

Maywan Krach
July 16, 2015
Page 71

the feasibility and desirability of various alternatives already considered. The EIR must take this information into account.

09-164
cont.

Further, of the impacts from climate change that the DEIR does examine, the document appears to underestimate such impacts. For example, the DEIR claims the addition of one fire station should be enough to combat the increase in wildfires from climate change. However, as discussed below, wildfires are increasing at an alarming rate, particularly in the Sierras. The DEIR provides only the most superficial discussion of emergency response. It never evaluates, for example, a scenario in which a wildfire occurs when Squaw Valley Road is experiencing traffic gridlock, i.e., during the summer. Because this road provides the only access to and from Olympic Valley, this traffic congestion would block emergency access to the Valley and the resort. The DEIR provides no evidence whatsoever that one fire station would be able to handle a catastrophic wildfire affecting this isolated location.

09-165

7. The DEIR Fails to Adequately Analyze or Mitigate the Project’s Noise Impacts.

A particularly glaring inadequacy of the DEIR is its analysis of and mitigation for the Project’s noise impacts. The proposed Project would generate three distinct categories of noise impacts: (1) noise from construction equipment and operations; (2) noise from the Project’s operational stationary noise sources such as heating ventilation and air conditioning (“HVAC”) units, emergency generators, and loading dock activities; and (3) traffic noise from the Project’s cars and trucks that would travel along area roadways. Some of the closest sensitive receptors would be only 50 feet from certain noise sources. See DEIR at 11-19, 25. The DEIR admits that sensitive receptors located within 50 feet of certain construction-related activities such as pile driving could be exposed to noise levels as high as 98 dBA, i.e., similar to a noise level of a jet-flyover at 1,000 feet. *Id.* at 11-2, 19. Noise levels from on-going operational activities such as loading dock operations could be as high as 86 dBA, which approaches a noise level similar to a gas lawn mower at 3 feet. *Id.* at 11-2, 26. In light of these excessive noise levels and the importance of peace and quiet in Squaw Valley, one would expect the DEIR to provide a comprehensive analysis of the Project’s noise impacts. Unfortunately, in almost all instances, the DEIR does not provide quantitative impact analyses at all; instead it simply identifies *representative* noise levels associated with the Project’s activities. The DEIR’s excessively vague discussion of the Project’s noise impacts therefore does not come close to describing the severity and extent of the Project’s impacts. Consequently, the DEIR also errs because it does not propose mitigation measures capable of offsetting these significant impacts.

09-166

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
 July 16, 2015
 Page 72

(a) The DEIR’s Analysis of Noise Impacts is Hamstrung by Its Failure to Consider All of the Impacted Receptor Locations.

The Project would be developed in the established community of Squaw Valley; consequently, development of the Project would impact countless sensitive receptors. The DEIR, however, does not provide any specific information about these receptors other than a casual mention that there are scattered residences around the Project site. *Id.* at 11-6. The DEIR includes two graphics which purport to show the “specific locations” of receptors, but the document contains no explanation as to how these specific sensitive receptor locations were selected or whether these locations are in fact representative of all potentially affected sensitive receptors. Nor does the DEIR identify the distance between the sensitive receptors it does identify and the Project’s expected sources of noise. If the DEIR under-represented the number and type of potentially affected receptor locations, it also necessarily underestimated the Project’s noise impacts on these receptors.

09-167

The revised EIR must provide detailed documentation including an accounting of each potentially affected sensitive receptor. In addition to identifying residences, the revised EIR must identify each school, religious institution, picnic area, recreation area, playground, and active sport area and park that has the potential to be affected by the proposed Project.

(b) The DEIR’s Analysis of and Mitigation For Construction-Related Noise Impacts is Legally Inadequate.

In lieu of actually analyzing construction-related noise impacts on nearby sensitive receptors, the DEIR simply identifies typical noise levels of construction equipment and suggests that construction noise would result in a temporary increase in ambient noise levels. DEIR at 11-17. This cursory approach to impact analysis violates CEQA. A conclusion regarding the significance of an environmental impact that is not based on an analysis of the relevant facts fails to fulfill CEQA’s informational goal. *See Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 182; *Citizens of Goleta Valley*, 52 Cal.3d at 568. The DEIR fails to fulfill this paramount purpose of CEQA, both because it neglects to present all relevant facts relating to the Project’s construction noise impacts upon sensitive receptors, and because its cursory conclusions are based upon no analysis.

