COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson
Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Director
Planning Department, Community Development Resource Agency

DATE: December 9, 2008

SUBJECT: **Foresthill Divide Community Plan (GPA-341/Implementing Zoning REA-909) and Environmental Impact Report (SCH No. 2001092094)**

ACTION REQUESTED

The Board of Supervisors is being asked to consider the adoption of the County-initiated update of the 1981 Foresthill General Plan (now known as the Foresthill Divide Community Plan). The proposed project consists of the following:

- Adoption and implementation of the Foresthill Divide Community Plan, and the Certification of a program-level Environmental Impact Report (EIR) for the Community Plan
- Adoption of General Plan Amendments to allow for Land Use Diagram boundary changes to the Weimar – Applegate – Clipper Gap General Plan, the Auburn – Bowman Community Plan, and the Placer County General Plan
- Adoption of an ordinance to rezone properties within the Foresthill Divide Community Plan area, as part of the Community Plan Update.

SUMMARY

The Foresthill Divide Community Plan is intended to supersede the 1981 Foresthill General Plan in order to provide an opportunity to comprehensively address issues facing the community and to responsibly and proactively plan for the next 20 years. The Community Plan includes a land use and circulation plan for the Plan area. The proposed project also includes rezoning of properties within the Plan area as necessary and required to achieve consistency with the proposed Foresthill Divide Community Plan land use designations and policy document.

CEQA COMPLIANCE

A program-level Final Environmental Impact Report (FEIR) has been prepared for this project and is recommended for certification by the Board of Supervisors as the appropriate environmental document.

BACKGROUND

The Foresthill Divide Community Plan Update was presented to the Board of Supervisors on October 7, 2008. At that hearing, the Board received public comment on the project and took the following actions:

1. Approved a rezoning request from the Placer Unified School District to rezone the Foresthill High School site from IN-DC (Industrial Combining a Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining a one acre minimum lot size, with a Planned Development density of one unit per acre). The zone change has been incorporated into the Community Implementing Zoning (See Exhibit B).

2. Designated the Forest Ranch properties as a Future Study Area within the Community Plan and maintained the incorporation of general policy standards for the Forest Ranch Future Study Area within Appendix E in the Community Plan.

3. Adopted a motion of intent to adopt the Foresthill Divide Community Plan and Implementing Zoning, and intent for approval of the General Plan Amendments for the modification to the Land Use Diagrams for the Auburn-Bowman Community Plan, the Weimar-Applegate-Clipper Gap General Plan, and the Placer County General Plan.

4. Directed staff to return before the Board of Supervisors with the necessary findings for the adoption of the Foresthill Divide Community Plan, the certification of the Final Environmental Impact Report, and approval of associated General Plan Amendments related to the Community Plan Update.

DISCUSSION OF ISSUES

Implementing Zoning

The Foresthill Divide Community Plan Update includes rezoning of properties within the Plan area as necessary and required to achieve consistency with the proposed Foresthill Divide Community Plan land use designations. Accordingly, it is necessary for the Board of Supervisors to adopt an ordinance rezoning properties within the Foresthill Divide Community Plan area, as part of the Community Plan Update (See Exhibit B).

Land Use Diagram Boundary Changes and Plan Area Amendments

The Community Plan boundaries were expanded from approximately 56 square miles in the 1981 Foresthill General Plan, to approximately 109 square miles in the updated Foresthill Divide Community Plan. As a result, the expansion of the new Plan boundaries overlaps with areas of other Community Plans and the Placer County General Plan Land Use Diagram. In addition, there are small portions of the 1981 Foresthill General Plan boundaries that are no longer in the updated Community Plan boundaries and will become a part of the Placer County General Plan Land Use Diagram boundary.

The adoption of the Foresthill Divide Community Plan results in modifications to, and General Plan Amendments to, the Land Use Diagrams for the Auburn – Bowman Community Plan, the Weimar – Applegate – Clipper Gap General Plan and the Placer County General Plan. Staff is recommending that the Board of Supervisors consider these General Plan Amendments as part of the adoption of the Community Plan (See Exhibit B). The land use designations and zoning will not change. Only the boundaries of the Land Use Diagrams will be modified.

EIR Findings and Statement of Overriding Considerations

An Environmental Impact Report (EIR) has been prepared for the project, which evaluated the environmental impacts associated with the implementation of the Foresthill Divide Community Plan. The analysis in the EIR concluded that the project would result in significant and unavoidable impacts related to population and housing, land use, aesthetics, public facilities, natural resources and open space, air quality, and transportation and circulation.

In order for the EIR to be certified, it will be necessary for the Board of Supervisors to adopt a finding of overriding consideration for each of the significant and unavoidable impacts identified above. Staff has prepared a Statement of Findings for the certification of the Environmental Impact Report and adoption of a Mitigation Monitoring and Reporting Plan. A separate resolution and findings have been prepared for the approval of the Foresthill Divide Community Plan Update (See Exhibit B).

RECOMMENDATION

Consistent with the unanimous direction provided by the Board of Supervisors at its October 7, 2008 meeting, staff recommends that the Board take the following actions:

1. Adopt the Resolution certifying the Environmental Impact Report, adopting a Statement of Findings, including a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Plan for the Foresthill Divide Community Plan (See Exhibit B).

2. Adopt the Resolution approving the Foresthill Divide Community Plan (See Exhibit B).

3. Adopt the Ordinance rezoning properties within the Foresthill Divide Community Plan area, as part of the Community Plan Update (See Exhibit B)

4. Adopt the Resolution approving amendments to the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Clipper Gap General Plan, modifying the Land Use Diagrams (See Exhibit B).

Respectfully submitted,

MICHAEL J. JOHNSON, AICP
Planning Director

EXHIBITS:

Exhibit A – Plan Vicinity Map
Exhibit B – County Counsel Memorandum to Board of Supervisors dated December 9, 2008 – Subject: Approval of the Foresthill Divide Community Plan and Related Approvals
Exhibit C – October 7, 2008 BOS Staff Report

The following documents have been provided to the Board of Supervisors under separate cover and are available for review at the Clerk of the Boards Office:
Foresthill Divide Community Plan
Final Environmental Impact Report
Draft Environmental Impact Report and Draft Appendices

The Foresthill Community Plan can be viewed on the Placer County website at:
http://www.placer.ca.gov/Departments/CommunityDevelopment/Planning/Documents/CommPlans/FDCP.aspx

Copies Sent by Planning
Rick Eiri – Engineering and Surveying Division
Leslie Gradbo – Environmental Health Services
Yu-Shuo Chang – Air Pollution Control District
Vance Kimbrell – Parks Department
Karin Schwab - County Counsel
Scott Finley – County Counsel
Tom Miller – County Executive Officer
John Marin – CDRA Director
Crystal Jacobsen – Supervising Planner
Draft EIR Commentors and Interested Parties
Subject/chrono files

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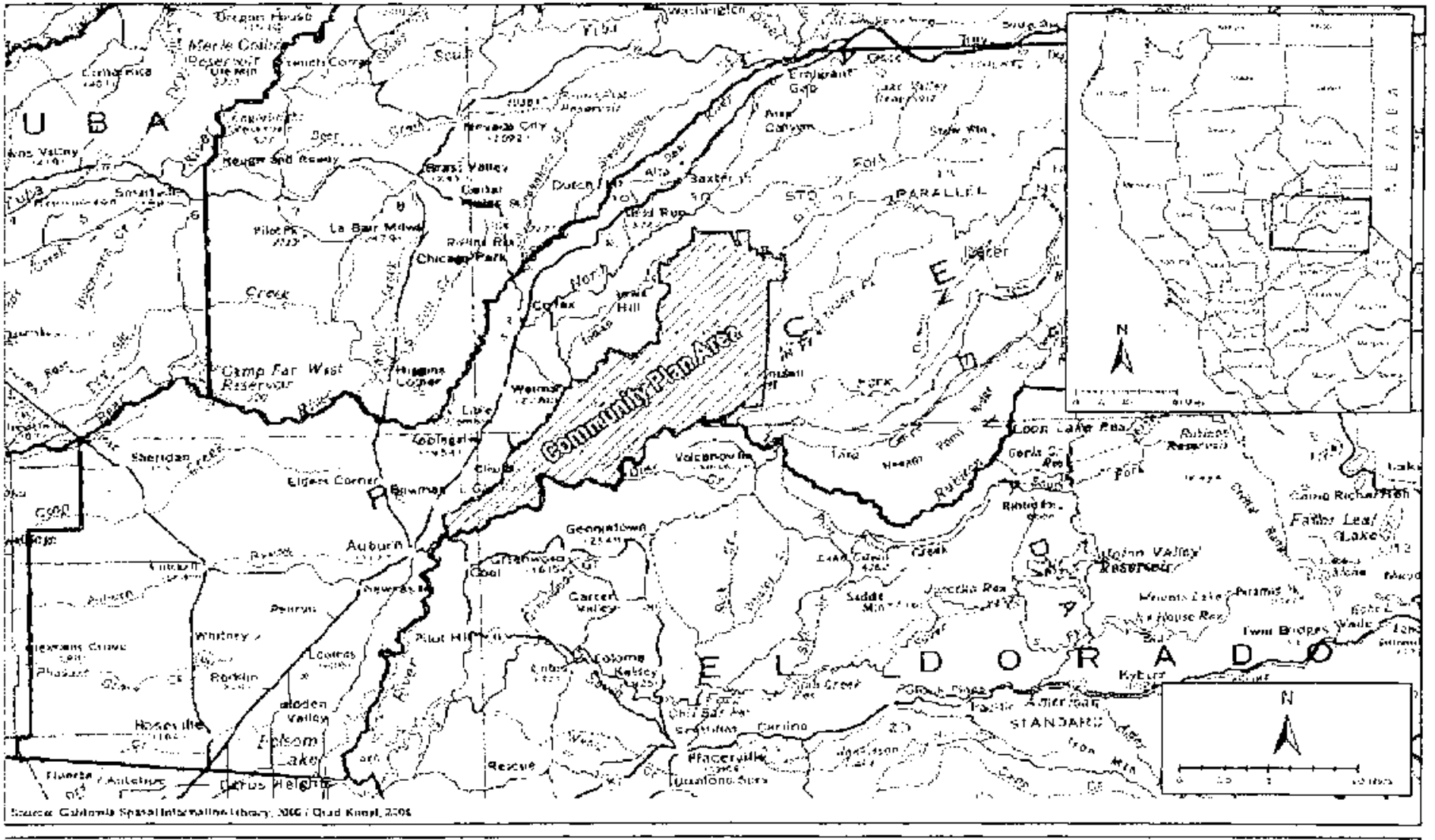
Community Plan Area
Auburn
Colfax
Grass Valley
Nevada City
Placerville
Cool
Rescue
Folsom Lake
Camp Far West Reservoir
Lake Valley Reservoir
Loon Lake Res
Ice House Res
Twin Bridges
Pilot Hill
Coloma
Kelsey
Georgetown
Greenwood
Cool
Sheridan
Bowman
Lincoln
Rocklin
Loomis
Whitney
Penryn
Newcastle
Meadow Vallery
Rescue
Cameron Park
Shingle Springs
Diamond Springs
Pleasant Grove
Smartville
Dutch Flat
Alta
Baxter
Emigrant Gap
Yuba
Sierra
Placer
Nevada
Sacramento
Eldorado
Yolo
Solano
Sutter
Yuba

OFFICE OF THE COUNTY COUNSEL

To: Honorable Board of Supervisors

From: Scott H. Finley, Supervising Deputy County Counsel

Date: December 9, 2008

Subject: Approval of the Foresthill Divide Community Plan and Related Approvals

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On October 7, 2008, your Board adopted a motion of intent to approve the Foresthill Divide Community Plan. To approve the Plan, your Board should now take each of the following actions in the order presented:

Motion to Adopt the Resolution Certifying the Final Environmental Impact Report, Adopting a Statement of Findings, a Statement of Overriding Considerations and a Mitigation Monitoring Plan for the Foresthill Divide Community Plan and Related Approvals. The Resolution is attached as Attachment 1.

Motion to Adopt the Resolution Adopting the Foresthill Divide Community Plan. The Resolution is attached as Attachment 2.

Motion to Adopt the Resolution Approving Amendments to the Land Use Diagrams of the Placer County General Plan, the Auburn-Bowman Community Plan, and the Weimar-Applegate-Clipper Gap General Plan. The Resolution is attached as Attachment 3.

Motion to Adopt the Ordinance Rezoning Property Within the Foresthill Divide Community Plan. The Ordinance is attached as Attachment 4.

Before the Board of Supervisors
County of Placer, State of California

In the matter of: A RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A STATEMENT OF FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING PLAN REGARDING THE FORESTHILL DIVIDE COMMUNITY PLAN AND RELATED APPROVALS

Reso. No. 2008-____

The following resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held December 9, 2008, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

_____

Jim Holmes, Chairman

Attest:

_____

Ann Holman
Clerk of said Board

This Statement of Findings and Statement of Overriding Considerations is made with respect to the "Project" (as defined below) for the Foresthill Divide Community Plan and related approvals (the "FDCP") and states the findings of the Board of Supervisors (the "Board") of the County of Placer (the "County") relating to the environmental impacts of the FDCP.

