because project details are developed to a sufficient degree that environmental effects that would result from development of the PRSP can be identified and assessed with greater certainty, and specific mitigation measures developed to address potentially significant impacts. The Sac State–Placer Center portion of the PRSP, however, remains conceptual; the university has yet to develop project-specific detail in the form of a master plan for the campus. ~~This EIR provides substantial analysis of the university campus based on the information available and will provide valuable streamlining for future decisions by the California State University (CSU), but additional environmental review may be required by the CSU, which would serve as lead agency for the subsequent project. Therefore, this EIR evaluates the Sac State–Placer Center at a programmatic level of detail for educational use. In the event the Board of Trustees of the CSU accepts the property on behalf of the State of California, the site would be under the land use and permitting jurisdiction of the CSU, which would relieve Placer County of jurisdictional authority over the site. Specifically, when the transfer is complete, the governing policies of the Placer County General Plan and the PRSP as then adopted would no longer be applicable to the site. Prior to a discretionary action by the CSU requiring consideration under CEQA, the CSU would conduct its own project-specific environmental review. At that time, the university would ensure compliance with the procedural and substantive requirements of CEQA and in fully addressing potential environmental impacts as required by law.~~ Additional discussion regarding the level of detail of the analysis is provided under the heading “Approach to the Environmental Analysis” in Chapter 4.0, “Affected Environment, Environmental Consequences, and Mitigation Measures.”



2/22/2019

Sent via email and FedEx (w/ references)

Placer County Community Development Resource Agency
 Environmental Coordination Services
 3091 County Center Drive, Suite 190
 Auburn, CA 95603
cdraecs@placer.ca.gov

**Re: Sunset Area Plan/Placer Ranch Specific Plan Draft Environmental Impact Report
 (State Clearinghouse No. 2016112012)**

Dear Ms. Jacobsen,

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Sunset Area Plan and Placer Ranch Specific Plan (the “Project”). The Center has reviewed the Draft Environmental Impact Report (“DEIR”) closely and is concerned by the numerous significant impacts the Project would have on sensitive wildlife and ecosystems in and around the Project area. The Project would destroy thousands of acres of vernal pools, directly harming numerous special-status species on what is one of the last intact areas of habitat in western Placer County. The California Environmental Quality Act (“CEQA”) mandated environmental review is inadequate and fails to comply with the statute. The Center urges approval of the Project be denied, or at the very least substantial revisions to the DEIR to better analyze, mitigate or avoid the Project’s significant environmental impacts.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.4 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Northern California.

I. The DEIR’s Alternatives Analysis Is Inadequate

The DEIR’s analysis of Project alternatives is flawed and does not comply with the requirements of CEQA. First, the alternatives analysis uses an improper No-Project Alternative, which serves to understate the impacts of the proposed Project and fails to adequately inform decisionmakers and the public about the consequences of not approving the Project. Second, the alternatives analysis fails to include a reasonable range of alternatives and instead provides a

16-1

narrow range of alternatives that vary little from the proposed Project. Third, the DEIR fails to assess feasible alternatives that would significantly reduce the impacts of the Project without substantial evidence to justify its reasoning.

A. Assuming Buildout of the Sunset Industrial Area Plan as the No-Project Alternative is Improper

The DEIR confines and obscures its alternatives analysis by using a no project alternative that is only slightly less impactful than the other proposed alternatives. The DEIR’s alternatives analysis assumes that if the proposed Project is not built, the area will be developed according to the 1997 Sunset Industrial Area Plan (“SIAP”). (DEIR at 6-9.) The CEQA Guidelines (“Guidelines”) require analysis of a no project alternative to assess the existing site conditions as well as “what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.” (Guidelines § 15126.6(e)(2).) While the SIAP was indeed approved, the site remains 90% undeveloped 20 years after approval and the DEIR provides no evidence that the SIAP proposal has taken any further steps toward implementation. (DEIR at 3-5.) It is not reasonable to therefore to assume buildout of the SIAP is as “expected to occur in the foreseeable future” should the proposed Project not be approved. Any attempt to implement SIAP would require, at the very least, a subsequent environmental review, since the environmental conditions of the site, region and state have dramatically changed since the 1997 approval. (See Guidelines § 15162(a) [requiring subsequent review if the lead agency determines new information becomes available, or project impacts would occur that were not assessed during the initial review].) Indeed it appears more likely that should the Project not go forward, the area would remain in its largely undeveloped state unless another proposal and environmental review process is completed.

16-1
cont.

The DEIR also asserts that the no project alternative would be the environmentally superior alternative, despite producing greater impacts to biological resources as compared to the proposed Project. (DEIR at 6-28.) The DEIR then attempts to cast the proposed Project in an artificially positive light regarding its potential impacts so that the Project now appears to be only minimally more environmentally damaging. This approach is misleading to decision-makers and the public. Instead, the DEIR should be revised to present a no project alternative that more accurately depicts the existing undeveloped conditions of the SAP site, so that the impacts of the alternatives can be fully and adequately analyzed...

B. The DEIR Fails to Assess a Reasonable Range of Alternatives

The Project as proposed would result in numerous significant and unavoidable impacts, meaning a thorough alternatives analysis is absolutely necessary in fulfilling the DEIR’s role of informing the public and decision-makers. Courts have consistently held that “[o]ne of [] an EIR’s major functions ... is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400.) CEQA prohibits an agency from approving projects as proposed “if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects.” (Pub. Res. Code § 21002.) While the DEIR does not need to address “every conceivable

16-2

alternative,” it should provide a reasonable range that allows the reader to understand the proposed Project’s impacts and a range of feasible alternatives that might avoid project impacts. (Guidelines § 15126.6(a).) Under CEQA, “the public agency bears the burden of affirmatively demonstrating that, notwithstanding a project’s impact on the environment, the agency’s approval of the proposed project followed meaningful consideration of alternatives and mitigation measures.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134.) The DEIR analyzes a narrow range of alternatives that do little to avoid Project impacts, falling short of a meaningful analysis. (DEIR at 6-8, 9, 28, see Table 6-7.) Despite the Project’s significant impacts, the DEIR concedes that “none of the other alternatives [excluding the no project alternative] avoid or substantially reduce a significant impact of the Project.” (DEIR at 6-28.) The DEIR also fails to provide substantial evidence to explain its rejection of the analyzed alternatives, nor is there a discussion of how the Project objectives would be met by each alternative. CEQA requires a more thorough and complete alternatives analysis.

16-2
cont.

C. The DEIR Failed to Analyze a Feasible Alternative that Would Significantly Lessen Project Impacts

The DEIR also fails to meet its CEQA alternative analysis mandate because it omitted consideration of a feasible alternative that would reduce and avoid significant Project impacts while meeting most of the objectives. The Citizen-Initiated Smart Growth Plan (“CISGP”), presented to the County by the Alliance for Environmental Leadership (“AEL”), is an example of the sort of alternative the CEQA process strives to illuminate. (Marsh, 2019). The DEIR should be revised to expand the scope of the alternatives analysis so that feasible alternatives, such as the CISGP, are made available so that the public and decision-makers are adequately informed, as directed by CEQA.

II. The DEIR Improperly Relies on Uncertain And Infeasible Mitigation Measures

The Project will have significant and unavoidable impacts to nearly every resource category that falls under the purview of CEQA. The Project’s impacts are particularly large in number and magnitude when considering the biological resources present on the Project site. While the DEIR identifies significant impacts, it falls short when attempting to provide adequate mitigation. The rampant uncertainty and speculation of the DEIR’s mitigation program gives the public and decision-makers no concrete understanding of how the immense impacts of the Project will be addressed. The inability of the DEIR to provide feasible mitigation demonstrates that the Project should not and cannot advance in its current form because the Project site is grossly inappropriate for a development of this type and scale.

16-3

A. The DEIR’s Reliance on the Placer County Conservation Plan does not Constitute Feasible Mitigation

The mitigation of significant environmental impacts must be presented in a way that offers the public and decision-makers a sense of confidence that should the Project be approved, impacts will actually be mitigated to the maximum extent feasible. The DEIR fails to do this, as

2/22/2019
Page 3

its mitigation for biological resources relies on the draft Placer County Conservation Plan (“PCCP”) to meet its permitting requirements under multiple federal and state laws. However, at the time of the DEIR’s release, the PCCP is nothing more than a proposal. (DEIR at 4.4-28.) CEQA requires that mitigation measures that reduce or avoid Project impacts must be concrete and not speculative. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.4th 260, 281 [mitigation measures that are so undefined that their effectiveness is impossible to determine are legally inadequate].) The DEIR approach to base its mitigation on a draft plan, for which there is no guarantee, let alone indication, of approval, does not provide the certainty required under the Guidelines. (Guidelines § 15126.4.) The DEIR provides no assurances or substantial evidence that the PCCP will be approved. Instead the PCCP is discussed throughout the document in speculative terms such as “if the PCCP is approved by the state and federal agencies and is adopted and implemented in time to support development under the PRSP and Net SAP.” (DEIR at 4.4-41.) Because the DEIR offers no support for the likely approval of the PCCP, it cannot rely on the plan to mitigate the Project’s many significant impacts.

16-3
cont.