09-168

The required evaluation of noise impacts must include a thorough description and understanding of the duration of the exposure at a particular receptor and the amplitude of

SHUTE, MIHALY
 & WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 73

the noise exposure at a particular receptor. The evaluation would include the specific locations of sensitive receptors in the Project area, a description of existing ambient noise levels at these sensitive receivers, predicted noise levels during each phase of construction at these sensitive receptors, a comparison of noise levels during construction to the existing ambient noise levels, the establishment of appropriate significance thresholds to judge if the increase would be substantial, and a finding as to whether noise levels would substantially increase. Only upon completion of this analysis will the DEIR preparers be in a position to evaluate whether measures exist to mitigate this impact.

We can find no logical explanation as to why a quantitative analysis of the Project’s construction-related noise was not conducted. All of the information necessary to determine the specific effects that construction-related noise would have on sensitive receptors currently exists or is readily attainable. The applicant knows the precise location of the Project’s proposed structures. Presumably the applicant is also knowledgeable about the type of construction equipment and operations that would be required to demolish existing buildings and construct new buildings. *See, e.g.*, DEIR at 3-38 (listing the Project’s expected construction activities). Certainly, the DEIR preparers could have modeled the increase in noise levels at each of the affected sensitive receptors to determine average and single noise events. In addition, based on the anticipated construction schedules, the DEIR preparers could have estimated how long over the course of hours, days, or months that sensitive receptors would be burdened by the increase in noise. In the case of the local schools – the Squaw Valley Academy and Squaw Valley Preparatory – the DEIR could have evaluated the effect that the construction-related noise would have on classrooms and whether noise levels would interfere with learning. At a minimum, the EIR could provide a detailed analysis of construction noise impacts for the first phase, which is proposed to begin as early as spring of 2016. *Id.* at 11-18. This evaluation needs to be done now, prior to Project approval. Otherwise, how do decision-makers and the public know exactly how long they would be burdened with unacceptably high noise levels?

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The revised EIR must include a quantitative analysis of construction noise. This analysis must differentiate between daytime and nighttime noise because, as the DEIR explains, construction activities would sometimes occur at night. DEIR at 11-17, 19, 20. Noise can be far more intrusive during the evening and nighttime hours when ambient noise levels are at their lowest and residents are trying to sleep. The EIR must take into account this higher sensitivity to noise and evaluate how the increase in noise from the Project would *specifically* affect receptors during these time periods.

09-169

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
 July 16, 2015
 Page 74

The revised EIR’s noise impact analysis must also take into account single noise events and nighttime noise. Construction operations, in particular, are characterized by a high number of individual events, which often create a higher sustained noise level in proximity to areas sensitive to noise exposure. Analyzing only average noise impacts has been rejected by California courts because impacted residents do not hear noise averages, but single events. *See Berkeley Keep Jets Over the Bay v. Port of Oakland* (2001) 91 Cal.App.4th 1344, 1382. Single event noise levels have been shown to be likely to result in sleep disruption, speech interference, and heightened levels of stress and annoyance. Noting that “sound exposure level [SEL] has been found to be the most appropriate and useful descriptor for most types of single event sounds,” the court in *Berkeley Keep Jets* held that the Port must prepare a supplementary noise analysis. *Id.* Accordingly, the revised EIR must analyze the impacts of single event noise on sleep, speech, stress and annoyance levels.

09-170

The revised EIR must also evaluate interior noise levels. The DEIR acknowledges interior noise standards of 45 dBA. DEIR at 11-19. The DEIR addresses interior noise in the context of operational Project-generated stationary noise sources (at 11-24) but conducts no analysis as to how the Project’s construction-related noise would affect building interiors. This analysis is especially important because construction would occur during the summer season, when nearby residents would likely keep their windows open.

09-171

The DEIR identifies several measures that would purportedly reduce the Project’s construction-related impacts (at 11-20), yet these measures lack the necessary evidence of their effectiveness. The measures include techniques such as locating staging areas as far as possible from sensitive receptors, proper maintenance of construction equipment, and the possible use of noise attenuating buffers such as noise curtains or sound walls. *Id.* In numerous instances, measures are suggested rather than required; e.g., operations and techniques shall be replaced with quieter procedures, “where feasible.” *Id.* Other measures are vague and unenforceable; e.g., noise sensitive uses that are in close proximity to prolonged construction noise shall be shielded from construction noise. *Id.* The DEIR never defines the terms “prolonged construction” or “close proximity.” Nor does the DEIR identify the decibel levels of “properly” maintained equipment or explain whether proper maintenance of, for example, a pile driver would result in a sufficient reduction in noise levels. In fact, the DEIR nowhere identifies the noise reduction expected from *any* of the mitigation measures.