WHEREAS, the Foresthill General Plan was adopted in April, 1981, and the Board of Supervisors determined that it was in need of update due to the passage of time and changed circumstances on the Foresthill Divide; and

WHEREAS, the Board directed that preparation of the Foresthill Divide Community Plan be commenced in 1995, and since that time the preparation process has involved the

formation of advisory groups and the conducting of numerous public meetings and hearings to solicit public input and participation in the development of the new Plan; and

WHEREAS, implementation of the Foresthill Divide Community Plan will involve the following actions (collectively, the "Project"):

1. Certification of a Final Environmental Impact Report and adoption of a Mitigation Monitoring and Reporting Plan;

2. Adoption of the Foresthill Divide Community Plan;

3. Adoption of amendments to the Placer County General Plan Land Use Diagram;

4. Adoption of amendments to the Auburn-Bowman Community Plan Land Use Diagram;

5. Adoption of amendments to the Weimar-Applegate-Colfax Community Plan Land Use Diagram, and;

6. Approval of rezoning to achieve consistency with the Foresthill Divide Community Plan;

WHEREAS, the County issued a Notice of Preparation to prepare an Environmental Impact Report (EIR) on September 25, 2001 (SCH No. 2001092094), prepared a Draft EIR and released it for public comment on December 5, 2007, conducted a public hearing to receive public comment on the Draft EIR before the Planning Commission on February 28, 2008, and otherwise received public comments on the Draft EIR in accordance with CEQA until March 5, 2008; and

WHEREAS, the County reviewed and responded to all comments received on the DEIR and prepared a Final EIR (FEIR) which was released to the public on July 30, 3008, and

WHEREAS, on August 12 and 28, 2008, the Placer County Planning Commission ("Planning Commission") held public hearings to consider the FDCP, and the Planning Commission has made recommendations to the Board of Supervisors related thereto, and

WHEREAS, the Board of Supervisors gave full and legal notice of a public hearing to consider and act upon the FEIR for the Project and the Project, and the public hearing was duly held on October 7, 2008, and, after duly considering the FEIR as prepared for the Project, the recommendations of the Planning Commission with respect thereto, the comments of the public, both oral and written, and all written materials in the record connected therewith, and fully informed thereon, the Board stated its intent to approve the Project and directed County staff to prepare final approval documents and continued to matter to December 9, 2008; and

WHEREAS, the Board has duly considered the FEIR for the Project, which consists of the DEIR and the Final EIR, the addendices thereto, the comments of the public, both oral and written, and all written materials in the record connected therewith, and is fully informed thereon,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER:

(1) The FEIR has been prepared in accordance with all requirements of CEQA and the Guidelines.

(2) The FEIR was presented to and reviewed by the Board. The FEIR was prepared under supervision by the County and reflects the independent judgment of the County. The Board has reviewed the FEIR, and bases its findings on such review and other substantial evidence in the record.

(3) The Board hereby certifies the FEIR as complete, adequate and in full compliance with CEQA as a basis for considering and acting upon the Project Approvals and, exercising its independent judgment, makes the specific findings with respect thereto as set forth in Exhibit A, attached hereto and incorporated herein by reference.

(4) All mitigation measures proposed in the FEIR shall be implemented, and the Mitigation Monitoring and Reporting Plan ("MMRP") is adopted, and will implement all mitigation measures adopted with respect to the FDCP pursuant to all of the Project Approvals. The MMRP is hereby incorporated into the Specific Plan and thereby becomes part of and limitations upon the entitlements conferred by the Project Approvals.

BE IT FURTHER RESOLVED: That notwithstanding the imposition of the mitigation measures in the MMRP as set forth above, significant impacts of the FDCP have not been reduced to a level of insignificance or eliminated by changes in the proposed FDCP. The Board of Supervisors finds that the project will bring substantial benefits to the County and that the FDCP's benefits outweigh the FDCP's significant unmitigated adverse impacts and pursuant to CEQA Guidelines section 15093 adopts and makes the Statement of Overriding Considerations as set forth in Section XII of Exhibit A, attached hereto and incorporated herein by reference, to explain why the FDCP's benefits override its unavoidable impacts. Having carefully considered the FDCP, its impacts and the foregoing benefits, the Board of Supervisors finds, in light of the important social, economic and other benefits that the FDCP will bring, the adverse environmental impacts of the FDCP that are not fully mitigated are acceptable.

BE IT FURTHER RESOLVED: That the Planning Department is directed to file a Notice of Determination with the County Clerk within five (5) working days in accordance with Public Resources Code section 21152(a) and CEQA Guidelines section 15094.

Foresthill Divide Community Plan

Statement of Findings

Prepared for:

Placer County Planning Department

SCH # 2001092094

December 9, 2008

EXHIBIT A

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I. Overview and Introduction

This Statement of Findings is made with respect to the "Project Approval" (as defined below) for the Foresthill Divide Community Plan (the "Project") and states the findings of the Board of Supervisors (the "Board") of the County of Placer (the "County") relating to the potentially significant environmental effects ("Impacts") of the Project to be developed in accordance with Project Approvals.

The action to approve the Foresthill Divide Community Plan is referred to as the "Project Approval." The Project Approval constitutes the "Project" for purposes of the California Environmental Quality Act (Public Resources Code Sections 21000) ("CEQA"), CEQA Guidelines Section 15378, and these determinations of the Board.

II. Statutory Requirements for Findings

These findings addresses the environmental effects associated with the Foresthill Divide Community Plan ("Project"), located in Placer County. This statement of findings is made pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21081, 21081.6) and CEQA Guidelines (14 Cal. Code Regulations, Section 15091).

The potentially significant effects of the Project were identified in both the Draft EIR and the FEIR. Public Resources Code Section 21081 and CEQA Guidelines Section 15091 require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation of the rational for each finding. Section 15091 of the CEQA Guidelines states that:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

(b) The findings required by subdivision (1) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

The "changes or alterations" referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that would otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency (CEQA Guidelines Section 15091(a)(b)).

Legal Effects of Findings

To the extent that these findings conclude that proposed mitigation measures outlined in the FEIR are feasible and have not been modified, superseded, or withdrawn, Placer County hereby binds itself to implement these measures. These findings, in other words, constitute a binding set of obligations that will come into effect when the Placer County Board of Supervisors formally approves the Project.

CEQA Guidelines requires that when a public agency has made the findings required in CEQA Guidelines Section 15091(a)(1) relative to an EIR, "the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects." (CEQA Guidelines Section 15097(a)).

The mitigation measures and/or the standard design features and construction measures are referenced in the Mitigation Monitoring Reporting Program (MMRP) adopted concurrently with these findings (Cal. Pub. Res. Code Section 21081.6(a)(1)), and will be effectuated through the process of constructing and implementing the Project. The Placer County Planning Department will use the MMRP to track compliance with Project mitigation measures. The MMRP will remain available for public review during the compliance period.

III. Definitions

The following definitions apply where the subject words or acronyms are used in these findings:

"Board" means the Board of Supervisors of the County of Placer.

"CDFG" or "DFG" means the State of California, Department of Fish and Game.

"CEQA" means the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)

"Community Plan" means the Foresthill Divide Community Plan.

"Condition" means a condition of approval adopted by the County in connection with approval of the Project.

"Corps" means the United States Army Corps of Engineers.

"County" means County of Placer.

"DEIR" or "Draft EIR" means the Draft Environmental Impact Report dated November, 2007 for the proposed Foresthill Divide Community Plan.

"DPW" means the County of Placer, Department of Public Works.

"DRC" means the County of Placer, Development Review Committee.

"EIR" means environmental impact report.

"Environmental Health" means the County of Placer, Division of Environmental Health.

"Environmental Review Ordinance" means the Placer County Environmental Review Ordinance, as codified in Chapter 18 of the Placer County Code.

"ERC" means the County of Placer, Environmental Review Committee.

"ESD" means the Department of Engineering and Surveying.

"FEIR" means the Final EIR as prepared for the Project (which includes the Draft EIR dated November, 2007 and the Final EIR, dated July, 2008)

"General Plan" means the Placer County General Plan, as adopted in 1994 with subsequent amendments.

"MMRP" means the Mitigation Monitoring and Reporting Program for the Project.

"NOP" means notice of preparation.

"PCAPCD" means the Placer County Air Pollution Control District.

"PD" means Planned Development combining district as identified in the Placer County Zoning Code.

"Planning Commission" means the County of Placer, Planning Commission.

"Planning Department" means the County of Placer, Planning Department.

"Project" means the proposed Foresthill Divide Community Plan.

"RWQCB" means Regional Water Quality Control Board.

"USFWS" means the United States Fish and Wildlife Service.

"Zoning Ordinance" means the Placer County Zoning Ordinance, including all amendments thereto.

IV. Project Background

Beginning in 1995, development of the Foresthill Divide Community Plan has been a joint effort by staff of the Placer County Planning Department and the Foresthill Divide Community Plan Team (FDCP Team), a working group of seven local residents appointed by the Placer County Board of Supervisors who spent hundreds of hours developing Plan Assumptions, a Vision Statement, General Goals, Goals and Policies, and the Land Use Map. The FDCP Team conducted a detailed survey of the residents and property owners on the Divide, and held a series of Town Hall meetings to give residents of the Divide the opportunity to express their views. All meetings of the FDCP Team were open to the public, and public comment was invited. Subcommittees of the FDCP Team met and prepared reports on such topics as community design, public facilities, economic development, natural resources, public safety, recreation, schools, and traffic and circulation.

In November 2005, the Planning Commission held the eighth public hearing on the proposed 2003 Foresthill Divide Community Plan and 2003 Draft Environmental Impact Report. At that meeting the Planning Commission took action on a number of land owner requests which resulted in an increase the holding capacity of the Community Plan. The Planning Commission also directed staff to conduct further environmental analysis on the Community Plan and increased density. In addition, the Planning Commission directed staff to analyze impacts associated with an option for the Forest Ranch property that included a potential density of 2,213 dwelling units. As the Forest Ranch Specific Plan Area was not analyzed in the 2003 Draft Environmental Impact Report, comprehensive analysis was completed in the County's Community Plan EIR.

Subsequent to the November 2005 hearing, staff prepared the November 2007 Revised Draft Environmental Impact Report and July 2008 Final Environmental Impact Report (DEIR/FEIR)

and the Revised Foresthill Divide Community Plan. The Revised Community Plan, land use diagram and zoning reflects the direction of the Planning Commission given in November 2005.

On February 28, 2008, the Planning Commission held a public hearing to receive oral public comment on the November 2007 Revised DEIR for the Community Plan. After hearing public testimony regarding the DEIR, the Planning Commission directed staff to respond to all written and oral comments in the Final EIR for the Community Plan. Public comments were also received at the February 4, 2008 Foresthill Forum meeting. A total of 56 written comments were received on the DEIR. All comments have been addressed and responded to in the FEIR, which was released to the public on July 30, 2008.

On August 4, 2008, County staff presented the July 2008 Revised Foresthill Divide Community Plan to the Foresthill Forum for the Forum's consideration. Because of the volume of information presented, the Forum was not prepared to make a formal recommendation on the Community Plan. Consequently, the Forum scheduled a second meeting on August 18, 2008 to provide further comments on the Community Plan.

On August 12, 2008, the Planning Commission held its tenth public hearing on the Foresthill Divide Community Plan. At that meeting, staff provided a report on the background of the Foresthill Divided Community Plan process and the Revised Foresthill Divide Community Plan and EIR. After receiving public testimony, the Commission expressed concern over a number of issues regarding the Community Plan and took action to continue the hearing to August 28, 2008.

On August 18, 2008 the Foresthill Forum held a second public meeting to further deliberate on the Revised Community Plan. At the meeting, the Forum worked with staff on the Community Plan policy document to incorporate minor edits within the Plan.

On August 28, 2008, the Planning Commission held its eleventh public hearing on the Foresthill Divide Community Plan. At that hearing, staff provided a report on the issues discussed at the August 12, 2008 hearing and the Planning Commission received additional public testimony on the Community Plan. After the close of the public hearing, the Commission took the following actions:

1. Directed staff to incorporate changes to the Community Plan prior to the Board of Supervisor's consideration, including edits received from the Foresthill Fire Protection District, the Foresthill Public Utility District, the Foresthill Forum, and other minor revisions as discussed by staff at the hearing.

2. Voted unanimously to recommend to the Board of Supervisors the denial of a rezoning request from the Placer Unified School District to rezone the Foresthill High School site from IN-DC (Industrial Combining - Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining a one acre minimum lot size, with a Planned Development of one unit per acre). The vote was based on the Commission's desire to maintain the existing zoning to reduce the potential for additional residential development within the area.

3. Voted to direct staff to designate the Forest Ranch properties as a Future Study Area within the Community Plan. The Commission directed staff to remove the Forest Ranch Specific Area standards - Appendix E from the Community Plan (i.e., the standards for the 2,213

dwelling unit project), and replace Appendix E with modified language that recognizes the Forest Ranch property as a Future Study Area. The modified language identifies general standards for the consideration of a future Community Plan Amendment to the Foresthill Divide Community Plan for development within the area. The Planning Commission basis for opposition to inclusion of the Forest Ranch concept plan in the Community Plan was with regard to wanting to designate specific land use and densities within the Forest Ranch properties in order to provide the Community with a more firm understanding of future development that could occur within the area through the review of a specific plan.

4. Voted to recommend to the Board of Supervisors the adoption of the Foresthill Divide Community Plan and Implementing Zoning, and approval of the General Plan Amendments for the modification to the Land Use Diagrams for the Auburn-Bowman Community Plan, the Weimar-Applegate-Clipper Gap General Plan, and the Placer County General Plan.

On October 7, 2008 the Foresthill Divide Community Plan was presented to the Board of Supervisors at a noticed public hearing. At this hearing, the Board received public comment on the project and took the following actions:

1. Approved a rezoning request from the Placer Unified School District to rezone the Foresthill High School site from IN-DC (Industrial Combining - Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining - one acre minimum lot size, with a Planned Development density of one unit per acre).