B. The Project Fails to Adequately Mitigate Significant Impacts to Special-Status Species and Protected Habitats

The DEIR fails to provide the level of mitigation that will be required for the issuance of permits that will be necessary for the Project to ultimately be approved. The Project site is home to endangered and special-status plants and wildlife, as well as multiple forms of high value habitat types. (DEIR at 4.4-11, 12.) The Project would require permits under many different statutes from multiple of state and federal agencies. (DEIR at 4.4-22-24.) Even if the Project could rely on the PCCP to meet its mitigation requirements there remain serious issues with the feasibility and capacity of the PCCP to fully mitigate the Project significant environmental impact.

For example, one of the permitting requirements the Project, via the PCCP or otherwise, will need to satisfy is the “no net loss of wetland habitat,” as required by the United States Army Core of Engineers (“USACE”). (DEIR at 4.4-41.) However, the DEIR states that “existing credits may not be enough to fully cover the loss of wetland functions resulting from project implementation, and it is unknown if sufficient land would be available from willing sellers to fully mitigate the loss,” which demonstrates the infeasibility of the proposed mitigation measures. (DEIR at 4.4-41.) The limitation of available land and credits would also apply in the event the PCCP is granted approval. Therefore, the DEIR appears to be admitting that there simply isn’t enough land or mitigation credit available in the region to meet USACE standards of no net loss of wetland functions.

16-4

The DEIR’s mitigation for impacts to federally listed vernal pool invertebrates is also insufficient to meet permitting standards. A large portion of the Project site falls within the Western Placer County core area as identified in the in the United States Fish and Wildlife Service (“USFWS”) vernal pool recovery plan. (DEIR at 4.4-44.) The USFWS targets preservation of 85% within core recovery areas, yet the Project would achieve only 40%. (DEIR at 4.4-44.) The Project would remove over 5,000 acres of low density vernal pool complexes from the Project site. (DEIR at 4.4-48.) The DEIR, similarly to the uncertain language referenced above, cannot determine whether PCCP mitigation would reduce the significance of the vernal

pool removal, as the PCCP has not yet been approved. (DEIR at 4.4-48.) Should the PCCP be adopted and implemented in time to serve the Project, the mitigation would “not necessarily occur within the western Placer County core area because there is a limited amount of habitat present within the core area and a large proportion of it has already been developed or is planned for development.” (DEIR at 4.4-48.) The DEIR acknowledges that mitigation in the absence of the PCCP would result in a lesser reduction in impacts than under the PCCP. (DEIR at 4.4-48.) This shows that even if the PCCP is adopted, it will do very little toward achieving the goals of the vernal pool recovery plan, and therefore it is difficult to see how USFWS would issue Endangered Species Act (“ESA”) take permits under the PCCP for the Project’s widespread destruction of vernal pool species such as the vernal pool fairy shrimp, and vernal pool tadpole shrimp.

16-4
cont.

C. The DEIR’s Analysis of the Placer Ranch Specific Plan’s Impacts and Mitigation is Insufficient

The analysis and mitigation of the PRSP’s biological resources impacts does not meet the level of specificity required for a project-level assessment. The DEIR contains two levels of analysis, a programmatic level for the SAP, and a project level for the PRSP. (DEIR at 1-2.) While a programmatic EIR can provide more general assessments in its first tier of analysis, a project-level analysis must provide more detail regarding project impacts and proposed mitigation measures. (Guidelines § 15152.) The specificity of an EIR is determined by the nature of the project and the ‘rule of reason.’ (*Citizens for Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1048.) The PRSP is a planned community, with specific land uses and the intensity thereof already established, therefore, it is reasonable that the DEIR assess the impacts and propose mitigation for those specific uses.

16-5

The DEIR provides separate impact assessments for the SAP and PRSP areas but applies the same general and deferred mitigation to each planning area. For example, Mitigation Measure 4.4-5a provides inadequately brief mitigation instructions for future development to avoid impacts to western pond turtles should the PCCP not be adopted. (DEIR at 4.4-59.) The mitigation requires surveys before earthmoving, and subsequent relocation if individual turtles are observed. (DEIR at 4.4-59.) There is no discussion of where the turtles will be relocated, nor are there performance standards that dictate the quality of relocation habitat or the turtle’s survival post-relocation. Additionally, the measure only applies to construction activities within 200 feet of suitable aquatic habitat. (DEIR at 4.4-59.) Western pond turtles are known to utilize upland habitats up to 1,300 feet away from aquatic habitat. (Semlitsch and Bodie, 2003). The DEIR should be revised to include adequately detailed analysis of the impacts and mitigation measures for the PRSP, as well as providing accurate species-specific mitigation.

Given the vulnerability of the site’s ecological resources and the DEIR’s acknowledgment of regional development pressures, the scope and design of the Project should be seriously reconsidered.

III. The DEIR Fails to Adequately Analyze and Mitigate the Impacts of the Project on Biological Resources.

16-6

The Project site, in its currently undeveloped state, is home to numerous plant and animal species that rely on the area’s unique ecological communities. The DEIR identifies 42 special-status fish and wildlife species that could occur on the site (DEIR at 4.4-15), and 10 special-status plant species that could occur on or near the Project site (DEIR at 4.4-12). Despite these findings, the DEIR fails to identify and assess the impacts to some of these species, while completely omitting discussion of other impacts. This inadequate and incomplete analysis violates CEQA’s requirements that all environmental impacts from a project are fully disclosed and analyzed.

A. The DEIR’s Analysis of Impacts to Western Spadefoot Toad is Insufficient.

The DEIR does not contain sufficient information to allow proper assessment of the Project’s impacts to western spadefoot, which also undermines the efficacy of proposed mitigation. The DEIR acknowledges the impacts on western spadefoot in its discussion of vernal pool removal, as well briefly listing other potential indirect impacts due to Project development. (DEIR at 4.4-44, 45.) However, the discussion is superficial, and provides little detail about actual impacts because the location and population of western spadefoot in and around the Project site is unknown due to a lack of accurate surveying. Surveys for western spadefoot have not been conducted on the Project site since 2005. (DEIR at 4.4-45.) The DEIR defers surveys to future project proponents, when a qualified biologist must determine whether western spadefoot is present and take subsequent mitigation steps thereafter. (DEIR at 4.4-46.) Since western spadefoot is not covered under the PCCP, the DEIR should identify areas where western spadefoot is present, so that the scale of potential impacts and feasibility of mitigation, such as relocation, can be appropriately assessed by public and decisionmakers. Given the increasing development pressure on the area and the lack of suitable land for vernal pool restoration, a thorough analysis of potential impacts and suitable replacement habitat should be identified now, not at some later date.

16-6
cont.

In particular, surveys for western spadefoot should be conducted before the Project is considered for approval so that the extent of impacts can be accurately calculated before damaging land uses are locked in at the programmatic level. The DEIR runs through a list of potential indirect impacts to western spadefoot as a result of Project development, such as take related to traffic, landscaping and pesticide exposure. If left to a future project proponent, surveys and subsequent mitigation will be ineffective if habitat is on or near an area approved for residential or industrial uses that lead to take of western spadefoot.

Additionally, the DEIR fails to consider the impacts the night lighting on western spadefoot. Studies have shown that amphibians and reptiles can experience disrupted physiology, behavior and ecology when exposed to artificial light that interferes with natural lighting cycles. (Perry, 2008). As the Project proposes to urbanize the area, it will introduce numerous sources of artificial light. The DEIR must include updated survey information so that proper mitigation and planning can take place to minimize harm to western spadefoot.

B. The DEIR Fails to Identify and Assess Impacts to Vernal Pool Plant Species and Dependent Insect Species.

16-7

The specialized nature of vernal pool plant species require a specific range of habitat and resource conditions. The presence of a healthy population of pollinator insects is key to the survival of vernal pool plants; the loss of pollinators due to habitat fragmentation and upland habitat loss threatens the long-term viability of specialized vernal pool plant species. (USFWS, 2005). The DEIR identifies significant and unavoidable impacts to vernal pool plant species due to loss of vernal pool habitat but is silent on the impact the Project will have on the availability of pollinators in the area. Many pollinator species, such as solitary bees, specialize on flowering vernal pool taxa, such as *Downingia*, and do not disperse far from their food source. (Thorp, 1998). Since dwarf downingia is known to occur on the Project site, and is protected under CEQA (DEIR at 4.4-14), the DEIR must assess the impacts of the Project on the pollinator species upon which the plant depends.

16-7
cont.

The DEIR must also consider pollinator species in its mitigation measures intended to address the significant impacts to vernal pool plant species. As many vernal pool plant species rely on a narrow range of pollinator species, it is critical that a consideration of mitigation and/or restoration land include an assessment of habitat for pollinators. Additionally, mitigation for vernal pool and adjacent upland habitat destruction should include the removal and transport of resident pollinator species to the designated restoration site. (Thorp, 1998). It is critical that pollinator surveys be conducted for impacted vernal pool complex habitat, so that suitable off-site restoration areas can be identified. The suitability of such sites must consider available upland habitat for currently present pollinators, of the reestablishment of translocated pollinator species if no pollinators are present. The DEIR should be revised to include such analyses; any delay in these studies could result in mitigation opportunities becoming unavailable.