09-172

In sum, the DEIR fails to provide a quantitative analysis of the Project’s construction-related noise impacts and identifies vague and unenforceable mitigation

SHUTE, MIHALY
 & WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 75

measures for these admittedly significant impacts. The DEIR should be revised to include a comprehensive analysis of the Project’s noise impacts and specific, quantifiable and enforceable mitigation measures.

09-172
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(c) The DEIR’s Analysis of Construction Vibration Impacts is Legally Inadequate.

Vibration amplitudes are commonly expressed in peak period velocity (“PPV”) which is used to evaluate the potential for building damage. DEIR at 11-3. With respect to structural damage, Caltrans recommends that a level of 0.2 in/sec PPV not be exceeded for the protection of normal residential buildings and that 0.1 in/sec PPV not be exceeded for the protection of old or historically significant structures. *Id.* at 11-15. Although PPV is appropriate for evaluating the potential for building damage, it is not always suitable for evaluating human response. *Id.* at 11-3. It takes some time for the human body to respond to vibration signals. With respect to human response, i.e. annoyance within residential uses, the DEIR therefore recommends a maximum acceptable vibration level of 80 VdB. DEIR at 11-15.

09-173

The DEIR determines that pile driving during construction would be potentially significant because it *could* expose structures to vibration in excess of 0.2 in/sec PPV with respect to structural damage and 80 VdB with respect to human disturbance. DEIR at 11-21, 22 (emphasis added). Yet, as with the DEIR’s discussion of the Project’s construction-related noise impacts, the DEIR fails to provide an actual analysis of the Project’s vibration impacts. Instead it provides *representative* ground vibration levels and then relies on mitigation measures of unknown efficacy to conclude that the Project’s vibration impacts would be less than significant. *Id.* (emphasis added). In addition, the DEIR’s vibration analysis never even discloses whether there are any old or historically significant structures in the area. Thus, the DEIR provides no indication, whatsoever, as to whether there would be potential impacts to these structures.

The DEIR’s main mitigation measure calls for a vibration control plan to be prepared and sets a 80 VdB performance limit: “Established setback requirements (i.e., 300 feet) can be breached only if a project-specific, site-specific, technically adequate ground vibration study indicates that the buildings would not be exposed to ground vibration levels in excess of 80 VdB, and ground vibration measurements performed during the construction activity confirm that the buildings are not being exposed to levels in excess of 80 VdB.” DEIR at 11-23. Despite the apparent performance standard calling for vibration levels not to exceed 80 VdB, the DEIR lacks any indication that the measure would be sufficient to protect buildings or human response.

09-174

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
 July 16, 2015
 Page 76

First, the DEIR errs because it does not include *any* analysis of likely ground vibration impacts, let alone a “project-specific, site-specific, technically adequate ground vibration study.” In fact, the DEIR provides no indication why such a study could not be prepared now. Moreover, because the DEIR provides no indication of likely ground vibration levels, it provides no indication as to whether it is even feasible to achieve 80 VdB. What if actual construction results in 90 VdB or 100 VdB, and it is infeasible to reduce vibration levels to less than 80 VdB? Would the Project be terminated? Would the buildings that are under construction be moved? Either scenario seems highly unlikely. Moreover, none of the DEIR’s mitigation measures include a performance standard pertaining to structural damage. The 80 VdB standard only addresses the Project’s impact on human response. Because it contains no performance standard for structural damage that could result from ground vibration, the DEIR lacks any basis to conclude that these impacts would be less than significant.

09-175

The revised EIR must undertake a comprehensive construction vibration assessment and identify feasible, enforceable mitigation measures if these impacts are determined to be significant.

(d) The DEIR’s Analysis of Noise Impacts Resulting from Operational Project-generated Stationary Noise Sources Is Legally Deficient.

The Project would include numerous stationary sources of noise, such as heating, ventilation, and air conditioning (“HVAC”) units, back-up emergency generators, vehicular and human activity in parking lots, loading dock and delivery activities at commercial/retail land uses, and activities at outdoor recreational land uses. DEIR at 11-24. As with the construction- and vibration-noise impact analyses, the DEIR provides no specific analysis of the effect that any of these sources would have on nearby sensitive receptors. It excuses itself from this necessary analysis by stating that the “exact locations, building foot prints, and building orientation have not been finalized; it is unknown specifically where future stationary noise sources may be located.” *Id.* at 11-24. This is a project-level, not a programmatic EIR. As discussed in the Project description section of this letter, this Project may never be the subject of further environmental review. The noise effects from these noise sources must be analyzed in this EIR, not after Project approval.