2. Designated the Forest Ranch properties as a Future Study Area within the Community Plan with incorporation of general policy standards for the Forest Ranch Future Study Area within Appendix E in the Community Plan.

3. Adopted a motion of intent to adopt the Foresthill Divide Community Plan and Implementing Zoning, and intent for approval of the General Plan Amendments for the modification to the Land Use Diagrams for the Auburn-Bowman Community Plan, the Weimar-Applegate-Clipper Gap General Plan, and the Placer County General Plan.

4. Directed staff to return before the Board of Supervisors with the necessary findings for the adoption of the Foresthill Divide Community Plan, the certification of the Final Environmental Impact Report, and approval of associated General Plan Amendments related to the Community Plan Update.

V. Project Objectives and Description

Project Objectives

The following General Community Goals were developed based on the results of the Community Survey and comments provided by residents and property owners who attended Town Hall meetings. Along with the Vision Statement, they provide the overall structure or framework for the individual elements of the Foresthill Divide Community Plan. More specific goals and policies for each element are included in the Community Plan.

- To develop an interconnected trail system for hiking, biking and equestrian uses extending from the confluence of the North and Middle Forks of the American River easterly to Sugar Pine Reservoir.

- To preserve the community's outstanding visual and aesthetic features, including significant vistas, woodlands, stream and riparian zones, ponds and lakes, and important wildlife habitat areas.

- To protect the community against wild land fires, erosion, water quality degradation and localized flooding.

- To conserve and protect as valuable community assets the natural, cultural and historic resources of the Plan area.

- To encourage mixed-use development within the principal commercial district (i.e., from the Foresthill Divide Middle School easterly along Foresthill Road to the Foresthill Elementary School) and within the historic downtown area.

- To manage the land within the Plan boundaries as a limited and protected resource so that its future uses will be beneficial to the entire community.

- To insure that future development on the Foresthill Divide will reflect and maintain the forested residential character of the community.

- To provide public facilities in a location that is central to the concentrations of population on the Foresthill Divide to encourage the interaction of residents and a strong sense of community.

- To provide residential development which is reasonably integrated into the community rather than being physically isolated.

- To ensure that public services and facilities are available to serve the needs created by both existing and future residents and visitors to the Foresthill Divide.

- To respect and protect existing agricultural uses and timberlands from residential encroachment.

- To encourage and maintain access to public lands, and to protect the boundaries of public lands from residential encroachment.

- To establish as a high priority for the community and the County the development of new employment opportunities and appropriate economic development.

- To recognize that amendments to the Foresthill Divide Community Plan should be minimal until and unless circumstances in the area have changed so significantly that an update of the Plan is necessary; piecemeal amendments to the Plan should be discouraged.

Project Description

The project, initiated by the County of Placer, is referred to as the proposed "Foresthill Divide Community Plan" (FDCP) and is intended to supersede the 1981 Foresthill General Plan. The FDCP provides an opportunity to comprehensively address issues facing the community and to responsibly and proactively plan for the next 20 years. The FDCP has been developed as a joint effort of the FDCP Team and County Planning Department staff. Excerpts from the Vision Statement developed for the community planning process describe some of the unique attributes of Foresthill and help to clarify the overall purpose and direction of planning efforts, as follows:

> The community of Foresthill is located in a special position; between the outer edges of the rapidly-growing population centers in the Sacramento Valley and public forests and park lands. The community rests atop a broad, relatively flat ridge between the two deep river canyons of the North Fork American River and the Middle Fork American River. Foresthill also serves as a primary entry point into the western central Sierra Nevada mountains...Creating more local employment opportunities without substantially degrading the scenic, forested environment of the Foresthill Divide will be an on-going challenge for the residents of the Plan area...The Foresthill Divide will likely not have a future population large enough to support major new commercial enterprises. Small retail stores, personal services businesses, professional offices, restaurants and similar uses can be expected to be developed within the downtown area which will continue to provide for the daily needs of the residents and visitors while expanding upon the original small town character of the historic area. The historic downtown district will remain as a cherished focal point of the Plan area and will be a source of pride for the community The traditionally industrial areas near the historical Foresthill town site will be redeveloped to provide new employment opportunities for residents of the plan area. Expanded tourist and outdoor recreation-oriented businesses will continue to develop as a consequence of the community's unique location and proximity to public lands. The increased emphasis on outdoor recreation on the public lands surrounding the Foresthill community and the increasing population growth west of the Divide will have substantial effects on the residents of the Plan area. Future growth on the Foresthill Divide should reflect an awareness of and consistency with this vision.

The current Foresthill General Plan (1981) would allow for 14,400± residents on the Foresthill Divide if every available parcel of land were to be subdivided to the maximum number of lots allowed. It should be noted that the proposed FDCP boundary is considerably larger (almost twice as large) than the 1981 Foresthill General Plan boundary. The FDCP, Land Use Map and proposed zoning are based on the Vision Statement and General Goals presented above, the results of the Foresthill Community Survey, consideration of specific requests from a number of property owners, and comments furnished by residents and property owners who attended Town Hall meetings sponsored by the FDCP Team and Placer County.

The Foresthill Divide Community Plan, in combination with the Placer County General Plan, is the official statement of Placer County setting forth goals, policies, assumptions, guidelines, standards and implementation measures that will guide the physical, social and economic development of the Foresthill Divide Community Plan area for approximately 20 years. The

Plan will provide overall direction for future growth in the Foresthill Divide. The Community Plan, in combination with the Placer County General Plan, satisfies the requirements of California Planning and Zoning Law. The FDCP is organized into the following elements and sections:

- Community Development Element, including Population and Housing, Land Use, Community Design, Public Facilities, and Parks and Recreation

- Resource Management Element, including Natural Resources/Conservation/Open Space, Cultural Resources, and Air Quality

- Transportation and Circulation Element

The final chapter of the FDCP, entitled Implementation, summarizes the implementation measures presented throughout the FDCP, and describes how the FDCP will be implemented through zoning and other methods.

The FDCP also includes a land use and circulation plan for the Plan area assigning the following land use designations:

- Rural Estate (4.6 – 20 acre minimum)
- Forest Residential (1 – 4.6 acre minimum)
- Low Density Residential (10,000 sq. ft. – 1 acre minimum)
- Medium Density Residential (5,000 sq. ft. or 8 dwelling units/acre - 10,000 sq. ft. or 4 dwelling units/acre)
- Forest Residential Development Reserve
- Neighborhood Commercial
- General Commercial
- Professional Office
- Mixed-Use Areas
  - Historic Downtown Mixed-Use Area [Neighborhood Commercial/Low Density Residential (1 – 4 dwelling units/acre)]
  - Canyon Mixed-Use Area [General Commercial/Medium Density Residential (1 – 15 dwelling units/acre)]
- Mill Mixed –Use Area
- Industrial
- Public Facility
- Open Space
- Timberland (80 acre minimum)
- Water Influence
- Forest Ranch Future Study Area

Consistent with California Planning and Zoning law, zoning districts are proposed to be adopted concurrently with the FDCP to assure consistency with adopted land use designations.

The time horizon for the community plan is to the year 2030. Population projections based on regional growth trends indicated that the population at 2030 will be approximately 9,620 persons occupying approximately 3,846 residential dwelling units. Based on the proposed zoning and land use diagram changes for the community plan, the estimated build out for the project area is

22,010 persons occupying 8,856 dwelling units. Therefore, the population holding capacity beyond the 2030 horizon year is an additional 12,390 persons.

VI. Record of Proceedings

In accordance with Public Resources Code section 21167.6, subdivision (e), the record of proceedings for the County's decision on the Project includes, without limitation, the following documents:

- The NOP and all other public notices issued by the County in conjunction with the Project;
- The Draft EIR (November, 2007) for the Project;
- All comments submitted by agencies or members of the public during the comment period on the Draft EIR;
- All comments and correspondence submitted to the County with respect to the Project, in addition to timely comments on the Draft EIR;
- The FEIR (July, 2008) for the Project, including comments received on the Draft EIR and responses to those comments;
- Documents cited or referenced in the Draft and Final EIRs;
- The Mitigation Monitoring and Reporting Program for the Project;
- All findings and resolutions adopted by the County in connection with the Project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the County, consultants to the County, or responsible or trustee agencies with respect to the County's compliance with the requirements of CEQA and with respect to the County's action on the Project;
- All documents submitted to the County (including the Planning Commission and Board of Supervisors) by other public agencies or members of the public in connection with the Project;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the County in connection with the Project;
- Any documentary or other evidence submitted to the County at such information sessions, public meetings and public hearings,
- The 1994 Placer County General Plan and all environmental documents prepared in connection with the adoption of the General Plan;
- The Placer County Zoning Ordinance and Environmental Review Ordinance (Placer County Code, Chapters 17 and 18), and all other County Code provisions cited in materials prepared by or submitted to the County;

- Any and all resolutions and/or ordinances adopted by the County regarding the Project, and all staff reports, analyses, and summaries related to the adoption of those resolutions;
- Matters of common knowledge to the County, including, but not limited to federal, state, and local laws and regulations;
- Any documents cited in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The official custodian of the record is the Clerk of the Placer County Board of Supervisors, 175 Fulweiler Avenue, Auburn CA 95603.

VII. General Findings

Impacts Determined to be Less Than Significant

Except as stated otherwise in certain cases below, the Board of Supervisors agrees with the characterization in the FEIR with respect to all Impacts initially identified as "less than significant" or "beneficial" and finds that those Impacts have been described accurately and are less than significant or beneficial as so described in the FEIR. This finding applies to the following impacts:

Population and Housing Impact 3.1-1: Development in accordance with the FDCP would increase the population in the Plan area.

Population and Housing Impact 3.1-3: Development of the Plan area in accordance with the FDCP would not comply with the Housing Element of the Placer County General Plan and would not meet housing needs in the Plan area.

Land Use Impact 3.2-1: Potential conflicts between the FDCP and the PCGP.

Land Use Impact 3.2-2: Development of incompatible uses and/or creation of land use conflicts within the FDCP area.

Aesthetics Impact 3.3-1: Alteration of views of the FDCP area due to development in accordance with the FDCP.

Public Facilities Impact 3.4-1: Provision of adequate sewage disposal services to serve the FDCP area.

Public Facilities Impact 3.4-2: Provision of a safe and adequate water supply and fire flow to serve the FDCP area.

Public Facilities Impact 3.4-3: Provision of adequate schools to serve the Plan area.

Public Facilities Impact 3.4-5: Provision of adequate public protection to serve the FDCP area.

Public Facilities Impact 3.4-6: Provision of adequate flood protection and storm water drainage for the FDCP area.

Public Facilities Impact 3.4-7: Provision of adequate public utilities to serve the FDCP area.

Public Facilities Impact 3.4-8: Provision of adequate cemeteries, libraries, postal facilities, health services, and solid waste collection and disposal services for the FDCP area.

Parks and Recreation Impact 3.5-1: Provision of adequate parks and recreation facilities and programs to both residents of and visitors to the FDCP area.

Natural Resources/Conservation/Open Space Impact 3.6-1: Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use.

Natural Resources/Conservation/Open Space Impact 3.6-3: Increased exposure of people and property to geologic hazards in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-5: Increased exposure of people and property to flooding hazards in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-8: Reduction in available surface and ground water supplies due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-9: Adverse impacts on special-status plants in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-11: Adverse impacts on special-status mammal species in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-14: Adverse impacts on special-status fish species in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-15: Adverse impacts on special-status invertebrate species in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-16: Adverse impacts on jurisdictional waters of the United States in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-17: Adverse impacts on riparian habitat in the Plan area due to development in accordance with the proposed FDCP.

Natural Resources/Conservation/Open Space Impact 3.6-19: Cumulative adverse impacts on common resident plant and animal species including mixed coniferous forest, montane hardwood, and oak trees in the Plan area due to development in accordance with the proposed FDCP.

Cultural Resources Impact 3.7-1: Direct impacts on prehistoric and historic sites within the Plan area due to ground-disturbing activities associated with development in accordance with the FDCP.

Cultural Resources Impact 3.7-2: Indirect impact on prehistoric and historic sites in the Plan area due to increased public access into an area containing a site, which could result in vandalism. Indirect impacts that could occur if development introduces incompatible visual or audible elements into the setting of a potentially significant resource.

Air Quality Impact 3.8-3: Implementation of the proposed FDCP could result in placement of sensitive land uses near potential sources of objectionable odors, dust, or toxic air contaminants.

Air Quality Impact 3.8-4: Emission of pollutants from wood-burning appliances associated with residential uses.

Potentially-Significant Impacts Reduced to Less-Than-Significant Through Mitigation Measures

Natural Resources/Conservation/Open Space Impacts

Natural Resources/Conservation/Open Space Impact 3.6-4: Increased soil erosion and other soil-related hazards in the Plan area due to development in accordance with the proposed FDCP.

Mitigation Measure 3.6-4a: A geotechnical engineering investigation of proposed development sites shall be prepared by a qualified California-licensed civil engineer or a qualified California-licensed geotechnical engineer prior to any grading or other ground-disturbing activities. All site grading, trenching, cut and fill, engineered soils, and construction shall be in compliance with the recommendations of the geotechnical engineering investigation, including soil index, pH and resistivity testing, fill control, and proper design of cut and fill slopes.