IV. Conclusion

Given the possibility that the Center will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA, we would like to remind the County of its duty to maintain and preserve all documents and communications that may constitute part of the “administrative record.” As you may know, the administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes “pretty much everything that ever came near a proposed [project] or [] the agency’s compliance with CEQA” (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the County’s representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the County’s representatives or employees and the project proponent’s representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

16-8

Thank you for the opportunity to submit comments on the DEIR for the Sunset Area Plan/Placer Ranch Specific Plan. The DEIR highlights numerous significant and unavoidable environmental impacts, for which it fails to propose feasible mitigation. The Center strongly urges the County to reconsider such sweeping, intensive development on the Project site. Placer County should be protecting its rare and vulnerable ecological resources, instead of reviving a

2/22/2019
Page 7

decades-old development plan that would destroy countless acres of vernal pool, grassland and riparian habitat. In light of the foregoing analysis highlighting the DEIR's deficiencies and the unavoidable environmental impacts, the Project should not be approved in its current form.

16-8
cont.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



Ross Middlemiss
Legal Fellow
Center for Biological Diversity
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (510) 844-7100
rmiddlemiss@biologicaldiversity.org

2/22/2019
Page 8

References
(Attached on CD)

- Marsh, G., Citizen-Initiated Smart Growth Plan, Alliance for Environmental Leadership (2019).
- Perry, G., Buchanan, B. W., Fisher, R. N., Salmon, M. & Wise, S.E. (2008). Effects of Artificial Night Lighting on Amphibians and Reptiles in Urban Environments. *Herpetological Conservation* 3:239-256.
- Rands, S. A., Whitney, H. M. (2011) Field Margins, Foraging Distances and Their Impacts on Nesting Pollinator Success. *PLoS ONE* 6(10): e25971.
<https://doi.org/10.1371/journal.pone.0025971>
- Semlitsch, R. D., & Bodie, J. R. (2003). Biological criteria for buffer zones around wetlands and riparian habitats for amphibians and reptiles. *Conservation Biology*, 17(5), 1219–1228.
<https://doi.org/10.1046/j.1523-1739.2003.02177.x>
- Thorp, R. W., Leong, J. M. (1998) Specialist Bee Pollinators of Showy Vernal Pool Flowers. *Ecology, Conservation, and Management of Vernal Pool Ecosystems – Proceedings from a 1996 Conference*. California Native Plant Society, Sacramento, CA. 1998, 169-179.
- United States Fish and Wildlife Service. (2005). Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon.
Available at: https://ecos.fws.gov/docs/recovery_plan/060614.pdf

2/22/2019
Page 9

Letter 16	Center for Biological Diversity Ross Middlemiss, Legal Fellow February 22, 2019
----------------------	---

- 16-1 The comment states that the Draft EIR's alternatives analysis is inadequate because it uses an improper No-Project Alternative, does not include a reasonable range of alternatives, and does not evaluate a feasible alternative that would significantly reduce the project's impacts. The following response addresses the first topic (No-Project Alternative), whereas response to comment 16-2, below, addresses the latter two topics of this comment regarding the alternatives analysis.

Regarding the No-Project Alternative, the comment suggests that, due to the slow pace of development in the current SIA, the Draft EIR should have included a No-Project Alternative that assumes no development would occur. First, although development within the existing SIA has not been rapid, development has occurred over the past 20 years, and additional development would be expected over the next 80+ years (the length of time expected for full buildout of the SAP). Therefore, an alternative that assumes no development would occur would not be realistic.

The State CEQA Guidelines (See Section 15126.6[e]) provides guidance regarding the No-Project Alternative. (e) "No project" alternative. Section 15126.6(e)(1) states that the no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline. Further 15126.6(e)(2) indicates that the No-Project Alternative analysis should discuss what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. Section 15126.6(e)(3) provides specific guidance regarding large policy-oriented plans, such as the project: A discussion of the "no project" alternative will usually proceed along one of two lines: (A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically, this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan. (CCR Title 14, Section 15126.6[e][3]) Because the project is a large, policy-oriented plan, the project's No Project Alternative, which assumes continued implementation of the existing 1997 SIA Plan, is clearly appropriate pursuant to CEQA.

Because a "no development" alternative would be unrealistic and because the Draft EIR includes the appropriate No Project Alternative, no additional alternatives are required and no revisions to the Draft EIR are necessary. Also see Master Response 1: Alternatives Analysis for a detailed discussion of the adequacy of the Draft EIR's alternatives analysis.

- 16-2 The comment states that the Draft EIR does not include a reasonable range of alternatives and does not evaluate a feasible alternative that would significantly reduce the project's impacts. See Master Response 1: Alternatives Analysis, which explains CEQA guidance for what constitutes a reasonable range of alternatives. As described therein, the four alternatives (not including the No-Project Alternative) studied in detail in the Draft EIR constitute a reasonable range of potentially feasible alternatives as required by CEQA. The master response also explains that an EIR is not required to consider alternatives that eliminate or reduce *all* of a project's significant adverse environmental impacts (State CEQA Guidelines Section 15126.6[a], [f]). Also, as explained in the master response, Chapter 6 of the Draft EIR has been clarified to reflect the conclusions about each alternative substantially reducing a significant impact of the proposed project. These changes are identified in Chapter 2, "Revisions to the Draft EIR." For these reasons, the Draft EIR's alternatives analysis is adequate. Regarding the suggestion that the County evaluate the CISGP as an alternative, see Master Response 2: Citizen-Initiated Smart Growth Plan. As noted in the master response, after a thorough review of the CISGP, the County found that the plan is infeasible, would not meet primary

project objectives, and would result in greater impacts with respect to several environmental issue areas. Also, the Draft EIR includes Alternative 4: Reduced Footprint, Similar Development Potential, which achieves similar impact reductions as the CISGP (i.e., biological resources) without resulting in increases in the severity of other impacts, such as GHG and traffic. Therefore, as concluded in the master response, the Draft EIR is not revised to include the CISGP as a project alternative.

- 16-3 The comment states that the Draft EIR relies on uncertain and infeasible mitigation measures. See response to comment 54-1, which describes CEQA requirements for mitigation measures and how the Draft EIR complies with these requirements. See Master Response 3: Placer County Conservation Plan and Mitigation.

Specifically, the comment states that the Draft EIR's reliance on the PCCP does not constitute feasible mitigation. See Master Response 3: Placer County Conservation Program and Mitigation. The Draft EIR does not rely solely on the PCCP for impact mitigation; there are optional mitigation measures and front-loaded policies and programs, presented under the heading "Proposed Sunset Area Plan Goals and Policies" beginning on page 4.4-31 of the Draft EIR, that mitigate the project's potential impacts on biological resources in the event the PCCP, including the Western Placer CARP and associated USACE programmatic permits, are not adopted or are not available as a permitting and mitigation strategy for future projects.

- 16-4 The comment states that mitigation is inadequate for special-status species and habitat and to support permit issuance from multiple state and federal agencies.

Mitigation Measure 4.4-1a (page 4.4-40 of the Draft EIR) requires compensatory mitigation meeting the USACE's no-net-loss standard. If the PCCP, including the Western Placer CARP, are adopted and USACE issues programmatic permits under the plans, then participation in the plan would be consistent with USACE permit requirements by definition. The comment is correct that existing credits or sufficient lands may not be available to fully mitigate project impacts on federally protected wetlands. As the comment indicates, this is disclosed on page 4.4-41 of the Draft EIR, and it is the primary reason the impact conclusion is significant and unavoidable. But this would only be the case under the scenario that the PCCP cannot be used for mitigation. The comment, therefore, is not correct to suggest that these limitations in credits or available land would also be true under the PCCP because issuance of the programmatic permit would mean USACE has made the determination that impacts covered under the PCCP can be offset in a manner that complies with their no-net-loss standard.

Adoption of the PCCP and issuance of take authorization under the PCCP would mean USFWS has determined that impacts on federally listed species can be offset through participation in the PCCP and that the species may be recovered through the PCCP conservation strategy, which would serve as an alternative recovery plan for the covered species (e.g., vernal pool branchiopods).

- 16-5 The comment states that the Draft EIR's analysis of and mitigation for the PRSP's biological resources impacts does not meet the level of specificity required for a project-level analysis. See Master Response 7: Program- vs. Project-Level Analysis. It cannot be assumed that because a mitigation measure for the program-level portion of the analysis is similar to the mitigation measure for the project-level portion of the analysis that the project-level mitigation measure provides an insufficient level of detail. This is especially true for the topic of biological resources where "suitable habitat" exists within the project site that could be used by a special-status species (whether or not individuals have been identified within that habitat during site surveys). For many types of species, whether the habitat occurs within a 5-acre project site or a 5,000-acre plan area, the necessary measures will be nearly identical for protecting the individuals that could occur within the general habitat type.