09-176

Here too, the DEIR asserts that mitigation measures will reduce stationary source noise impacts to existing sensitive receptors to less than significant levels. DEIR at 11-27, 28. But once again the DEIR errs in its approach to these measures. The DEIR

09-177

SHUTE, MIHALY
 & WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 77

promises to do a noise study and then, based on the results, *design* the Project to avoid impacts: “the Project’s loading docks and parking lots and structures shall be located and designed so that noise levels do not exceed local standards.” *Id.* There are four fundamental flaws with this approach.

09-177
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First, the DEIR has its tasks exactly backwards. The Project must first be designed. Only then is the DEIR capable of analyzing and mitigating the Project’s impacts.

Second, the DEIR’s approach of designing the Project to purportedly avoid the impact violates CEQA. The County cannot mitigate unanalyzed impacts of unknown methods by stating the Project will be redesigned. *See Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 429 (holding that “an EIR may not substitute a provision precluding further development for identification and analysis of the project’s intended and likely water sources”). “[T]he EIR must address the project and assumes the project will be built.” *Id.* (quoting *Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 206 (invalidating project approval that included a mitigation measure calling for the County not to permit development unless adequate water supplies were available)). “It is not mitigation of a significant environmental impact . . . to say that if the impact is not addressed then the project will not be built.” *Stanislaus Natural Heritage Project*, 48 Cal.App.4th at 205.

09-178

Third, as discussed above in the context of the EIR’s vibration measures, given the proximity of nearby residences, it may not be possible to locate certain of these stationary noise source uses in locations on the Project site that avoid noise impacts. For example, a Project’s loading docks must be sited in appropriate proximity to the building requiring deliveries; they cannot simply be randomly reassigned to a less bothersome location. Such an approach may seem effective in theory, but is an infeasible approach to mitigating the Project’s noise impacts.

09-179

Fourth, if the Project is redesigned to avoid noise impacts, this redesign could result in significant environmental impacts that would not be subject to environmental review. For example, the new location could result in the loss of sensitive habitats or impact sensitive species. The new location could also result in significant visual impacts.

09-180

Redesign of the Project is not an effective mitigation measure for the Project’s noise impacts. The EIR should be revised to include other feasible measures.

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 78

(e) The DEIR’s Analysis of Noise Impacts Resulting from Operational Project-generated Transportation Noise Is Legally Deficient.

The DEIR’s analysis of the Project’s transportation-related noise is also flawed. First, as discussed in the transportation section of this letter, it is likely that the DEIR substantially underestimated the Project’s increase in traffic. Consequently, if traffic volumes are underestimated, the noise from traffic is also underestimated. Once the EIR’s traffic analysis is revised, the EIR preparers must also revise the analysis of the noise from transportation.

09-181

Second, the DEIR acknowledges that increases in traffic during the summer due to the proposed Project would expose sensitive receptors on Squaw Valley Road, between SR 89 and Squaw Creek Road, i.e., Squaw Valley Academy, to an increase in noise that exceeds the Placer County noise ordinance. DEIR at 11-32. In addition, all receptors within 450 feet of the centerline of SR 89 and within 170 feet of the centerline of Squaw Valley Road would be exposed to noise levels in excess of the County’s noise standard during the summer peak days. *Id.* at 11-33. Notably the DEIR provides no analysis of impacts to pedestrians or bicyclists using the Squaw Valley Road bike path.

09-182

The DEIR concludes that there would be no feasible mitigation for impacts to sensitive receptors “since exterior noise levels at these locations could only be remediated by relocating roadways, building sound walls, and relocating sensitive receptors.” *Id.* at 11-33. The DEIR goes on to state it is likely that interior noise at these locations is within standards of 45 dBA, given the colder climate and likelihood that most (or all) homes already have dual pane windows and insulation. *Id.* Typical construction of this type provides at least 25 dB exterior-to-interior attenuation. *Id.* The DEIR cannot simply assert that existing homes have sufficient noise retrofits; it must actually determine if each of the affected structures has dual pane windows and sufficient insulation. If not, the County has a duty to provide this mitigation, as it is clearly feasible.