Mitigation Measure 3.6-4b: Erosion and ground instability mitigation measures shall include conformance to Chapter A 33 of the 1997 edition of the Uniform Building Code and Placer County's Grading Erosion and Sediment Control Ordinance. The required designs shall include methods to control soil erosion and ground instability. Measures to control soil erosion and mitigate potential differential settlement and construction related ground instability impacts include, but are not limited to, the following:

1. A California licensed civil engineer shall prepare an improvement/grading plan for proposed development sites.

2. A Notice of Intent (NOI) and supporting documents shall be submitted to the State Water Resources Control Board (SWRCB). A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for inclusion with construction plans and for regulation of construction activities on development project sites. The objectives of the SWPPP are to identify the sources of sediment and other pollutants that affect the quality of storm water discharges and to describe and ensure the implementation of practices to reduce sediment and other pollutants in storm water discharges. The SWPPP must include

Best Management Practices (BMPs) which address source reduction and sediment capture and retention.

3. Uncemented silty soils are prone to erosion. According to requirements as set forth in Section 402(p) of the Clean Water Act as amended in 1987, and as administered by the SWRCB as described in (2) above, erosion control measures (appropriate Best Management Practices) shall be implemented during construction which conform to the National Pollutant Discharge Elimination System, Storm Drain Standards, and local standards.

   Any cut or fill slopes and their appurtenant drainage facilities shall be designed in accordance with Uniform Building Code guidelines and the Placer County Grading Ordinance. In general, soil slopes shall be no steeper than 2:1 (horizontal to vertical) unless authorized by a qualified professional. Any deviation from the 2:1 slope standard is subject to review and approval by the Department of Engineering and Surveying. Slope angles shall be designed to conform to the competence of the material into which they are excavated.

4. Parking facilities, roadway surfaces, and buildings all have impervious surfaces which concentrate runoff and artificially change existing drainage conditions Collection systems shall be designed where possible to divert natural drainage away from structures, to collect water concentrated by these surfaces, and to convey water away from the project site in accordance with the National Pollutant Discharge Elimination System, Storm Drain Standards, and Placer County standards.

5. Where structures are to be constructed between the rock, hardpan or dense soil exposed in a cut slope and engineered fill, a geotechnical study shall be prepared as detailed in Mitigation Measure 3.6-4a, and site specific soil engineering recommendations developed to mitigate this impact.

6. During construction, trenches greater than 5 feet in depth shall be shored, sloped back at a 2:1 slope angle, or be reviewed for stability by a qualified professional in accordance with the Occupational Safety and Health Administration regulations, if personnel are to enter the excavations.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: These mitigation measures will result in the reduction of soil erosion and other soil-related hazards.

Significance After Mitigation: Less Than Significant.

Natural Resources/Conservation/Open Space Impact 3.6-6: Adverse impacts on water quality in the Plan area and downstream due to wastewater generated by development in accordance with the proposed FDCP.

Mitigation Measure 3.6-6a: If required by the State of California Water Resources Control Board, The County shall modify its Ordinance Governing Individual On-site Sewage Disposal Systems to meet the Regional Board Guidelines for Waste Disposal From Land Developments and submit the adopted FDCP to the Regional Board for review as required under Resolution No. 82-036 or subsequent resolutions.

Mitigation Measure 3.6-6b: When required by State law or local ordinance, add the following policy to the FDCP: On-site sewage systems shall participate in the approved County Operation, Maintenance and Monitoring program.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: These mitigation measures will reduce impacts on water quality resulting from waste water generated by development.

Significance After Mitigation: Less Than Significant.

Natural Resources/Conservation/Open Space Impact 3.6-7: Water quality in the Plan area may be degraded following site development by the introduction of urban pollutants including vehicle oils and greases, heavy metals on roads, parking lots, and driveways, fertilizers and pesticides used on site landscaping, and toxic compounds released from auto maintenance areas. Construction during wet or dry weather will affect water quality with increased sedimentation, operation and maintenance of construction vehicles, and storage of materials that could release contamination to surface waters.

Mitigation Measure 3.6-7a: Prior to approval of improvement plans for projects of 1 acre or greater, the developer shall obtain from the State Water Resources Control Board a General Construction Activity Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES) and comply with all requirements of the permit to minimize pollution of storm water discharges during construction activities.

Mitigation Measure 3.6-7b: Prior to approval of improvement plans for all projects in the Plan area, the project developer shall submit to the Placer County Public Works Department, for review and approval, an erosion control plan consistent with the County's Grading, Erosion and Sediment Control Ordinance during environmental review. The erosion control plan shall indicate that proper control of siltation, sedimentation and other pollutants will be implemented per NPDES permit requirements and County ordinance standards. The plan shall address storm drainage during construction and proposed BMPs (Best Management Practices) to reduce erosion and water quality degradation. All on-site drainage facilities shall be constructed to Placer County specifications. BMPs shall be implemented throughout the construction process.

Best Management Practices for construction shall be developed in accordance with the California Stormwater Quality Association Stormwater *Best Management Practice Handbook* (January 2003).

Mitigation Measure 3.6-7c: On-site sediment basins shall be designed and constructed with new development as determined to be necessary by the Department of Engineering and Surveying. These basins shall be constructed at the commencement of grading, and be maintained throughout the construction period to receive storm water runoff from graded areas to allow capture and settling of sediment prior to discharge to receiving waters. Sediment basins located downstream of known development shall be designed to accommodate anticipated sediment deposit that will be transported during subsequent phases of development.

Mitigation Measure 3.6-7d: Prior to approval of improvement plans for development projects in the Plan area, the developers shall develop a surface water pollution control plan (i.e., parking lot sweeping program and periodic storm drain inlet clearing) to reduce long-term surface water quality impacts. Parking lot sweeping shall occur on a weekly basis, and storm drain inlet clearing shall occur semi-annually. The plan shall also include the installation of oil, gas and grease trap separators in the proposed parking lots. The developers shall develop a financial mechanism, to be approved by Placer County, which ensures the long-term implementation of the program.

Best management practices (BMPs), such as sediment or water quality ponds, wetlands, filters, and vegetated swales, have been shown to reduce urban pollutant levels in stormwater. A number of studies have been conducted over the past two decades regarding the pollutant removal effectiveness of urban stormwater BMPs. For example, wetland BMPs such as shallow marshes, extended detention wetlands, and ponded wetlands have demonstrated median removal rates of 77% for bacteria, 90% for hydrocarbons, including oil and grease, and 69% for cadmium. Ponds have demonstrated median removal rates of 57% and 73% for copper and lead, respectively. Filters have been shown to be 81% effective in removing hydrocarbons, including oil and grease, 80% effective in removing zinc, 87% effective in removing total suspended solids (TSS), and 66% effective in removing organic carbon, based on the median rates of a number of reported studies. Vegetated drainage swales have demonstrated median removal efficiencies of 81% for TSS, 67% for organic carbon, and 71% for zinc (Schueler 1997). All BMPs for water quality protection, source control, and treatment control shall be developed in accordance with the California Stormwater Quality Association Stormwater Best Management Practice Handbook (January 2003) for the applicable type of development and/or improvement. Provisions shall be included for long-term maintenance of BMPs.

Mitigation Measure 3.6-7e: Projects subject to construction-related storm water permit requirements of the Federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) program shall obtain any required permits through the Regional Water Quality Control Board or Environmental Protection Agency.

Mitigation Measure 3.6-7f: Developers shall re-vegetate all disturbed areas. Re-vegetation undertaken from April 1 to October 1 shall include regular watering to ensure adequate growth. A winterization plan shall be provided. It is the developer's responsibility to assure proper installation and maintenance of erosion control/winterization during project construction. Where soil stockpiling or borrow areas are to remain for more than one construction season, proper erosion control measures shall be applied. Erosion control shall be provided where roadside drainage is off of the pavement, to the satisfaction of the Department of Engineering and Surveying.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: These mitigation measures will reduce impacts on water quality resulting from development related pollutants.

Significance After Mitigation: Less Than Significant.

Natural Resources/Conservation/Open Space Impact 3.6-10: Adverse impacts on special-status avian species in the Plan area due to development in accordance with the proposed FDCP.

Mitigation Measure 3.6-10a: Focused special-status avian species surveys shall be conducted prior to approval of tentative maps or ground disturbing activities within the FDCP area. If any or all of the special-status avian species listed in Impact Discussion/Conclusion 3.6-10 are found actively nesting within an area proposed for development within the Plan area, no construction activities shall occur within 500 feet of the nest location. Construction activities may resume within this buffer zone after the young have fledged from the nest and the nest is abandoned for that breeding season.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: This mitigation measures will reduce development related impacts to special status avian species.

Significance After Mitigation: Less Than Significant.

Natural Resources/Conservation/Open Space Impact 3.6-12: Implementation of the proposed Foresthill Divide Community Plan will remove potential roosting habitat for special-status bat species.

Mitigation Measure 3.6-12a: Focused surveys to determine the presence/absence of roosting bats shall be conducted prior to approval of tentative maps or ground disturbing activities within the FDCP area. Maternity roosts are generally occupied by mothers and young between May and August (Zeiner et al., 1990b). Mitigation Measure 3.6-12b is not required if there are no bat species utilizing the project site as roosting habitat.

Mitigation Measure 3.6-12b: If bats are determined to roost onsite, consultation with CDFG and/or USFWS shall be requested to determine measures to avoid disturbance during construction If an active maternity roost is identified, at a minimum, no construction activities shall occur within 500 feet until the young are able to fly from the roost. If active day or night roosts are found onsite, measures shall be implemented to safely flush bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the roost is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but preventing them from re-entering.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: These mitigation measures will reduce development related impacts to special status bat species.

Significance After Mitigation: Less Than Significant.

Natural Resources/Conservation/Open Space Impact 3.6-13: Adverse impacts on special-status amphibian and reptile species in the plan area due to development in accordance with the proposed FDCP.

Mitigation Measure 3.6-13a: Focused special-status amphibian and reptile species surveys shall be conducted prior to approval of tentative maps or ground disturbing activities within the FDCP area. If any or all of the special-status amphibian or reptile species listed in Impact Discussion/Conclusion 3.6-13 are found within an area proposed for development within the Plan area, FDCP goals, policies and implementation measures designed to mitigate adverse impact to special-status amphibian and reptile species that may be discovered shall be followed to reduce potential impacts to less than significant.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: These mitigation measures will reduce development related impacts to special status amphibian and reptile species.

Significance After Mitigation: Less Than Significant.

Noise Impacts

Noise Impact 3.10-1: Noise impacts due to increased roadway traffic in the Plan area.

Mitigation Measure 3.10-1a: Use of Setbacks. Noise exposure may be reduced by increasing the distance between the noise source and receiving use. Setback areas can take the form of open space, frontage roads, recreational areas, storage yards, etc. The available noise attenuation from this technique is limited by the characteristics of the noise source, but is generally about 4 to 6 dB per doubling of distance from the source.

Mitigation Measure 3.10-1b: Use of Barriers. Shielding by barriers can be obtained by placing walls, berms or other structures, such as buildings, between the noise source and the receiver. The effectiveness of a barrier depends upon blocking line-of-sight between the source and receiver, and is improved with increasing the distance the sound must travel to pass over the barrier as compared to a straight line from source to receiver. The difference between the distance over a barrier and a straight line between source and receiver is called the "path length difference," and is the basis for calculating barrier noise reduction.

Barrier effectiveness depends upon the relative heights of the source, barrier and receiver. In general, barriers are most effective when placed close to either the receiver or the source. An intermediate barrier location yields a smaller path-length-difference for a given increase in barrier height than does a location closer to either source or receiver.

For maximum effectiveness, barriers must be continuous and relatively airtight along their length and height. To ensure that sound transmission through the barrier is insignificant, barrier mass should be about 4 lbs/square foot, although a lesser mass may be acceptable if the barrier material provides sufficient transmission loss. Satisfaction of the above criteria requires substantial and well-fitted barrier materials, placed to intercept line of sight to all significant noise sources. Earth, in the form of berms or the face of a depressed area, is also an effective barrier material.

Transparent noise barriers may be employed, and have the advantage of being aesthetically pleasing in some environments. Transparent barrier materials such as laminated glass and polycarbonate provide adequate transmission loss for most highway noise control applications. Transparent barrier materials may be flammable, and may be easily abraded. Some materials may lose transparency upon extended exposure to sunlight. Maintaining aesthetic values requires that transparent barriers be washed on a regular basis. These properties of transparent barrier materials require that the feasibility of their use be considered on a case-by-case basis.

The attenuation provided by a barrier depends upon the frequency content of the source. Generally, higher frequencies are attenuated (reduced) more readily than lower frequencies This results because a given barrier height is relatively large compared to the shorter wavelengths of high frequency sounds, while relatively small compared to the longer wavelengths of the low frequency sounds. The effective center frequency for traffic noise is usually considered to be 550 Hz. Railroad engines, cars and horns emit noise with differing frequency content, so the effectiveness of a barrier will vary for each of these sources. Frequency analyses are necessary to properly calculate barrier effectiveness for noise from sources other than highway traffic.

There are practical limits to the noise reduction provided by barriers. For highway traffic noise, a 5 to 10 dB noise reduction may often be reasonably attained. A 15 dB noise reduction is sometimes possible, but a 20 dB noise reduction is extremely difficult to achieve. Barriers usually are provided in the form of walls, berms, or berm/wall combinations. The use of an earth berm in lieu of a solid wall may provide up to 3 dB additional attenuation over that attained by a solid wall alone, due to the absorption provided by the earth. Berm/wall combinations offer slightly better acoustical performance than solid walls, and are often preferred for aesthetic reasons.

Mitigation Measure 3.10-1c: Site Design. Buildings can be placed on a project site to shield other structures or areas, to remove them from noise-impacted areas, and to prevent an increase in noise level caused by reflections. The use of one building to shield another can significantly reduce overall project noise control costs, particularly if the shielding structure is insensitive to noise. As an example, carports or garages can be used to form or complement a barrier shielding adjacent dwellings or an outdoor activity area. Similarly, one residential unit can be placed to shield another so that noise reduction measures are needed for only the building closest to the noise source. Placement of outdoor activity areas within the shielded portion of a building complex, such as a central courtyard, can be an effective method of providing a quiet retreat in an otherwise noisy environment. Patios or balconies should be placed on the side of a building opposite the noise source, and "wing walls" can be added to buildings or patios to help shield sensitive uses.