Both the project-level and program-level analyses provided in Section 4.4, "Biological Resources," assesses the impacts of proposed land uses and provides mitigation to reduce those impacts. The difference is that the project-level analysis for the PRSP provides specific quantification of common and sensitive habitat losses, based on site-specific surveys, and evaluates potential effects to

common and special-status species that could result from loss of these habitats and other potential direct and indirect effects. For the SAP area, impact determinations are based on loss of common and sensitive habitats as derived from the best available sources rather than site-specific surveys. The program-level analysis is therefore more generalized and may overestimate actual impacts but does not ignore or underestimate any resources that may be affected by development of the SAP area. Because both portions of the project site support the same types of habitats, the biological resources that may be affected by the project are the same and the impact mechanisms are the same, therefore, the same mitigation measures are appropriate for impacts to biological resources at the project and program level. The analysis approach for both the SAP area and the PRSP area is described under the heading “Methods and Approach” on pages 4.4-30 and 4.4-31 of the Draft EIR.

Mitigation Measure 4.4-5a specifically requires that any pond turtles found be relocated to suitable aquatic habitat as determined by a qualified biologist. Therefore, a qualified biologist would assess the quality of relocation habitat before relocating pond turtles to ensure it is suitable for pond turtles. While pond turtles may be found greater than 200 feet from aquatic habitat, they are generally found within this closer distance unless forced to move farther away. The mitigation measure is revised below to extend the survey distance to 300 feet per standard measures used by CDFW. Because all of the suitable upland habitat within 300 feet of suitable aquatic habitat is currently undeveloped and subject to little to no human disturbance, there is no reason for turtles to travel farther from aquatic habitat in search of suitable nesting habitat. Therefore, turtles are unlikely to nest farther than 300 feet from suitable aquatic habitat. Monitoring pond turtles after they’re relocated to suitable habitat is not necessary to reduce the impact to a less-than-significant level because the probability of their survival would not be reduced by relocating them to equally suitable habitat away from development. Therefore, the project would not substantially affect the distribution, breeding productivity, viability, or the regional population of western pond turtles.

To clarify that the mitigation measure is intended to relocate turtles to equal- or better-quality habitat than the affected habitat, and to protect eggs and hatchlings as well as adult turtles, Mitigation Measure 4.4-5a on page 4.4-59 of the Draft EIR is revised as follows:

Western Pond Turtle

Before ground disturbing activities, project proponents shall retain a qualified biologist to determine whether the potential project site contains suitable habitat for western pond turtle. For projects or ground-disturbing activities (including any required off-site improvements) with potential to disturb suitable aquatic or adjacent upland habitat for western pond turtle, the following measures shall be implemented.

- ▲ Within 24 hours before beginning construction activities within ~~200~~ 300 feet of suitable aquatic habitat for western pond turtle, a qualified biologist shall survey areas of anticipated disturbance for the presence of western pond turtle, including eggs and hatchlings. The construction area shall be re-inspected whenever a lapse in construction activity of two weeks or more has occurred. If pond turtles or their eggs are found during the survey or observed within the construction area at any other time, they shall be relocated by a qualified biologist, outside of the area of disturbance, to the nearest area with of suitable aquatic habitat of equal or better quality as the affected habitat. ~~and~~ CDFW will be notified of the discovery and relocation of any western pond turtles.
- ▲ If western pond turtle nests are found in the disturbance area during preconstruction surveys, a 300-foot no disturbance buffer shall be established between the nest and any areas of potential disturbance. Buffers shall be clearly marked with temporary fencing. Construction will not be allowed to commence in the exclusion area until hatchlings have emerged from the nest, or the nest is deemed inactive by a qualified biologist. When hatchlings emerge from the nest, they shall be relocated by a qualified biologist to suitable aquatic habitat outside of the area of disturbance.

- 16-6 The comment states that Draft EIR does not analyze potential impacts to all 10 plant species and 42 animal species identified in the biological resources setting section as known or having potential to occur in the region. Some of these species were ruled out from potentially occurring in the project area because it lacks suitable habitat for these species, because the project area is outside of the species' limited range, or other reasons as specified in Tables 4.4-2 and 4.4-3.

The comment further states that Draft EIR's analysis of impacts to western spadefoot is insufficient. A full analysis of potential impacts to western spadefoot is provided on pages 4.4-44 through 4.4-46. Surveys for western spadefoot were conducted in the PRSP area in 2005 and none were found. It is not necessary to conduct surveys for western spadefoot prior to finalizing the Draft EIR and is appropriate to conduct surveys prior to implementing individual development projects because wildlife species are dynamic. Even if surveys were conducted now, and the species was not found, it would be necessary to conduct preconstruction surveys at the time of future project implementation because suitable habitat is present and the SAP area is within the species' range.

Regarding impacts to wildlife species from night lighting, see response to comment 71-4.

- 16-7 The comment states the Draft EIR fails to identify and assess impacts to vernal pool plant species and dependent insect species.

There are no special-status bee species identified as potentially occurring in the area so the Draft EIR is not required to analyze impacts on bees. The dwarf downingia occurrence previously found in the PRSP area is small and disjunct from other downingia occurrences and therefore does not provide a significant source of nectar that would sustain a specialist pollinator. Since this species occurs in preserve areas within and adjacent to the SAP area, there would already be a source of nectar for the pollinator in those areas. The impact mechanism for loss of dwarf downingia in the planned development areas of the SAP area is not loss of pollinators but direct removal of dwarf downingia.

It is appropriate to delay any additional special-status plant surveys to the blooming period right before implementing individual development projects because the distribution of special-status plants can change over time. Past surveys found one special-status plant species in one vernal pool in the PRSP area and two special-status plant species in portions of the net SAP area that have already been preserved as part of the PCCP. These species could have spread to other vernal pools in the SAP area (including the PRSP area) or could have disappeared. Any survey is a snapshot in time. Considering the long planning horizon of the SAP (including the PRSP), special-status plants present in the SAP area today could shift in their abundance and distribution such that occupation changes prior to future independent development projects being implemented. For these reasons, surveys right before project implementation would be required anyway. Special-status plants can be extirpated naturally as a result of drought, climate change, or stochastic events, or as a result of non-development-related land management changes implemented by landowners (e.g., changes in agricultural practices).

- 16-8 The comment summarizes the CEQA requirements to maintain the administrative record and reminds the County of its obligations to maintain and preserve all documents and communications that may be part of the administrative record. Under CEQA, the administrative record (formally called the "record of proceedings") constitutes the entire body of evidence presented to the decision-making agency and considered, either directly or indirectly (through staff), by the agency in making their decision on a project. PRC Section 21167.6 presents the CEQA requirements, including who is responsible for preparing the administrative record, what items should be included, and when it should be prepared. The County is familiar with these requirements, having prepared numerous administrative records for previous projects, and adheres to these requirements for this and other County projects going through the CEQA environmental review process.

The comment also states that the Draft EIR identifies numerous significant and unavoidable impacts, but does not include feasible mitigation; therefore, the comment states that the project should not be approved in its current form. However, for the reasons discussed under responses to comments 16-1 through 16-7, the analysis is adequate and no changes to the Draft EIR are necessary in response to this comment.

LAW OFFICE OF
MARCUS J. LO DUCA
A Professional Corporation

Letter
17

MARCUS J. LO DUCA

February 22, 2019

Ms. Shirlee Herrington
Environmental Coordination Services
County of Placer
Community Development Resource Agency
3091 County Center Drive
Auburn, CA 95603

Re: Draft Environmental Impact Report for the Sunset Area Plan and Placer
Ranch Specific Plan (State Clearinghouse No. 2016112012)

Dear Ms. Herrington:

This office represents CP 3500 Cincinnati, LLC and CP 3500 BLDG I, LLC, owner and builder/developer of the approximately 182 acre Placer Gold Industrial Park in the Sunset Industrial Area Plan (SIAP) at the northern terminus of Cincinnati Avenue. Taking over the empty shell of the former Formica building in the middle portion of the property, my client has expended in excess of \$22 million to renovate and re-lease the former Formica building and construct the initial portions of the Placer Gold Industrial Park (PLN14-00138), approved on July 14, 2016. My client has completed the initial four lots in the Placer Gold project, including design review for the Lot 4 building, which building my client can now proceed to pull building permits for, as well as constructed the initial portion of the extension of Cincinnati Avenue into the project, and the western extension of the roadway off of Cincinnati Avenue that my client was required by the County to construct so as to be able to connect with the future Campus Park Boulevard in the Placer Ranch Specific Plan (PRSP).

My client's work to date has resulted in the leasing of all of the former Formica building, with such tenants as Consolidated Communications, JD2 Structures, 24HR Recreational Storage, SGX, and Airwolf, not to mention my client locating his own offices in the building. Thus, my client has a very keen and vested interest in the Sunset Area Plan (SAP), including the PRSP. My client is generally supportive of the County's

3200 DOUGLAS BOULEVARD, SUITE 300 • ROSEVILLE, CA 95661
TEL (916) 774-1636 • FAX (916) 774-1646
www.loducalaw.com

Ms. Shirlee Herrington
 February 22, 2019
 Page 2

efforts in updating the SIAP, but has several comments regarding roadway connections, a change in land use in the eastern portion of the PRSP adjacent to Placer Gold, and mitigation measures set forth in the above-referenced EIR and their potential adverse impact on the ability of my client to continue to bring primary wage earner jobs to Placer County. Our specific comments follow.