09-183

In conclusion, the DEIR’s failure to evaluate and mitigate the Project’s noise impacts is a clear violation of CEQA. The EIR must be revised to include a legally adequate analysis of the Project’s noise impacts. If the impacts are determined to be significant, the EIR must identify feasible mitigation measures or alternatives capable of reducing these impacts.

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 79

8. The DEIR Fails to Adequately Analyze or Mitigate the Project’s Significant Visual Effects.

(a) The DEIR’s Visual Simulations Do Not Show the Severity and Extent of the Project’s Visual Impacts.

Under CEQA, it is the State’s policy to “[t]ake all action necessary to provide the people of this state with . . . enjoyment of aesthetic, natural, scenic, and historic environmental qualities.” Pub. Res. Code § 21001(b). Thus, courts have recognized that aesthetic issues “are properly studied in an EIR to assess the impacts of a project.” *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 937 (overturning a mitigated negative declaration and requiring an EIR where proposed project potentially affected street-level aesthetics).

09-184

Here, the DEIR correctly acknowledges that the Project would result in significant and unavoidable impacts to visual and aesthetic resources, yet the document does not provide the comprehensive analysis necessary to accurately characterize the extent and severity of these impacts.⁷ The analysis is crippled in large part because it fails to provide a proper evaluation of: (1) the stark visual changes to the existing Squaw Valley Village and (2) how the Project would affect views of the mountains that provide a stunning backdrop to the Project site.

The Project includes the development of a series of high-rise hotels, condominiums, restaurants, and parking structures, some of which would be ten stories tall – up to 108 feet. DEIR at 3-11. The Project also includes a massive indoor amusement park that would likely be as large as a big box store. As a point of reference, the character of built form in the existing Village is generally comprised of four-story

⁷ The DEIR identifies the following impacts as significant and unavoidable: (1) Impact

8-1: Adverse effect on a scenic vista (construction and operations as experienced by long-term residents); (2) Impact 8-2: Substantially degrade the existing visual character or quality of the site and its surroundings (construction); (3) Impact 8-3: Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a scenic highway (construction); (4) Impact 8-5: Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area (operations). DEIR at 2-4.

SHUTE, MIHALY
& WEINBERGER LLP

Maywan Krach
July 16, 2015
Page 80

buildings. This existing development pattern, seen against a highly scenic mountain backdrop comprises the community’s aesthetic character.

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Although the Project would substantially alter the visual integrity of the site and its scenic views, the DEIR fails to include visual simulations that fully depict the magnitude of the Project’s effects on public views. This omission results in an analysis that fails to disclose the severity and extent of these impacts. As we explained in our response to the Notice of Preparation, a primary way for the DEIR to accurately portray the change in the visual setting is to use story poles to indicate to the public the size and scale of this development. See Letter from L. Impett to M. Krach, May 9, 2012, submitted under separate cover.

Story poles are three-dimensional, full-scale, silhouette structures that outline the location, bulk and mass that a proposed structure would occupy on a site. They also outline the building’s major wall planes, gables and ridges and enable near and far views of structures to be assessed. Story poles allow decision-makers and the public to assess the location and general massing of a proposed building from various vantage points and not just from where a project’s architect model or rendering. Story poles must be installed to evaluate the impact upon view corridors since this Project would dramatically exceed established building heights. The only possible explanation for not installing story poles is that the County or the applicant do not want to show the public precisely how this Project would affect the integrity of the Village and its scenic surroundings.

09-185

The flaws in the DEIR’s analysis of the Project’s visual impact extend beyond the failure to install story poles. The DEIR never explains why only 12 viewpoints were selected and whether these points show the most significant visual impacts caused by the Project. For example, the DEIR does not include any nighttime viewpoints of the Project from areas more than a few hundred feet beyond the Project’s boundaries, which are necessary to understand the visual impacts that the Project would have on the broader region, including the Tahoe Basin. Nor does the document include any vantage points that show what the views would be like within the Project, e.g., between its buildings or walking along its parking structures. Equally egregious, the DEIR provides no before/after viewpoints depicting the Project’s heavy-equipment maintenance yard that would be developed on the western portion of the Project site.

09-186

Another weakness of the DEIR’s selection of viewpoints stems from the fact that the simulation views generally do not include surrounding or adjacent development, a deficiency which precludes a clear depiction of the Project’s scale and landscape context. In DEIR Exhibits 8-13 and 8-14 (view to the west from the meadow and golf course), for

09-187

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