Mitigation Measure 3.10-1d: Building Design. When structures have been located to provide maximum noise reduction by barriers or site design, noise reduction measures may still be required to achieve an acceptable interior noise environment. The cost of such measures may be reduced by placement of interior dwelling unit features. For example, bedrooms, living rooms, family rooms and other noise-sensitive portions of a dwelling can be located on the side of the unit farthest from the noise source.

Bathrooms, closets, stairwells and food preparation areas are relatively insensitive to exterior noise sources, and can be placed on the noisy side of a unit. When such techniques are employed, noise reduction requirements for the building facade can be significantly reduced, although the architect must take care to isolate the noise impacted areas by the use of partitions or doors.

In some cases, external building facades can influence reflected noise levels affecting adjacent buildings. This is primarily a problem where high-rise buildings are proposed, and the effect is most evident in urban areas, where an "urban canyon" may be created. Bell-shaped or irregular building facades and attention to the orientation of the building can reduce this effect.

Mitigation Measure 3.10-1e: Noise Reduction by Building Facades. When interior noise levels are of concern in a noisy environment, noise reduction may be obtained through acoustical design of building facades. Standard residential construction practices provide 10-15 dB noise reduction for building facades with open windows, and approximately 20 dB to 25 dB noise reduction when windows are closed. Thus a 20 dB exterior-to-interior noise reduction can be obtained by the requirement that building design include adequate ventilation systems, allowing windows on a noise-impacted facade to remain closed under any weather condition.

Where greater noise reduction is required, acoustical treatment of the building facade is necessary. Reduction of relative window area is the most effective control technique, followed by providing acoustical glazing (thicker glass or increased air space between panes) in low air infiltration rate frames, use of fixed (non-movable) acoustical glazing or the elimination of windows. Noise transmitted through walls can be reduced by increasing wall mass (using stucco or brick in lieu of wood siding), isolating wall members by the use of double- or staggered- stud walls, or mounting interior walls on resilient channels. Noise control for exterior doorways is provided by reducing door area, using solid-core doors, and by acoustically sealing door perimeters with suitable gaskets. Roof treatments may include the use of plywood sheathing under roofing materials.

Whichever noise control techniques are employed, it is essential that attention be given to installation of weather stripping and caulking of joints. Openings for attic or sub-floor ventilation may also require acoustical treatment; tight-fitting fireplace dampers and glass doors may be needed in aircraft noise-impacted areas

Design of acoustical treatment for building facades should be based upon analysis of the level and frequency content of the noise source. The transmission loss of each building component should be defined, and the composite noise reduction for the complete facade calculated, accounting for absorption in the receiving room. A one-third octave band analysis is a definitive method of calculating the A-weighted noise reduction of a facade.

Mitigation Measure 3.10-1f: Use of Vegetation. Trees and other vegetation are often thought to provide significant noise attenuation. However, approximately 100 feet of dense foliage (so that no visual path extends through the foliage) is required to achieve a 5 dB attenuation of traffic noise. Thus the use of vegetation as a noise barrier should not be considered a practical method of noise control unless large tracts of dense foliage are part of the existing landscape

Vegetation can be used to acoustically "soften" intervening ground between a noise source and receiver, increasing ground absorption of sound and thus increasing the attenuation of sound with distance. Planting of trees and shrubs is also of aesthetic and psychological value, and may reduce adverse public reaction to a noise source by removing the source from view, even though noise levels will be largely unaffected. It should be noted, however, that trees planted on the top of a noise control berm can actually slightly degrade the acoustical performance of the barrier. This effect can occur when high frequency sounds are diffracted (bent) by foliage and directed downward over a barrier.

In summary, the effects of vegetation upon noise transmission are minor, and are primarily limited to increased absorption of high frequency sounds and to reducing adverse public reaction to the noise by providing aesthetic benefits.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: The above mitigation measures will result in FDCP development project compliance with County General Plan Noise Element policies and standards.

Significance After Mitigation: Less Than Significant

Noise Impact 3.10-2: Noise impacts due to the introduction of additional stationary noise sources in the FDCP area

Mitigation Measures 3.10-1a through 3.10-1f: Same as 3.10-1a through 3.10-1f on a project by project basis.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: The above mitigation measures will result in FDCP development project compliance with County General Plan Noise Element policies and standards.

Significance After Mitigation: Less Than Significant

Noise Impact 3.10-3: Interior noise impacts for all sources within the FDCP area, including the Forest Ranch Concept Plan area.

Mitigation Measures 3.10-1a through 3.10-1f: Same as 3.10-1a through 3.10-1f.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: The above mitigation measures will result in FDCP development project compliance with County General Plan Noise Element policies and standards.

Significance After Mitigation: Less Than Significant

Noise Impact 3.10-4: Noise from construction-related activities in the FDCP and Forest Ranch Concept Plan area may exceed adopted noise standards.

> **Mitigation Measure 3.10-4:** The hours of operation of noise-producing construction equipment shall be restricted to 7:00 a.m. to 7:00 p.m. Mondays through Fridays, and 9:00 a.m. to 6:00 p.m. on Saturdays. Noise from construction activities is prohibited on Sunday and Holidays. Effective mufflers shall be fitted to gas- and diesel-powered equipment to reduce noise levels as much as possible.

Finding: Implementation of the mitigation measures identified above, and listed in the Mitigation Monitoring and Reporting Program (MMRP), will minimize this potentially significant effect to a level that is less than significant.

Explanation: The above mitigation measures will result in FDCP development project compliance with County General Plan Noise Element policies and standards.

Significance After Mitigation: Less Than Significant

VIII. Project Alternative Findings

Feasibility of Project Alternatives

The CEQA Guidelines require that an EIR describe a reasonable range of alternatives that would feasibly obtain most of the basic project objectives but would avoid or substantially lessen any of the significant environmental affects of the project and evaluate the comparative merits of the alternatives. (Guidelines §15126(a). Case law has indicated that the lead agency has the discretion to determine how many alternatives constitute a reasonable range (Citizens of Goleta Valley v. Board of Supervisors (1990), 52 C.3d 553, 566). CEQA Guidelines note that alternatives discussed should be able to obtain most of the basic objectives of the project (Guidelines §15126.6(a). An EIR need not present alternatives that are incompatible with fundamental project objectives (Save San Francisco Bay Association vs. San Francisco Bay Conservation & Development Commission (1992), 10 Cal.App.4th 908). The Guidelines provide that an EIR need not consider alternatives that are infeasible (CEQA Guidelines §15126.6(a)). The Guidelines provide that among the factors that may be taken into account when addressing the feasibility of alternatives are "site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." (CEQA Guidelines §15126.6(f)(1)). The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice (CEQA Guidelines §15126.6(f))

Based upon guidance contained in the CEQA Guidelines, the Draft EIR considered four alternatives to the Project: No Project Alternative, Highest Density Alternative, Lowest Density Alternative and Reduced Density Alternative. The Board of Supervisors has determined that these alternatives constitute a reasonable range of alternatives to consider in association with the proposed Project

Alternative 1 - No Project

Section 15126.6(e)(1) of the Government Code provides the following direction relative to the No Project Alternative:

> The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alterative analysis is not the baseline for determining where the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline.

The No Project alternative consists of an analysis of the continuation of the existing 1981 Foresthill General Plan, in which case the Plan area will be developed in accordance with the existing Foresthill General Plan without adoption of the FDCP. Under this alternative, the projected impacts of the proposed FDCP are compared to the impacts that would occur under build out of the existing Foresthill General Plan. The 1981 Foresthill General Plan encompasses approximately 56 square miles with a projected Buildout population of 14,400, compared to 109 square miles within the FDCP area with a projected constrained Buildout population of 18,963. The additional area encompassed by the FDCP (53 square miles) under the No Project Alternative would develop in accordance with the Placer County General Plan, the Auburn-Bowman Community Plan or the Weimar-Applegate-Colfax Community Plan, depending upon the location.

Finding: The Board of Supervisors finds that this alternative would not avoid or substantially lessen any of the significant effects of the project and that it is not consistent with the vision, goals and objectives formulated during the planning process for the FDCP.

Explanation: Development would occur within the 109 square mile FDCP planning area in accordance with the Placer County General Plan, the Auburn-Bowman Community Plan, the Weimar-Applegate-Colfax Community Plan or the 1981 Foresthill General Plan. The Foresthill General Plan states that it allows for a holding capacity of 14,400. Examination of the existing zoning (supported by the 1981 plan) on the majority of lands located east of the Community of Foresthill that are proposed to be included in the FDCP that are outside of the boundary of the 1981 Foresthill General Plan reveals that carrying capacity for the 109 square mile FDCP, would be approximately 28,000 under the No Project Alternative (i.e. leaving all zoning within the proposed 109 square mile FDCP area unchanged). The unconstrained holding capacity of the proposed 109 square mile FDCP is estimated at 22,010. The number of housing units accommodated by the FDCP would similarly be lower, with the number of new housing units that could be built in the Plan area estimated to be 8,856. Compared to the proposed FDCP, impacts of the No Project Alternative (the 1981 Foresthill General Plan) on population and housing would be greater because it would accommodate more population growth and housing units.

As cited in Section 15126.6(f) of the CEQA Guidelines, "The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project." That is not the case for the No Project Alternative; however, it has been evaluated in the EIR as required by Section 15126.6(e)(1) of the Government Code.

Alternative 2 – Highest Density Alternative

The Highest Density Alternative would accommodate a buildout population of 28,355 residents, compared to the FDCP buildout estimate of 18,963. In comparison to the proposed FDCP, densities in residential areas would be higher: residential densities in many areas are doubled, and many areas shown in the proposed FDCP for Timberland uses are shown for residential uses (primarily at densities ranging from 2.3 du/acre to 4.6 du/acre) in the Highest Density Alternative. The estimated population for this alternative at buildout (28,355) is comparable to the estimated buildout population for the existing 1981 Foresthill General Plan in consideration of the fact that the 1981 plan was approximately ½ the square mile size of the proposed FDCP with a projected buildout population of 14,400.

Finding: The Board of Supervisors finds that this alternative would not avoid or substantially lessen any of the significant effects of the project and that it is not consistent with the vision, goals and objectives formulated during the planning process for the FDCP.

Explanation: As cited in Section 15126.6(f)of the CEQA Guidelines, "The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project." That is not the case for the Highest Density Alternative; however, it has been evaluated in the EIR because it is an actual alternative that was considered and rejected in the process of developing the FDCP.

Alternative 3 – Lowest Density Alternative

The Lowest Density Alternative would accommodate a buildout population of 12,727 residents, or a little more than half of the FDCP buildout estimate of 18,963. In comparison to the proposed FDCP, densities in residential areas would be reduced in the Todd's Valley area, the Pomfret Estate ("Forest Ranch") property, and some properties along Foresthill Road between Todd's Valley and the Forest Ranch property. This alternative is not consistent with the general goals and vision for the Community Plan area, which call for concentrating population and residential development near the Core Area of Foresthill.

Finding: The Board of Supervisors finds that this alternative is infeasible in that it is not consistent with the vision, goals and objectives formulated during the planning process for the FDCP.

Explanation: Residential development would occur at lower densities, providing fewer housing opportunities, while still resulting in potential environmental effects.

Alternative 4 – Reduced Density Alternative

A Reduced Density Alternative has been developed for consideration in this EIR. The Reduced Density Alternative would accommodate a buildout population of approximately 9,250 residents. It would require reducing residential densities throughout the Plan area, with the exception of areas that are already subdivided. Other planned land uses would be similarly reduced in area because the lower population would not support the amount of commercial, industrial and mixed-use development accommodated by the FDCP.

Finding: The Board of Supervisors finds that this alternative is infeasible in that it is not consistent with the vision, goals and objectives formulated during the planning process for the FDCP.

Explanation: Residential development would occur at lower densities, providing fewer housing opportunities, while still resulting in potential environmental effects.

IX. Growth Inducement Finding

As required by Section 15126.2(d) of the CEQA Guidelines, an EIR must discuss ways in which a proposed project could foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment. Also, the EIR must discuss the characteristics of the project that could encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

Growth can be induced in a number of ways, such as through the elimination of obstacles to growth, through the stimulation of economic activity within the region, or through the establishment of policies or other precedents that directly or indirectly encourage additional growth. Under CEQA, this growth is not to be considered necessarily detrimental, beneficial, or of significant consequence. Induced growth would be considered a significant impact if it can be demonstrated that the potential growth, directly or indirectly, significantly affects the environment.

The population of the Plan area in 2000 was 5,702. The population projection for 2030 is 9,620 and the estimated maximum constrained buildout population for the Plan area is 18,963. This is within the context of the population of Placer County, which was 237,145 in 2000, a projected 336,805 in 2010, and a projected 396,785 in 2020. In the context of the 109 square mile FDCP planning area, the proposed FDCP represents a substantial reduction in the buildout population of the existing 1981 Foresthill General Plan.

The need for future housing is based on the community's projected population. These increased population figures would indicate a demand for approximately 1,567 additional housing units by the year 2030. As many as 219 additional mobile home park units will be needed in the Plan area by 2030, and up to 60 units of multi-family housing will be needed as well. Single family housing will continue to be the dominant housing type, and assuming a 2 percent growth rate, 1,282 additional units will be needed.