Chapter 3 – Project Description

1. Page 3-33, Exhibit 3-11: In the January 2018 version of the Placer Ranch Specific Plan and Sunset Area Plan, the eastern terminus of Campus Park Boulevard connected directly with the western extension of the roadway that the Placer Gold project was required to build directly westward from the current terminus of Cincinnati Avenue. That western extension to Campus Park Boulevard would serve as a second point of access for the Placer Gold project, allowing more than the 460,000 square feet of industrial space on the property that is currently allocated without such second point of access, which limitation is the result of current roadway capacity issues in the eastern portion of the SIAP. Now, with the December 2018 version of the PRSP, that eastern portion of Campus Park Boulevard has swung northward by roughly 800 feet, so that now there is no connection to the Placer Gold roadway extension. This constitutes a significant change in the circulation plan for the Net SAP area, which does not appear to have been analyzed in the DEIR. Again, the County required the Placer Gold project to extend that roadway due west to connect to the future Campus Park Boulevard, which construction my client has nearly completed to a terminus in a cul-de-sac for future extension to the PRSP. My client cannot swing the roadway northward without significantly impacting biological resources and losing significant land for development, a particularly unacceptable result given that my client has already had to give up 12 acres at the northwestern corner of the property for Placer Parkway. We request that Campus Park Boulevard be relocated to where it was shown in the January 2018 version of the PRSP.

17-1

Chapter 4.3 – Air Quality

1. Page 4.3-39, Mitigation Measure 4.3-3c: For the Net SAP area, this measure calls for payment of an off-site mitigation fee equivalent to \$0.86/square foot of non-residential space that is separate from the PCAPCD’s current ROG and NOx off-

17-2

Ms. Shirlee Herrington
February 22, 2019
Page 3

site mitigation fee. This additional fee of nearly \$1.00 per square foot is a substantial burden on any industrial development in the SAP, and may well preclude further such development in approved and existing projects in the SIAP, seeming to conflict directly with one of the objectives for the SAP stated on page 3-6 of the Project Description to preserve the viability of industrial and large-scale manufacturing operations in the Sunset area. We question the requirement for a second off-site air quality mitigation fee when a substantial one is already required by the PCAPCD to allow applicants to mitigate their air quality impacts.

- 2. Page 4:3-46, Mitigation Measure 4.3-5a: This measure calls for, among other requirements, that developments be designed so that truck loading/unloading facilities and sensitive receptors are not located within 1,000 feet of each other, which facilities are defined to include truck distribution yards, truck loading docks, or truck loading or unloading areas. My client has an approved project and industrial zoning and land use designations, not to mention significant development already constructed in the Placer Gold project. Unlike the January 2018 version of the PRSP, which had Campus Park land use in the PRSP adjacent to the western portion of Placer Gold, the December version of the PRSP has now located Low Density Residential land uses adjacent to the western boundary of my client’s property, and much closer than 1,000 feet away, even with the landscape buffer shown in the PRSP adjacent to my client’s property. This new requirement on the Net SAP area could have a very direct, adverse impact on future industrial development in the Industrial Infill District of the SAP, and we ask that this measure be deleted for properties in the Industrial Infill District adjacent to the PRSP. Moving sensitive receptors next to long-designated and zoned industrial properties, and then making those industrial properties mitigate what the residential properties might object to, runs directly contrary to the stated objectives and goals of the SAP and over two decades of County policy.

17-2
cont.

Chapter 4.7 – Greenhouse Gas Emissions

- 1. Page 4.7-21, Mitigation Measure 4.7-2b: This mitigation measure, on top of the additional off-site mitigation fee of \$0.86/square foot in Mitigation Measure 4.3-3c, is based on guidance from the PCAPCD and the California Air Resources Board, but is not required to be implemented by Placer County. This measure represents yet another burden on industrial developments like Placer Gold as

17-3

Ms. Shirlee Herrington
February 22, 2019
Page 4

they look to compete with other parts of the region and other states to bring primary wage earner jobs to Placer County. | 17-3 cont.

Chapter 4.10 – Land Use

- 1. Page 4.10-12, Impact 4.10-1: There is no discussion here of the potential land use incompatibility created by moving Low Density Residential uses in the PRSP adjacent to industrial properties in the existing SIAP such as my client’s Placer Gold project. That impact needs to be analyzed. | 17-4

Chapter 4.13 – Public Services

- 1. Page 4.13-27, Mitigation Measure 4.13-1a: Currently, development in the SIAP is subject to the special taxes in CFD 2012-1 for fire services. It is not clear from the DEIR if that CFD, to which Placer Gold was required to annex into, satisfies this mitigation measure, or if this is yet another layer of a CFD for fire service in the proposed SAP | 17-5
- 2. Page 4.13-30, Mitigation Measure 4.13-2: The DEIR calls for all new development in the PRSP and Net SAP area to fund law enforcement services through a CFD or CSA, but nowhere in the DEIR or its appendices is an analysis of the significant property tax revenues that would be generated by new non-residential development, and how those revenues would offset the cost of providing services such as law enforcement. | 17-6
- 3. Page 4.13-40, Mitigation Measure 4.13-8: The DEIR calls for all new development in the PRSP and Net SAP area to fund road maintenance through a CFD or CSA, but again, nowhere in the DEIR or its appendices is there any analysis of the significant property tax revenues that would be generated by new non-residential development, and how those revenues would offset the cost of providing road maintenance services in the SAP. | 17-7

My client has spent millions of dollars and many years bringing primary wage earners jobs to the SIAP, on a property served by water and sewer infrastructure, as well as rail service. The Placer Gold project is one of the few projects in the SIAP that has brought in significant new employers into the SIAP, and our comments herein are intended to help allow my client and the County to continue to be competitive in the region and the nation in attracting employers to the SIAP. | 17-8

Ms. Shirlee Herrington
 February 22, 2019
 Page 5

Thank you for the opportunity to comment on the DEIR.

Very truly yours,

LAW OFFICE OF MARCUS J. LO DUCA
 A Professional Corporation



Marcus J. Lo Duca

Cc: CP 3500 Cincinnati, LLC
 CP 3500 BLDG I, LLC

Letter 17	CP 3500 Cincinnati, LLC, and CP 3500 BLDG I, LLC Marcus J. Lo Duca, Law Office of Marcus J. Lo Duca February 22, 2019
----------------------	---

- 17-1 The comment expresses concern regarding the alignment of the eastern terminus of Campus Park Boulevard within the PRSP area. The Campus Park Boulevard alignment illustrated in Exhibit 3-11 is conceptual in nature in that the actual precise alignment will be determined with implementation of the PRSP. To ensure Campus Park Boulevard is aligned to connect with Campus Park Boulevard infrastructure already constructed as part of the Placer Gold project to the east of the PRSP area, a Condition of Approval has been added to the PRSP Tentative Large Lot Map.
- 17-2 The comment suggests that the off-site mitigation fee required by Mitigation Measure 4.3-3c may be a substantial burden on developers and that such requirement would make the mitigation measure infeasible. The comment does not provide evidence that this fee is financially infeasible. The comment questions the need for a second off-site air quality mitigation fee for the project; however, these fees would offset the impacts of the project's air pollutant and greenhouse gas emissions. The available on-site mitigation is insufficient to reduce project-generated emissions below PCAPCD's thresholds, off-site mitigation is preferred by PCAPCD in the form of contributions to the Offsite Air Quality Mitigation Fund. This mitigation is considered feasible by PCAPCD. This comment is noted and will be considered by decisionmakers in determining whether mitigation is feasible.

The comment discusses an approved industrial project in the SAP that would be inconsistent with Mitigation Measure 4.3-5a because new residential development could occur within the identified 1,000-foot buffer. To clarify, currently approved projects would not be subject to the mitigation required by this Draft EIR. The County has revised Mitigation Measure 4.3-5a, as follows, to address currently planned industrial expansions in the net SAP area and to provide specific measures for residential development that may be proposed near existing/planned industrial development:

Mitigation Measure 4.3-5a: Incorporation of design features at truck loading areas to reduce health-risk exposure at sensitive receptors (Net SAP Area and PRSP Area)

~~Before Design Review approval~~ Prior to Design Review approval and/or issuance of grading permit, project proponents shall design developments new development shall be designed so that truck loading/unloading facilities and sensitive receptors are not located within 1,000 feet of each other existing or planned sensitive receptors, if feasible considering site design parameters. Existing or previously approved industrial/commercial development, including any development within boundaries of existing industrial parks, are not subject to this mitigation measure. For the purpose of this mitigation measure, a truck loading/unloading facility is defined as any truck distribution yard, truck loading dock, or truck loading or unloading area where more than one truck with three or more axles will be present for more than 10 minutes per week, on average; and sensitive receptors include residential land uses, campus dormitories and student housing, residential care facilities, hospitals, schools, parks, playgrounds, or daycare facilities. A truck loading/unloading facility ~~and a sensitive receptor~~ can be located within 1,000 feet of ~~each other~~ a sensitive receptor only if ~~a project proponent~~ the project applicant prepares a qualified, site-specific HRA showing that the associated level of cancer risk at the sensitive receptors would not exceed 10 in 1 million. The HRA shall be conducted in accordance with guidance from PCAPCD and shall be approved by PCAPCD. If the HRA determines that a nearby sensitive receptor would be exposed to an incremental increase in cancer risk greater than 10 in 1 million then design measures shall be incorporated to reduce the level of risk exposure to less than 10 in 1 million. Design measures may include but are not limited to the following:

- ▲ Implement Mitigation Measure 4.3-3a, which requires all truck loading/unloading facilities to be equipped with one 110/208-volt power outlet for every two-truck loading/unloading facility. A minimum 2-foot-by-3-foot sign shall be clearly visible at each loading dock that indicates, "Diesel engine idling limited to a maximum of 5 minutes." The sign shall include instructions for diesel trucks idling for more than 5 minutes to connect to the 110/208-volt power to run any auxiliary equipment. This measure is recommended in PCAPCD's *CEQA Handbook* (PCAPCD 2017a) and is also consistent with measure VT-1 in the CAPCOA guide (CAPCOA 2010:300–303).
- ▲ The use of electric-powered "yard trucks" or fork lifts to move truck trailers around a truck yard or truck loading/unloading facility.
- ▲ The use of buildings or walls to shield commercial activity from nearby residences or other sensitive land uses.
- ▲ The use of EPA-rated Tier 4 Final engines in diesel-fueled construction equipment when construction activities are adjacent to existing sensitive receptors.
- ▲ Plant and maintain a vegetative buffer between the truck loading/unloading facility and nearby sensitive residences, schools, and daycare facilities. As part of detailed site design, a landscape architect licensed by the California Landscape Architects Technical Committee shall identify all locations where trees should be located, accounting for areas where shade is desired such as along pedestrian and bicycle routes, the locations of solar photovoltaic panels, and other infrastructure.

Applicants of residential or commercial development with new sensitive receptors proposed to be located within 1,000 feet of existing and/or planned commercial/industrial facilities that include, or may include, truck loading/unloading facilities, shall prepare an HRA as described above. Design measures identified in the HRA may include but are not limited to the following:

- ▲ Redesign the project to increase the distance between sensitive receptors and potential truck loading/unloading facilities;
- ▲ Use of upgraded filtration systems in the residential HVAC systems;
- ▲ Use of intervening buildings or walls to shield the receptors from the truck loading/unloading facility;
- ▲ Plant and maintain a vegetative buffer between sensitive receptors and the truck loading/unloading facilities. As part of detailed site design, a landscape architect licensed by the California Landscape Architects Technical Committee shall identify all locations where trees should be located, accounting for areas where shade is desired such as along pedestrian and bicycle routes, the locations of solar photovoltaic panels, and other infrastructure.

Also see response to comment 17-4, below, for a discussion regarding Placer County General Plan Land Use Buffer Standards.

- 17-3 The comment suggests that the carbon offset mitigation fee that is required by Mitigation Measure 4.7-2b is burdensome on industrial development and is not required by Placer County but rather is based on guidance from the PCAPCD and the California Air Resources Board (CARB). Placer County is the lead agency under CEQA for this project and must consider all feasible mitigation for significant environmental impacts. Impact 4.7-2 identifies a significant impact that must include all feasible mitigation. In certain instances, the County does not have its own guidance for specific resource areas and relies on resource agencies to provide guidance for available, feasible, and effective mitigation measures. For air pollutant and GHG emissions, the PCAPCD provides the County with such guidance, which has been used in Mitigation Measure 4.7-2b. Additionally, the comment does not provide evidence that the mitigation fee is financially infeasible. The comment will be considered by decisionmakers in determining whether mitigation is feasible.
- 17-4 The comment asserts that the Draft EIR does not analyze potential land use incompatibility associated with the PRSP's proposed low-density residential uses adjacent to industrial properties in the existing Sunset Area. Impact 4.10-1 describes the PRSP's proximity to existing commercial and industrial uses to the east, where it is mostly undeveloped with some areas of existing commercial and industrial uses and that these areas are planned for eventual commercial and industrial development. Existing industrial structures are located approximately 1,000 feet from planned residential development in the PRSP area. New or substantially expanded industrial projects located in the SAP would be required to comply with SAP policies, including Policy 6.F.11, which states "the County shall apply the buffer standards described in Part 1 of this Policy Document [Land Use/Circulation Diagrams and Standards] and meteorological analyses to provide separation between possible emission/nuisance sources (such as industrial and commercial uses) and residential uses."

Any future development within the PRSP area would be subject to Placer County General Plan Land Use Buffer Standards Section 2m which outlines buffer zones and provisions to be applied for residential development adjacent to industrial. The buffer dimensions state that generally a minimum buffer zone width of 300 feet would be required but may be reduced to not less than 100 feet where the buffer includes landscaping features. These standards would apply to the PRSP residential land use zones that are adjacent to the industrial zones located within the net SAP area to the east. Accordingly, as proposed, the PRSP land use plan includes a 100-foot buffer zone along the eastern residential zone.

The Draft EIR evaluates impacts associated with environmental-related land use conflicts between industrial uses and residential uses (sensitive receptors). For example, Impact 4.3-5 of the Draft EIR specifically evaluates impacts to sensitive receptors associated with sources of Toxic Air

Contaminant emissions (including sources associated with industrial development). To reduce project-related impacts, the Draft EIR identifies Mitigation Measure 4.3-5a which requires developments to be designed such that truck loading/unloading facilities and residential areas are not located within 1,000 feet of each other. The mitigation specifies that truck loading/unloading facilities and residential development may be located within 1,000 feet if the project proponent prepares a qualified, site-specific health risk assessment (HRA) showing that the associated cancer risk at the sensitive receptor would not exceed 10 in 1 million. See Draft EIR page 4.3-46 for more details. Note that Mitigation Measure 4.3-5a has been revised (as shown in response to comment 17-2, above) to address currently planned expansion of existing industrial uses.

- 17-5 The comment questions whether development in the SAP area currently annexed into CFD 2012-1 for fire services would satisfy the requirements of Mitigation Measure 4.13-1a, or if existing development would be required to annex into another CFD as part of the SAP. Existing development already part of a CFD would not be required to annex into another CFD for the same purpose.
- 17-6 The comment notes that the Draft EIR does not contain an analysis of property tax revenues that would be generated by new non-residential development, and how those revenues would offset the cost of services, such as law enforcement. Placer County General Plan Policy 4.B.6 requires a fiscal impact analysis be prepared for those projects proposing 100 units or more of residential development. A fiscal impact analysis prepared for both the PRSP area and the net SAP area examined the incremental increase in property tax and other revenues attributable to the planned uses that could be used to offset increased service level costs to serve such proposed development. This comment raises questions regarding the financial aspects of the project, including tax revenue generation. The comment does not raise issues related to environmental impacts or adequacy of the Draft EIR.
- 17-7 The comment notes that the Draft EIR does not contain an analysis of property tax revenues that would be generated by new non-residential development, and how those revenues would offset the cost of providing road maintenance. See response to comment 17-6.
- 17-8 The comment notes that the Placer Gold Industrial project located to the east of the PRSP area has provided significant investment to the SAP area and brought employers to the region. The comment does not raise environmental issues or concerns regarding the adequacy, accuracy, or completeness of the environmental document. The comment is noted for consideration.



Letter 18

February 22, 2019

Placer County Planning Commission
3091 County Center Drive, Suite 190
Auburn, Ca. 95603

Re: Sunset Area Plan & Placer Ranch Draft Environmental Impact Report

Dear Planning Commission Members:

On behalf of our clients, thank you for this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Sunset Area Plan/Placer Ranch Specific Plan (SAP/PRSP).

Legal Services of Northern California is the non-profit corporation providing free civil legal aid for low-income residents of Placer County. As a result of our caseload demand in Placer County, we have come to recognize that the lack of affordable housing has created a housing crisis for our clients. In addition, it negatively impacts our community in many ways. These comments will focus on the affordable housing aspects discussed in Section 4.12 of the DEIR.

1. The DEIR should specify that compliance with the County’s housing policies is a required mitigation measure.

The population and housing sections in most specific plan EIRs approved by the County used the County housing policies as a mitigation measure to reduce the potential impact of the project to less than significant. The PRSP DEIR proposes to adhere to County housing policies, and concludes at Impact 4.12-2 that because of this consistency the project impact would be less than significant. For purposes of consistency with the County’s past practices the PRSP DEIR should incorporate the County policies as mitigation measures.

18-1

2. The need for affordable housing should be recognized and address in the DEIR.

The plan acknowledges that the County is obligated to provide enough land to meet the SACOG fair share housing allocation of 5,031 units. However, it fails to specify that 3,258 of these units should be affordable to very low, low, and moderate-income households, and that only 193 units have been built in these income categories during this planning period. As a result, it is imperative that the PRSP make specific provisions for the commitment to develop affordable housing.

18-2

Mother Lode Regional Office:
190 Reamer Street
Auburn, CA 95603
P: 530.823.7560
F: 530.823.7601
www.lsn.net

A Legal Services Corporation Program LSC

At page 4-12-11, the DEIR states that in the PRSP area, 10 percent of housing would be affordable as required by the County’s Housing Element, and that the additional 8,094 proposed units would likely meet the County’s RHNA allocation. However, without specificity, there can be no guarantee that the plan will meet the RHNA allocation for *affordable housing* or comply with the Housing Element. On its face, compliance with the Housing Element would produce 809 affordable units in the SAP (10% of the total), which would not meet the RHNA allocation for affordable housing, nor would it meet the actual need for affordable housing. Regardless, the 10% contribution would be significant and the project should commit to the actual construction of the affordable units.