Within the context of planned population growth in Placer County, population growth in the Plan area will not exceed regional population projections, and will not create substantial unplanned growth or concentration of people in the Plan area. Foresthill and other unincorporated areas will absorb a portion of the growth in Placer County, but geographical isolation, rugged terrain, and proactive community planning will slow growth to a rate that will not exceed buildout capacity. Additionally, the FDCP does not propose to extend utilities in excess of those needed to serve the planned population. Absent inclusion of the Forest Ranch Concept Plan, the Plan does not propose a community sewer system, and water service would be extended only to developments that are consistent with the proposed Plan. This potential growth-inducing impact is therefore considered less than significant.

Finding: The Board of Supervisors finds that within the context of planned population growth in Placer County, population growth in the Plan area will not exceed regional population projections, and will not create substantial unplanned growth or concentration of people in the Plan area. Foresthill and other unincorporated areas within the FDCP planning area will absorb a portion of the growth in Placer County, but geographical isolation, rugged terrain, and proactive community planning will slow growth to a rate that will not exceed buildout capacity and growth–inducing impacts associated with implementation of the FDCP are considered **less than significant**.

Explanation: The FDCP does not propose to extend utilities in excess of those needed to serve the planned population. Absent inclusion of the Forest Ranch Concept Plan, the Plan does not propose a community sewer system, and water service would be extended only to developments that are consistent with the proposed Plan.

X. Cumulative Impacts Findings

The Board of Supervisors finds that the methodology used to determine cumulative impacts complies with CEQA in that it assumed growth in accordance with the Placer County General Plan and provides an analysis of potential environmental impacts of those elements of the proposed project in light of other projects that have come forth within the region that are likely to contribute significantly to regional growth and cumulative impacts.

Cumulative impacts are two or more effects that, when combined, are considerable or compound other environmental effects. Each cumulative impact is determined to have one of the following levels of significance: less than significant, significant, or significant and unavoidable. The area of cumulative effect associated with the FDCP is described as the FDCP Plan area, which encompasses the entire area (approximately 109 square miles) covered by the proposed FDCP.

In accordance with Section 15130(d) of the State CEQA Guidelines, the FDCP EIR incorporates by reference the cumulative impacts analysis contained in the Placer County General Plan EIR.

Based on the identified region and the nature of the projects described above, the FDCP EIR has identified the following potentially significant cumulative impacts associated with the project and the region:

- **Loss of open space resulting from development in accordance with the FDCP (Impact 3.2-3).** Development of the Plan area in accordance with the proposed FDCP would allow conversion of lands currently in undeveloped open space to residential, commercial, industrial or public uses. While the proposed FDCP will allow for less conversion of open space than the existing (1981) Foresthill General Plan, impacts must be measured in comparison to existing conditions rather than future planned uses. The majority of the Plan area is designated for Public Ownership (53%), Agricultural/Timberland (23%), and Forestry (12.4%). The remaining lands (less than 12%) are designated for Rural Residential (parcel sizes ranging from 2.3 acres to 10 acres), Low and Medium Density Residential, Industrial, Development Reserve, Mixed-Use Areas and Historic Outlying Commercial Areas. Portions of these areas are already developed, and the policies of the FDCP are designed to discourage "leapfrog" development and concentrate development within or near the Core Area of Foresthill. The FDCP includes policies to protect existing agricultural lands, forest

and timber resources. Nevertheless, the loss of open space resources through conversion to developed uses represents a significant, cumulative impact of the proposed FDCP that cannot be mitigated to a less than significant level.

- **Introduction of new sources of light and glare within the Plan area (Impact 3.3-3).** As described in the EIR, the primary sources of light in the FDCP area include headlights on the roadway system (particularly Foresthill Road), commercial development, and industrial facilities. A lighting district has been established in Foresthill, which is limited to the historic downtown area. Residential areas do not have street lights, but some individual residences have security lighting. The Placer County Rural Design Guidelines include a goal that encourages the minimization of artificial lighting on residences, other structures, and along roadways to limit the amount of light pollution. The Guidelines also recommend techniques designed to minimize light pollution. The proposed FDCP includes Policies 3.C.3-6, 3.C.5-1, and 3.C 2-3 related to lighting. Implementation Measure #29 for Natural Resources/Conservation/Open Space calls for adoption of a "dark sky" ordinance to protect important nighttime visual resources in the Plan area. Lighting is also addressed in the proposed Foresthill Community Design Guidelines. Compliance with the goals, policies, implementation measures and Design Guidelines will reduce the contribution of new development to substantial changes in the lighting environment, and improve some existing conditions. However, in comparison to existing conditions, additional development will contribute to a potentially significant cumulative impact on the ambient light conditions in the Plan area. No additional mitigation measures are available to reduce this impact to a less than significant level.

- **Conversion of timber lands to non-timber production use (Impact 3.6-2).** Coniferous forest represents the dominant vegetation community within the Plan area. The Plan area contains an interface between exclusive Placer County land use jurisdiction and the jurisdiction of the U.S. Forest Service, which is responsible for managing land uses and timber resources in the Tahoe National Forest. Additionally, the California Department of Forestry (CDF) has regulatory authority over timber harvest activities on privately held timber land under the Z'Berg Nejedly Forest Practices Act of 1973. Since the Plan area lies within an area designated as Very High Fire Hazard Area, CDF is also actively engaged in fuel reduction programs to reduce the high levels of brush and timber fuel loading that contribute to wildland fire hazard in the area. The goals and policies of the proposed FDCP are designed to protect and preserve existing forest and timber resources. A majority of the Plan area is designated for Public Ownership (53%), Agricultural/Timberland (23%) and Forestry (12.4%). Policy 4.A.6-2 calls for the County to discourage development that conflicts with timberland management and to protect significant timber production lands from incompatible development. Policy 4.A.6-8 requires the County to maintain a low mathematical density of allowable development in Forestry areas in order to protect major areas of potential timber resources on the Divide from conversion to other more intensive uses. Policy 4.A.6-9 calls for the County to encourage clustering of development in timberland areas within the Forest Residential land use designation to preserve timber resources for productive use, and Policy 4.A.6-10 encourages the use of the Timberland Production Zone for those lands which have significant commercial timber value. Finally, Policy 4.A.6-12 calls for the provision of public facilities and services to be limited in important timber areas on the Foresthill Divide. The proposed FDCP land use designations and zoning are designated to avoid conversion of productive timber lands to non-timber uses, and to allow other development to occur in a manner that does not conflict with timber-related uses. Nevertheless, the loss of productive or potentially productive timber resources

through conversion of lands to developed uses represents a potentially significant cumulative impact of the proposed FDCP. No additional mitigation measures are available to reduce this impact to a less than significant level.

- **New stationary and mobile sources of air pollutants caused by buildout of the proposed FDCP, resulting in increased emissions of ROG, NOx and PM_{10} (Impact 3.8-1).** Upon FDCP buildout, operation of new uses developed in accordance with the proposed Plan would cause increased emissions by generating new motor vehicle trips and by causing additional energy use and operation of other stationary sources of emissions. These are stationary- and area-source emissions that would be produced either directly in the Plan area, or indirectly through increased use of utilities located elsewhere. Motor vehicle use, energy use, and other stationary sources would cause emissions of ROG, NOx and PM_{10} that would contribute to existing violations of state-level and/or federal ambient air quality standards. Although the goals and policies of the FDCP will assist in reducing emissions, development within the Plan area will contribute to regional emissions of these pollutants. Because the Plan area is currently within a non-attainment area for PM_{10} and ozone and emissions will exceed Placer County Air Pollution Control District thresholds, impacts are considered significant and cumulative, and cannot be mitigated to a less than significant level.

- **Construction activities associated with development under the proposed FDCP, which will cause emissions of dust and contaminants from construction equipment exhaust that may contribute substantially to existing air quality violations or expose sensitive receptors to substantial pollutant concentrations (Impact 3.8-2).** Construction activity often produces high levels of fugitive dust, including PM_{10} particulate matter. Construction-related fugitive dust is generated primarily by grading activities and heavy equipment travel over temporary roads on-site. Although the goals and policies of the FDCP and Placer County Air Pollution Control District Rules and Regulations will assist in reducing emissions, because the Plan area is currently within a non-attainment area for PM_{10} and ozone, and emissions may at times exceed PCAPCD thresholds, impacts are considered potentially significant and cumulative, and may not always be mitigated to a less than significant level.

Finding: The Board of Supervisors finds implementation of the mitigation measures identified in the FEIR pertaining to loss of open space, introduction of new sources of light and glare, conversion of timber lands to non-timber land use, new stationary and mobile sources of air pollutants and emissions of dust and contaminants from construction equipment, will lessen significant cumulative environmental effects, but not to a less-than-significant level.

Explanation: Cumulative impacts are an inevitable consequence of growth. Cumulative significant unavoidable impacts resulting from implementation of the Community Plan itself include impacts related to Natural Resources/Conservation/Open Space, Aesthetics, Land Use, and Air Quality. These cumulative impacts cannot be fully mitigated through the implementation of the Community Plan goals, policies and programs.

The most relevant land use impact associated with the implementation of the Foresthill Divide Community Plan is the cumulative loss of open space through development activities that permanently convert open space or result in its fragmentation. In addition, it is not possible to reduce air quality impacts associated with development within the Foresthill Divide particularly when impacts are considered in a regional context and as a contribution to cumulative impacts.

In particular, new stationary and mobile sources will result in significant and cumulative unavoidable impacts that cannot be fully mitigated as implementation of the Foresthill Divide Community Plan occurs.

Significance After Mitigation: For those impacts described above, cumulatively considerable, significant and unavoidable.

- **Buildout of the proposed FDCP will contribute to greenhouse gas emissions and global climate change.** Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect.

  Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect (Ahrens 2003). Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors (California Energy Commission 2006a). In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation (California Energy Commission 2006a). A byproduct of fossil fuel combustion is CO_2. Methane, a highly potent GHG, results from offgassing associated with agricultural practices and landfills. Processes that absorb and accumulate CO_2, often called CO_2 "sinks," include uptake by vegetation and dissolution into the ocean.

  As the name implies, global climate change is a global problem. GHGs are global pollutants, unlike criteria air pollutants and toxic air contaminants, which are pollutants of regional and local concern, respectively. California is the 12th to 16th largest emitter of CO_2 in the world and produced 492 million gross metric tons of carbon dioxide equivalents in 2004 (California Energy Commission 2006a). Carbon dioxide equivalents is a measurement used to account for the fact that different GHGs have different potential to retain infrared radiation in the atmosphere and contribute to the greenhouse effect. This potential, known as the global warming potential of a GHG, is also dependent on the lifetime, or persistence, of the gas molecule in the atmosphere. For example, CH_4 is a much more potent GHG than CO_2. As described in Appendix C, "Calculation Referenced," of the General Reporting Protocol of the California Climate Action Registry (2006), one ton of CH_4 has the same contribution to the greenhouse effect as approximately 21 tons of CO_2. Expressing GHG emissions in carbon dioxide equivalents takes the contribution of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO_2 were being emitted. Consumption of fossil fuels in the transportation sector was the single largest source of California's GHG emissions in 2004, accounting for 40.7% of total GHG emissions in the state (California Energy Commission 2006a). This category was followed by the electric power sector (including both in-state and out-of-state sources) (22.2%) and the industrial sector (20.5%) (California Energy Commission 2006a).

Emitting CO_2 into the atmosphere is not itself an adverse environmental affect. It is the increased concentration of CO_2 in the atmosphere resulting in global climate change and the associated consequences of climate change that results in adverse environmental affects (e.g., sea level rise, loss of snow pack, severe weather events). Although it is possible to generally estimate a project's incremental contribution of CO_2 into the atmosphere, it is typically not possible to determine whether, or how, an individual project's relatively small incremental contribution might translate into physical effects on the environment. Given the complex interactions between various global and regional-scale physical, chemical, atmospheric, terrestrial, and aquatic systems that result in the physical expressions of global climate change, it is impossible to discern whether the presence or absence of CO_2 emitted by Buildout of the FDCP would result in any altered conditions. On a state wide level, however, global climate change is projected to affect several environmental factors including water resources throughout California. For example, an increase in the global average temperature is projected to result in a decreased volume of precipitation falling as snow in California and an overall reduction in snowpack in the Sierra Nevada. Snowpack in the Sierra Nevada provides both water supply (runoff) and storage (within the snowpack before melting), and is a major source of supply for the state. Although current forecasts vary (Department of Water Resources 2006), this phenomenon could lead to significant challenges in securing an adequate water supply for a growing population and California's agricultural industry. An increase in precipitation falling as rain rather than snow could also lead to increased potential for floods because water that would normally be held in the Sierra Nevada until spring could flow into the Central Valley concurrently with winter storm events. This scenario would place more pressure on California's levee/flood control system.

Because considerable uncertainty remains with respect to the overall impact of global climate change on future water supply in California, it is unknown to what degree global climate change will impact future Placer County water supply and availability, including the 109 square mile FDCP area. However, based on consideration of several recent regional and local climate change studies, and based on an assessment of water supply under both the FDCP with and without the inclusion of the Forest Ranch Concept Plan, it is reasonably expected that the impacts of global climate change on water supply would be less than significant Because the implementation of the Forest Ranch Concept Plan would create a greater demand for water, however, global climate change poses a greater impact to water supply in the project area under the FDCP with inclusion of the Forest Ranch Concept Plan than under the FDCP without the Forest Ranch Concept Plan.

Given the challenges associated with determining a project specific significance criteria for GHG emissions when the issue must be viewed on a global scale, a quantitative significance criteria is not proposed for the Foresthill Divide Community Plan. For this analysis, the project's incremental contribution to global climate change would only be considered significant if due to the size or nature of the project it would generate a substantial increase in GHG emissions relative to existing conditions state wide.