18-2
cont.

3. Location of Affordable Housing in the project should be identified.

The DIER must specifically state the anticipated location and timing for the affordable housing development. The decisions regarding these specifics must be stated in the current DEIR and not deferred to a later date.

As referenced in the DEIR (p. 4-12-7), the Housing Element requires that the affordable housing be constructed on-site and dispersed throughout the project to the extent possible. The DEIR does not specify the location of the affordable units. In addition, the DEIR should indicate the location of proposed affordable housing in relation to the disposal site (WRSL), flood plains areas, and infrastructure and transit sites. The plan does not identify the location of the infrastructure and transit sites. This information is critical, because the proximity to these sites will play a critical role in determining whether the affordable housing will meet the governmental requirements to qualify for supportive funding, which will determine whether the affordable housing is built and the level of affordability.

18-3

Impact 4.3-6 at Table 2-1 of the Executive Summary identifies that the project will create objectionable odors affecting a substantial number of people. The project proposes an amendment to the County General Plan Policy 4.G.11 which reduces the 1-mile buffer for residential uses around the WRSL to 2000 feet, and subject to approval, to 1000 feet. The record shows that the County Air Quality Agency has already received approximately 300 complaints about the odor from the WRSL, and the summary concludes that there will be an increase in complaints from new residents. This is a significant environmental impact that should be mitigated. In addition, location of the proposed affordable housing should be identified to insure that it would be dispersed throughout the project area and not concentrated near the WRSL. Concentration of housing near the WRSL would affect the ability of affordable projects to qualify for funding and would constitute environmental discrimination by requiring affordable residents to bear the brunt of this significant impact.

4. Timing of the affordable housing development must be specified.

The Housing Element at Police B-6 requires that affordable housing must be developed in a timely manner with the market-rate units in the project to avoid delaying the construction of the affordable units to the end of the project. The DEIR must specify the time frame for the construction of the affordable units to comply with this policy. Failure to do so could result in the delay of the affordable units, which could in turn result in a barrier to construction due financial obstacles and neighborhood opposition, including litigation, from the residents of the market rate units.

18-4

5. The jobs to housing ratio should be analyzed.

The jobs to housing ratio discussed at Impact 4.12-1 concludes that the buildout of the SAP and PRSP areas would result in 55,760 new jobs, and that the projects will add more than seven jobs for each dwelling unit. The DEIR concludes that this will improve the jobs-to-housing ratio in Placer County. However, the DEIR does not analyze whether the salaries from the newly created jobs would be sufficient to allow the workers to afford the housing created in the project. Without this analysis, one cannot determine whether the project

18-5

improves the jobs-to-housing balance, or merely creates another community where workers are required to commute into the project area, because they cannot afford to live there.

18-5
cont.

6. Density Bonus obligations must be specific and explained.

The Specific Plan for this project included a density bonus granted by Placer County. However, the DEIR does not spell out the developer’s obligations, especially with respect to affordable housing, stemming from the density bonus. These specifics need to be spelled out.

18-6

Please take these comments into consideration. If this project is properly planned and implemented, it holds the potential to provide many positive contributions to Placer County, especially by helping to mitigate our affordable housing crisis. Thank you for this opportunity to comment on this project.

Sincerely,

W. H. Whitaker
Managing Attorney

Letter 18 | W.H. Whitaker, Managing Attorney, Legal Services of Northern California
(representing unidentified clients)
February 22, 2019

- 18-1 The comment suggests incorporating applicable housing policies into mitigation measures. Applicable Placer County General Plan Housing Element policies are identified on page 4.12-7 of the Draft EIR, including Policies A-4, A-5, B-4, and B-13. County General Plan policies have been approved by the Board of Supervisors, and the County implements its General Plan policies. General Plan policies do not need to be adopted as mitigation measures in order to be successfully implemented. No revisions to the Draft EIR are necessary.
- 18-2 The comment states there is no guarantee the plan would comply with the RHNA allocation for affordable housing or that the PRSP would make specific commitments to develop affordable housing. Section 3.4.2 of the Draft EIR identifies that one of the primary objectives of the PRSP is to meet regional housing needs allocation. As described in Section 4.12.2 of the Draft EIR, the SAP/PRSP would aid Placer County in achieving the County’s obligation to provide enough land with densities to accommodate the County’s assigned fair share of the region’s housing needs by designating districts with densities of 30 dwelling units/acre. General Plan Housing Element Policies B-4 and B-15 requires 10 percent of the housing inventory within the Specific Plan to be restricted to affordable rates and constructed within the project area.
- 18-3 The comment requests the EIR identify the anticipated location for affordable housing and suggests the locations of affordable housing in relation to floodplains, public transit, and concentration of affordable housing near the landfill, could affect the project’s ability to qualify for governmental supporting funding. The comment further states that odor impacts related to the reduction of the County’s existing 1-mile buffer for development near the landfill is a significant environmental impact that should be mitigated.

As described in Section 6 of the PRSP, the project's affordable housing obligation is 564 units. The anticipated location of affordable housing would be dispersed within the residential zone districts as shown in Exhibit 3-1. The affordable housing sites are located $\frac{3}{4}$ mile and more away from the active landfill site. Exhibit 3-6 shows the locations of affordable housing in the PRSP area.

With regard to floodplains, existing Placer County natural resources protections and Draft EIR Mitigation Measures 4.9-5a, 4.9-5b, and 4.9-5c effectively prohibit disturbance and placement of habitable structures in the 100-year floodplain.

With regard to infrastructure and transit, see Draft EIR Exhibits 3-15 through 3-24, which show locations of roads, traffic control, bicycle/mobility features, public transit facilities, potable water infrastructure, recycled water infrastructure, wastewater infrastructure, stormwater drainage infrastructure, electrical infrastructure, and infrastructure located outside the PRSP area. Also, in Chapter 9 of the PRSP, Figures 9-1 through 9-5, show identified locations of utilities and infrastructure within the PRSP area. Similarly, Chapter 7, Figure 7-11, identifies the location of public transit routes and stops along arterial streets throughout the PRSP area, including Campus Park Boulevard, Sunset Boulevard, Fiddymont Road, and Foothills Boulevard.

With regard to odor, the Draft EIR includes analysis of odors in three different sections: 4.3, "Air Quality"; 4.10, "Land Use"; and 4.15, "Utilities." The Draft EIR identifies mitigation measures to reduce odors, specifically Mitigation Measure 4.10-2. Also, see Master Response 4: Odors. Note that the master response includes an additional mitigation measure to further address odor impacts. It should be noted that landfill proximity, itself, as well as exposure to odors, are not considerations with respect to HUD funding for affordable housing.

- 18-4 The comment requests the timing for construction of affordable housing be provided. Project-specific timing and triggers identifying affordable housing construction requirements are established in the PRSP Development Agreement and would not inhibit the timing for construction of affordable units, consistent with Housing Element Policy B-6. Exhibit 3-6 shows the locations of affordable housing in the PRSP area.
- 18-5 The comment states that the Draft EIR does not analyze whether the salaries from the newly created jobs would allow the workers to afford housing created in the project area, and, therefore, it is unclear whether the project would improve the jobs-to-housing balance. The Sacramento region's labor force is composed of employees with a range of skills and experience who receive compensation commensurate with their skills and experience and aligned with the region's labor force demands and cost of living. The SAP is being planned to include a variety of nonresidential land uses with future employers offering retail, office, and industrial employment opportunities requiring a range of skills and experience. At this time, specific employers and employment opportunities in the project area are unknown. However, future employers in the project area will compete with other employers in the region. Thus, it will be necessary for these employers to offer competitive wages to successfully attract employees from the region's labor force.
- 18-6 The comment suggests that the Draft EIR provide the specific additional obligations for affordable housing stemming from the project's density bonus. The County has not granted a Density Bonus to the project, although, as described in Section 6.C of the PRSP additional units may be assigned to the PRSP in accordance with Placer County Zoning Ordinance 17.54.120. Development that occurs within the PRSP area may propose to utilize residential density bonuses and incentives consistent with provisions of California Government Code Section 65915, without requiring an amendment to the PRSP.