GHG emissions associated with the FDCP were estimated using CO_2 emissions as a proxy for all GHG emissions. This is consistent with the current reporting protocol of the California Climate Action Registry (CCAR). Calculations of GHG emissions typically focus on CO_2 because it is the most commonly produced GHG in terms of both number of sources and volume generated, and because it is among the easiest GHGs to measure. However, it is important to note that other GHGs have a higher global warming potential than CO_2. For example, as stated previously, 1 lb of methane has an equivalent global warming potential of 21 lb of CO_2 (California Climate Action Registry 2006). Nonetheless, emissions of other

GHGs from the Foresthill Divide Community Plan (and from almost all GHG emissions sources) would be low relative to emissions of CO_2 and would not contribute significantly to the overall generation of GHGs from the project.

Although the CCAR provides a methodology for calculating GHG emissions, the process is designed to be applied to a single or limited number of entities or operations where detailed information on emissions sources is available (e.g., usage of electricity and natural gas, numbers and types of vehicles and equipment in a fleet, type and usage of heating and cooling systems, emissions from manufacturing processes). Information at this level of detail is not available for the Foresthill Community Plan. Given the lack of detailed design and operational information available at this time for facilities in the FDCP area, the CCAR emissions inventory methodology is not appropriate for estimating GHG emissions from the project.

The traffic analysis conducted for the project provides data that can be used to estimate CO_2 emissions from project-generated vehicle trips. The 2030 and Buildout analysis of the FDCP would result in 12,045 vehicle trips per day. Assuming a trip rate of 7.43 miles per trip which is the standard used by Placer County Air Pollution Control District, motorized vehicle use within the FDCP in 2030 would generate an average of 89,494 vehicle miles traveled (VMT) per day, or approximately 32.6 million VMT annually. At full build out an average of 352,093 VMT per day would be generated, or approximately 129 million VMT annually. Assuming an emissions factor for future CO_2 emissions from vehicles of approximately 366 grams of CO_2 per mile (California Air Resources Board 2002), approximately 13,179 tons of CO_2 per year would be generated by project-generated vehicle trips in 2030 and approximately 51,884 tons of CO_2 per year at full build out. It should be noted that although this projected CO_2 emissions factor does assume certain reductions in vehicle emissions due to future vehicle models operating more efficiently, it does not take into account additional vehicle emission reductions that might take place in response to AB 1493, if mobile source emission reductions are ultimately implemented through this legislation.

It is also important to note that this CO_2 emission estimate for vehicle trips associated with the FDCP is likely much greater than the emissions that will actually occur. The analysis methodology used for the emissions estimate assumes that all emissions sources (vehicles) are new sources and that emissions from these sources are 100% additive to existing conditions. This is a standard approach taken for air quality analyses. In many cases, such an assumption is appropriate because it is impossible to determine whether emissions sources associated with a project move from outside the air basin and are in effect new emissions sources, or whether they are sources that were already in the air basin and just shifted to a new location. However, because the effects of GHGs are global, a project that merely shifts the location of a GHG-emitting activity (e.g., where people live, where vehicles drive, or where companies conduct business) would result in no net change in global GHG emissions levels.

Although the estimate of 51,884 tons of CO_2 emitted per year from project related vehicle trips is higher than would actually occur, it provides a starting point for further emissions calculations. As discussed above, fossil fuel consumption in the transportation sector was the single largest source of California's GHG emissions in 2004, accounting for 40.7% of total GHG emissions in the state (California Energy Commission 2006a). Making the general assumption that the proportion of transportation-sector emissions from the 51,884 tons of CO_2 at build out would be similar to the statewide results for 2004, overall CO_2 emissions from the FDCP would be approximately 127,479 tons per year.

Therefore, although the estimate of 127,479 tons of CO_2 emitted annually from within the FDCP area is very general, and is considered high, it is sufficient to support an evaluation of the project's contribution towards GHG emissions.

It should also be noted that the emissions calculations described above do not take into account reductions in GHG emissions resulting from implementation of AB 32. Stationary emissions sources on the project site and stationary sources that serve the project site (e.g., power plants) will be subject to emissions reductions requirements of AB 32. The extent of these reductions has not yet been quantified by ARB. At the time of project build out, overall CO_2 emissions attributable to the FDCP could be substantially less than current emissions assumptions might indicate. Similarly, if GHG emissions reductions for vehicles are enacted, through either the requirements of AB 1493 or AB 32 or a federal regulation, CO_2 emissions from the FDCP area would be further reduced. If regulations proposed to comply with AB 1493 survive current legal challenges, by project build out CO_2 emissions from vehicles associated with the project could be 20% to 30% less than under current conditions.

Emissions reduction requirements associated with AB 1493 and AB 32, SB 1368 and Executive Order S-3-5 would apply throughout California Therefore, beyond the fact that their effect on the FDCP is unclear, their effect on the overall cumulative context relative to all GHG emissions in California is unknown.

In 2003, global emissions of carbon (i.e., only the carbon atoms within CO_2 molecules) solely from fossil fuel burning totaled an estimated 7,303 million metric tons (Marlands et al. 2006). This translates to approximately 29,400 million tons of CO_2. This is only a portion of global CO_2 emissions because it addresses only fossil fuel burning and does not address other CO_2 sources such as burning of vegetation. Total estimated CO_2 emissions from all sources associated with the FDCP would be less than 0.0005% of this partial global total. CO_2 emissions in California totaled approximately 391 million tons in 2004 (California Energy Commission 2006a) Depending on the alternative selected, total CO_2 emissions from the FDCP, as estimated above, would be 0.033% to 0.037% of this statewide total.

However, as noted above, the emission calculation methodology treats project emissions as if they were new emissions, and does not correct for the fact that many emission sources associated with the FDCP could simply be moving from an existing location to the project site. Therefore, the project's net contribution of CO_2 to global climate change would be much less than 127,479 tons per year estimated for the proposed project. Similarly, the project's proportion of global and statewide emissions would be less than described above.

Although it is clear that the FDCP's net contribution of CO_2 to global climate change will be less than estimate above, a great deal of uncertainty exists regarding what the net CO_2 emissions would actually be. In addition, it is uncertain how current regulations might affect CO_2 emissions attributable to the project and cumulative CO_2 emissions from other sources in the state. Also, as described previously, it cannot be determined how CO_2 emissions associated with the FDCP might or might not influence actual physical effects of global climate change.

In consideration that, at worst case, Buildout of the FDCP is anticipated to generate only .033% of statewide total GHGs, the potential impact of GHG emissions resulting from FDCP Buildout is considered less than significant.

Finding: The Board of Supervisors finds in consideration that, at worst case, buildout of the FDCP is anticipated to generate only .033% of statewide total GHGs, the potential impact of GHG emissions resulting from FDCP Buildout is considered **less than significant**.

Explanation: Although it is clear that the FDCP's net buildout contribution of CO_2 to global climate change will be less than the worst case analysis provided in the EIR, a great deal of uncertainty exists regarding what the net CO_2 emissions would actually be. In addition, it is uncertain how current regulations might affect CO_2 emissions attributable to buildout of the FDCP and cumulative CO_2 emissions from other sources in the state. Also, as described in the EIR analysis, it cannot be determined how CO_2 emissions associated with the FDCP might or might not influence actual physical effects of global climate change.

In consideration that, at worst case, buildout of the FDCP is anticipated to generate only .033% of statewide total GHGs, the potential impact of GHG emissions resulting from FDCP Buildout is, therefore, considered less than significant.

Significance After Mitigation: For the impact described above, less than cumulatively significant.

XI. STATEMENT OF OVERRIDING CONSIDERATIONS

The FDCP Final EIR concludes that the proposed Project, even with incorporation of all feasible mitigation measures and consideration of alternatives, will nonetheless cause significant direct and unavoidable impacts on the following resources:

- Aesthetics – Alteration of views from scenic highways in the Plan area due to development in accordance the proposed FDCP. Introduction of new sources of light and glare within the FDCP area.

- Air Quality – New stationary and mobile sources of air pollutants caused by bailout of the proposed FDCP will result in increased emissions of ROG, NOx, CO and PM10. Construction activities associated with development under the proposed FDCP will cause emissions of dust and contaminants from construction equipment exhaust that may contribute substantially to existing air quality violations or expose sensitive receptors to substantial pollutant concentrations.

- Land Use- Loss of open space resulting from development in accordance with the FDCP

- Natural Resources/Conservation/Open Space- Conversion of timber lands to non-timber production use. Adverse impacts on wildlife movement corridors/deer migration corridors in the Plan area due to development in accordance with the proposed FDCP.

- Population and Housing – Development of the Plan area in accordance with the FDCP would promote an imbalance of jobs and housing in the FDCP.

- Public Facilities – Provision of adequate fire protection services and facilities to serve the FDCP areas and increase wild land fire impacts to residences.

- Transportation – Increased traffic throughout the Community Plan area by the year 2030 due to the development in accordance with the FDCP excluding the Forest Ranch Concept Plan. Potential decrease in Level of Service at key intersections at the Auburn Ravine Road/Foresthill Road/Lincoln Way intersection by the year 2030 due to increased traffic in the Community Plan area excluding the Forest Ranch Concept Plan. Potential decrease in Level of Service on Foresthill Road between Lincoln Way and Owl Hill Court by the year 2030 due to increased traffic in the Community Plan area excluding the Forest Ranch Concept Plan. Increased traffic throughout the Community Plan area at build out due to development in accordance with the FDCP excluding the Forest Ranch Concept Plan. Potential decrease in Level of Service at key intersections at the I-80/ Auburn Ravine Road/Foresthill Road interchange and the Auburn Ravine Road/Foresthill Road/Lincoln Way intersection at build out due to increased traffic in the Community Plan area excluding the Forest Ranch Concept Plan. Potential decrease in Level of Service on Foresthill Road between Lincoln Way and Owl Hill Court at build out due to increased traffic in the Community Plan area excluding the Forest Ranch Concept Plan.

Placer County has adopted all feasible mitigation measures with respect to these impacts, which may have substantially lessened the impacts, but have not been successful in reducing them below a level of significance.

Under CEQA, before a project which is determined to have significant, unmitigated environmental effects can be approved, the public agency must consider and adopt a "statement of overriding considerations" pursuant to CEQA Guidelines 15043 and 15093. As the primary purpose of CEQA is to fully inform the decision makers and the public as to the environmental effects of a Proposed Project and to include feasible mitigation measures and alternatives to reduce any such adverse effects below a level of significance, CEQA nonetheless recognizes and authorizes the approval of projects where not all adverse impacts can be fully lessened or avoided. However, the agency must explain and justify its conclusion to approve such a project through the statement of overriding considerations, setting forth the Proposed Project's general social, economic, policy or other public benefits which support the agency's informed conclusion to approve the Proposed Project.

The Board of Supervisors finds that the proposed Project meets the following stated project objectives - which have substantial social, economic, policy and other public benefits - justifying its approval and implementation, notwithstanding the fact that not all environmental impacts were fully reduced below a level of significance:

Implementation of the FDCP will provide for the following.

- Development of an interconnected trail system for hiking, biking and equestrian uses extending from the confluence of the North and Middle Forks of the American River easterly to Sugar Pine Reservoir.

- Preservation of the community's outstanding visual and aesthetic features, including significant vistas, woodlands, stream and riparian zones, ponds and lakes, and important wildlife habitat areas.

- Protection of the community against wildland fires, erosion, water quality degradation and localized flooding.

- Conservation and protection of natural, cultural and historic resources of the Plan area as valuable community assets.

- Encouragement of mixed-use development within the principal commercial district (i.e., from the Foresthill Divide Middle School easterly along Foresthill Road to the Foresthill Elementary School) and within the historic downtown area.

- Management of the land within the Plan boundaries as a limited and protected resource so that its future uses will be beneficial to the entire community.

- Assurance that future development on the Foresthill Divide will reflect and maintain the forested residential character of the community.

- Provision of public facilities in a location that is central to the concentrations of population on the Foresthill Divide to encourage the interaction of residents and a strong sense of community.

- Provision of residential development which is reasonably integrated into the community rather than being physically isolated.

- Assurance that public services and facilities are available to serve the needs created by both existing and future residents and visitors to the Foresthill Divide.

- Respect for and preservation of existing agricultural uses and timberlands from residential encroachment.

- Maintenance and encouragement of access to public lands and protection of the boundaries of public lands from residential encroachment.

- Establishment of new employment opportunities and appropriate economic development as a high priority for the Foresthill community and the County.

Balancing Competing Goals

The Board of Supervisors further finds that it is necessary to balance competing goals in approving the Project and the environmental documentation of the Project. Not every environmental concern has been fully satisfied because of the need to satisfy competing concerns to some extent. The Board has chosen to accept certain environmental impacts resulting from the Project because complete eradication of impacts is impractical and would unduly compromise some other important economic, social or other goal. The Board finds and determines that the Project proposal and the supporting environmental documentation provide for a positive balance of the competing goals and that the economic, fiscal, social, environmental, land-use and other benefits to be obtained by the Project outweigh any remaining environmental and related potential detriment of the Project.

XII. CONCLUSION

The mitigation measures listed in conjunction with each of the findings set forth above, as implemented through the Mitigation Monitoring Program, have eliminated or reduced, or will eliminate or reduce to a level of insignificance, all adverse environmental impacts, except for those described above in Section XII.

Taken together, the Final Environmental Impact Report, the mitigation measures, and the Mitigation Monitoring Program provide an adequate basis for approval of the Foresthill Divide Community Plan.