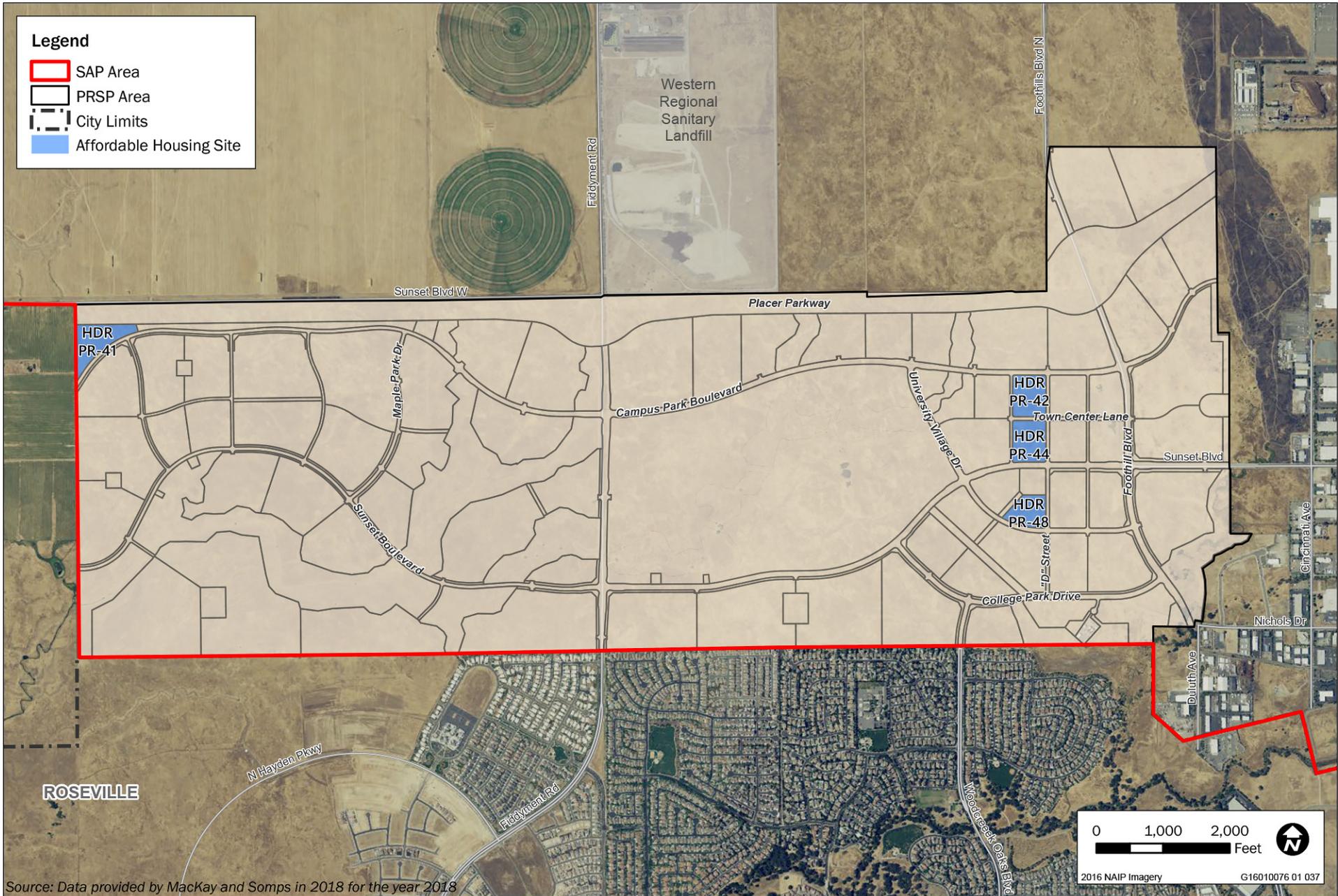


Exhibit 3-6

Affordable Housing Locations in PRSP Area



PLACER ATHENS LP/PLACER ATHENS II LP

February 12, 2019

**Letter
19**

Ms. Shirlee Herrington
Environmental Coordination Services
County of Placer
Community Development Resource Agency
3091 County Center Drive
Auburn, CA 95603

RE: Sunset Area Plan/Placer Ranch Specific Plan Draft EIR

Dear Ms. Herrington:

Placer Athens LP and Placer Athens II LP own 400 acres east of the 180-acre buffer property to the Western Placer Regional Landfill. Our property has been designated for urban non-residential land use (Industrial) under the Sunset Industrial Area Plan (SIAP) since that plan's adoption in 1997, with Industrial Park zoning on a portion of our property. Since acquiring the property in 2002, we have been challenged in seeking to develop our property under the SIAP due to the lack of available infrastructure in the plan area. The infrastructure needed to allow development to move forward is of such a magnitude that no individual project can bear the costs of such infrastructure. We have been anxious for infrastructure planning in the area to proceed that would fairly and equitably spread the costs of necessary infrastructure among the various properties in the SIAP, so no individual property owner has to bear the burden of mitigating someone else's impacts.

As long-time property owners in the plan area, we have been supportive of the County's plans to update the SIAP and re-focus land use planning in the area under the proposed Sunset Area Plan (SAP). The SAP proposes on most of our property to be designated Innovation District, along with our northeastern corner to be designated Entertainment Mixed Use. While supportive of the SAP and what it can do to help spur development in the plan area, we have serious concerns with several provisions of the Draft EIR for the SAP and the Placer Ranch Specific Plan. Our concerns fall into two areas: mitigation for the landfill operational issues, and new burdens placed on development in the SAP. In the first case, the mitigation discussed in one area of the Draft EIR would in essence result in the taking of our property to mitigate another property owner's impacts. In the second case, the additional burdens being placed on future development in the SAP could well undermine the ability to develop the type of projects that the County and property owners want to see built in the SAP.

As well documented in the Draft EIR, the Western Placer Regional Landfill is the source of significant and unmitigated odor issues in the SIAP and surrounding area, which impacts affect the ability of property owners such as ourselves to be able to develop our properties. While the Draft EIR suggests on page 4.3-52 several mitigation measures that the Waste Management Authority could

19-1

~ 1 ~

implement to begin to address significant odor impacts from the landfill and composting operations, the Draft EIR notes that such measures are outside the County’s control, and so the impacts are significant and unavoidable. While the Draft EIR discusses briefly at page 4.3-11 future landfill operations, the text only in passing notes that the Waste Management Authority is considering expansion of its operations either to the west of the existing landfill operations or to the east of such operations, to property purchased in 2009 by the Waste Management Authority as buffer land. That buffer land lies immediately to the west of our property. The proximity only makes the suggested mitigation on page 4.10-18 of the Draft EIR that much more ominous. Mitigation Measure 4.10-2 in its Landscape Design measures states “require a landscape buffer zone on all land uses adjacent to the WRSL.” In other words, the Draft EIR recommends externalizing the buffer from the operations of the landfill to other property owners such as ourselves.

19-1
cont.

The requirement for surrounding property owners such as ourselves to have to mitigate the impacts of the landfill’s operations flies in the face of legal prohibitions against precisely the concept of externalizing the impacts of a project onto other property owners. The Waste Management Authority has to mitigate its own impacts. When the Authority purchased the property adjacent to our property in 2009, we believed that the Authority was buying the land to buffer the impacts of its operations. Now, one option being studied by the Authority is to expand the landfill operations eastward onto to its acquired buffer land property. And the County’s SAP Draft EIR is compounding the impact of such a proposal by placing mitigation on properties in the SAP to buffer the operations of the landfill on our property. Such an externalized buffer renders that part of our property useless and undevelopable. As such, the measure serves to take our property to provide a buffer for the impacts of another property owner’s project. We cannot and will not accept such a measure. We therefore request that this measure be deleted from the EIR in the Final EIR.

The second area of concern with the Draft EIR has to do with additional community facilities district requirements for properties in the SAP to finance ongoing costs of various government services. Properties in the SIAP are already required to join CFD No. 2012-1 to fund fire services in the SIAP, but the Draft EIR calls for adding to the services funded by such a CFD to include law enforcement (Mitigation Measure 4.13-2 on page 4.13-30), library services (Mitigation Measure 4.13-4, page 4.13-35), and road maintenance (Mitigation Measure 4.13-8, page 4.13-40). Yet, nowhere in the Draft EIR is found any discussion of the property taxes that non-residential development that can be built on our property can generate to offset any costs on law enforcement, libraries and road maintenance. Such measures placed on properties in the SAP can serve to place the SAP area at a significant competitive disadvantage compared to other areas in the greater Sacramento region. We ask the County to include a fiscal study of the expected revenues to be generated by new non-residential development in the SAP, both one-time revenues and ongoing property tax and sales tax revenues. Then the County can determine the costs of such services that will be paid for by future non-residential development through the property taxes and sales taxes from such development, thereby allowing the County to eliminate the layering of CFD costs on non-residential development in the SAP as currently proposed.

19-2

Thank you for the opportunity to comment on the Draft EIR.

Sincerely,



Tim Kwan

Daniel Lee

Letter 19	Placer Athens LP/Placer Athens II LP Tim Kwan and Daniel Lee February 12, 2019
----------------------	--

19-1 The commenters claim that the mitigation proposed in the Draft EIR would result in a taking of their property. In accordance with State CEQA Guidelines Section 15126.2(a), “[a]n EIR shall identify and focus on the significant effects of the proposed project on the environment.” Section 15358(b) notes that “[e]ffects analyzed under CEQA must be related to a physical change.” The comment regarding takings can be considered by decisionmakers, but such an impact is outside the scope of the EIR; therefore, no revisions have been made to the Draft EIR in response to this part of the comment.

The commenters also note “significant and unmitigated odor issues in the [Sunset Industrial Area Plan] and surrounding area” and then discuss mitigation measures proposed in the Draft EIR. To clarify, mitigation in the Draft EIR is for impacts that would result from the proposed project. The mitigation is not to address existing odor issues associated with the WRSL. See Master Response 4: Odors for a discussion of mitigation of impacts related to the project and the WRSL. See also Master Response 9: Mitigation and Development Fees.

19-2 The comment questions the need for additional community facilities district requirements and requests the County to provide a fiscal study of the expected revenues to be generated by new non-residential development. See response to comment 17-6.