Before the Board of Supervisors
County of Placer, State of California

In the matter of: A RESOLUTION ADOPTING THE FORESTHILL DIVIDE COMMUNITY PLAN

Resolution No. 2008-____

The following resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held December 9, 2008, by the following vote:

Ayes:

Noes:

Absent:

Signed by me after its passage.

_____

Jim Holmes, Chairman

Attest:

_____

Ann Holman
Clerk of said Board

WHEREAS, on August 12 and 28, 2008, the Placer County Planning Commission ("Planning Commission") held public hearings to consider the Foresthill Divide Community Plan and certain proposed amendments to the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Colfax Community Plan, and the Planning Commission has made recommendations to the Board of Supervisors ("Board") related thereto, and

WHEREAS, on October 7, 2008, the Board held a public hearing to consider the recommendations of the Planning Commission and to receive public input regarding the proposed Community Plan, and continued the matter to this date for final action, and

WHEREAS, the Board has reviewed the proposed Community Plan, considered the recommendations of the Planning Commission, received and considered the written and oral comments submitted by the public thereon, and has adopted Resolution No. 2008-_ _ _ certifying the Final Environmental Impact Report for the Foresthill Divide Community Plan, and

WHEREAS, the Board finds the proposed Plan will serve to protect and enhance the health, safety and general welfare of the residents of the Plan area and the County as a whole, and

WHEREAS, the Board further finds the proposed Plan is consistent with the provisions of the General Plan and in compliance with applicable requirements of State law, and

WHEREAS, notice of all hearings required has been given and all hearings have been held as required by County ordinance and State law, and

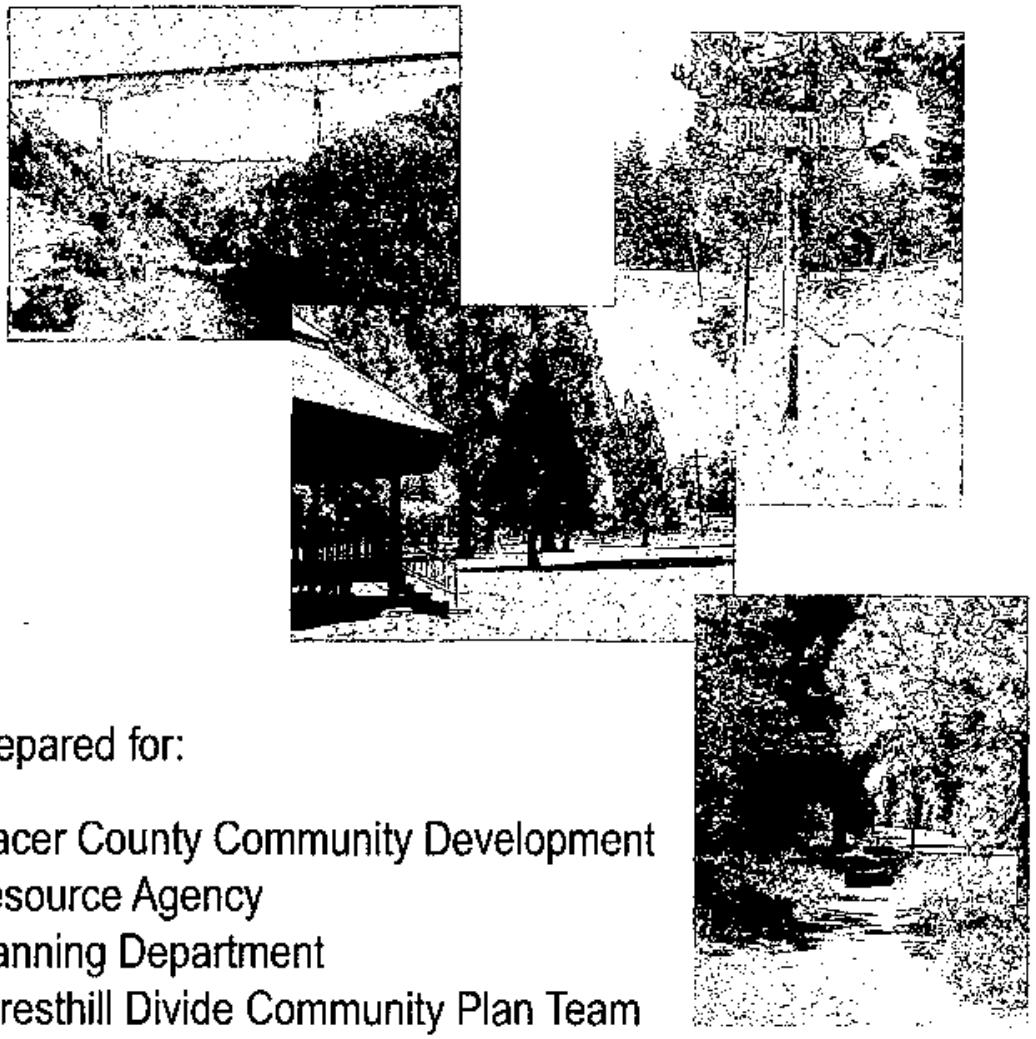
WHEREAS, the Board finds that the foregoing recitals setting forth the actions of the County are true and correct,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER that the Foresthill Divide Community Plan, as shown and described in Exhibit A attached hereto and incorporated herein by reference, is hereby adopted and supersedes and replaces in all respects the 1981 Foresthill General Plan, and

BE IT FURTHER RESOLVED, that this Resolution shall take force and become effective immediately.

Placer County, California

Foresthill Divide Community Plan



Prepared for:

Placer County Community Development
Resource Agency
Planning Department
Foresthill Divide Community Plan Team

Prepared by:

Quad Knopf, Inc.

December 2008

Quad Knopf

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Exhibit A

Before the Board of Supervisors
County of Placer, State of California

In the matter of: A RESOLUTION AMENDING THE LAND USE DIAGRAMS FOR THE PLACER COUNTY GENERAL PLAN, THE AUBURN-BOWMAN COMMUNITY PLAN, AND THE WEIMAR-APPLEGATE-CLIPPER GAP GENERAL PLAN

Reso. No. _____

The following resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held December 9, 2008, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

_____
Jim Holmes, Chairman

Attest:

_____
Ann Holman
Clerk of said Board

WHEREAS, on August 12 and 28, 2008, the Placer County Planning Commission ("Planning Commission") held public hearings to consider the Foresthill Divide Community Plan and to consider certain proposed amendments to the land use diagrams for the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Clipper Gap Community Plan to remove properties from those areas for inclusion within the boundaries of the proposed Foresthill Divide Community Plan, and the Planning Commission has made recommendations to the Board of Supervisors ("Board") related thereto, and

WHEREAS, on October 7, 2008, the Board held a public hearing to consider the recommendations of the Planning Commission and to receive public input regarding the proposed Foresthill Divide Community Plan and the amendment of the land use diagrams for the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Clipper Gap Community Plan, and continued the matter to this date for final action, and

WHEREAS, the Board has reviewed the proposed Foresthill Divide Community Plan and the amendment of the land use diagrams of Placer County General Plan, the Auburn-Bowman Community

Plan and the Weimar-Applegate-Clipper Gap Community Plan, considered the recommendations of the Planning Commission, received and considered the written and oral comments submitted by the public thereon, and has adopted Resolution No. 2008-_____ certifying the Final Environmental Impact Report for the Foresthill Divide Community Plan, and

WHEREAS, the Board finds the proposed amendment of the land use diagrams of the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Clipper Gap Community Plan will serve to protect and enhance the health, safety and general welfare of the residents of the County, and

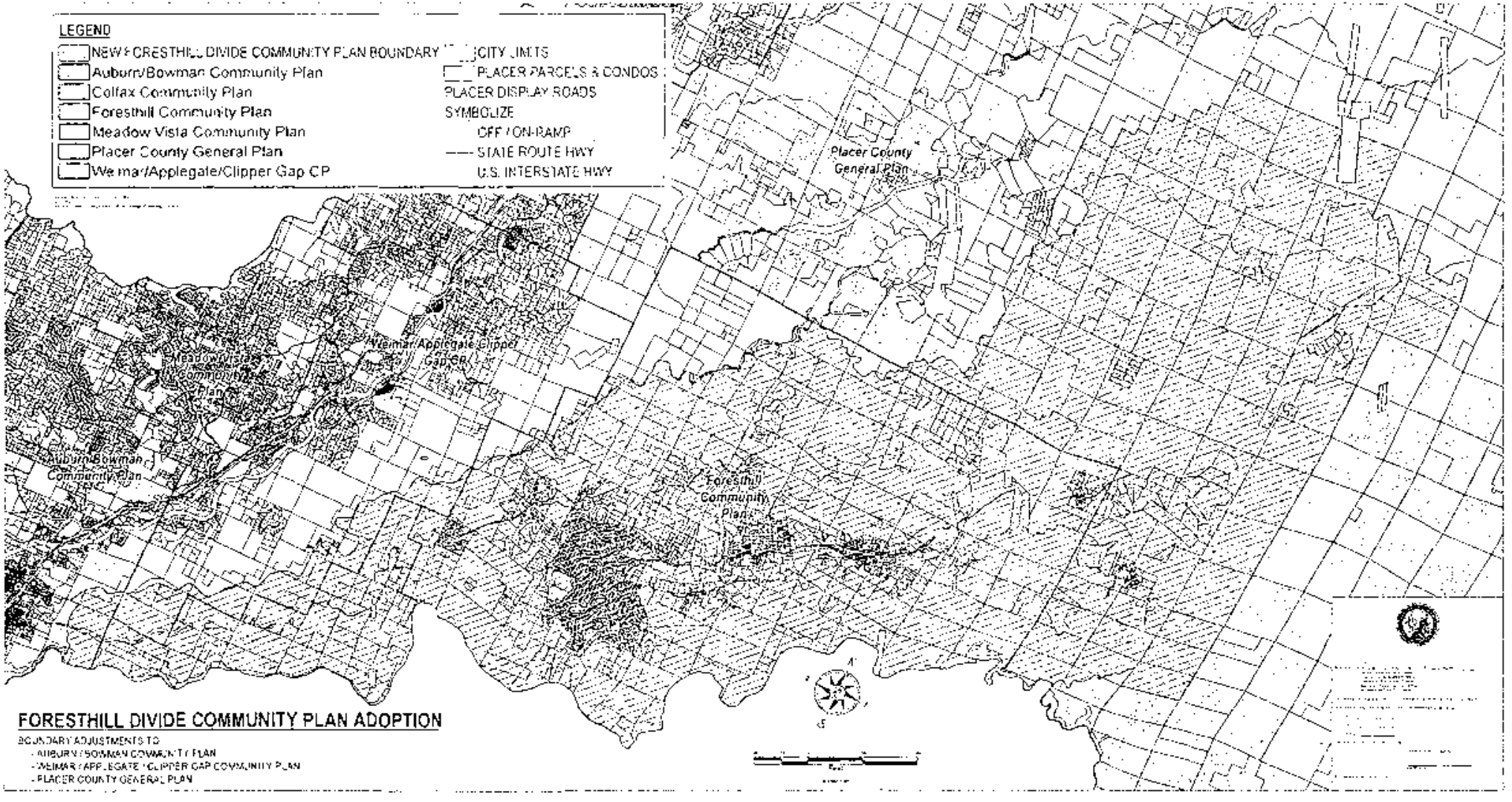
WHEREAS, the Board further finds the proposed amendment is consistent with the provisions of the General Plan and in compliance with applicable requirements of State law, and

WHEREAS, notice of all hearings required has been given and all hearings have been held as required by County ordinance and State law, and

WHEREAS, the Board finds that the foregoing recitals setting forth the actions of the County are true and correct,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER that the land use diagrams as shown and described in Exhibit A, attached hereto and incorporated herein by reference, to delete territory from the land use diagrams for the Placer County General Plan, the Auburn-Bowman Community Plan and the Weimar-Applegate-Clipper Gap Community Plan for inclusion within the Foresthill Divide Community Plan, and to add territory to the land use diagram for the Placer County General Plan, as shown thereon are hereby approved.

BE IT FURTHER RESOLVED, that this Resolution shall take force and become effective upon adoption of Resolution 2008-___ approving the Foresthill Divide Community Plan.



FORESTHILL DIVIDE COMMUNITY PLAN ADOPTION

BOUNDARY ADJUSTMENTS TO
- AUBURN / BOWMAN COMMUNITY PLAN
- WEIMAR / APPLEGATE / CLIPPER GAP COMMUNITY PLAN
- PLACER COUNTY GENERAL PLAN

EXHIBIT A

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Before the Board of Supervisors
County of Placer, State of California

In the matter of: AN ORDINANCE REZONING PROPERTIES WITHIN THE FORESTHILL DIVIDE COMMUNTY PLAN

Ordinance No. _____

The following ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on December 9, 2008, by the following vote:

Ayes:

Noes:

Absent:

Signed by me after its passage.

_____
Jim Holmes, Chairman

Attest:

_____
Ann Holman
Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER HEREBY FINDS THE FOLLOWING RECITALS ARE TRUE AND CORRECT:

1. On August 12 and 28, 2008, the Placer County Planning Commission ("Planning Commission") held public hearings to consider the Foresthill Divide Community Plan and other land use approvals related to the Plan, including the rezoning of the property within the proposed Community Plan boundaries to conform the zoning to the proposed new land use designations in the Community Plan, and the Planning Commission has made recommendations to the Board related thereto.

2. On October 7, 2008, the Board held a noticed public hearing to consider the recommendations of the Planning Commission and to receive public input regarding the proposed rezoning, among other issues pertaining to the Foresthill Divide Community Plan.

3. The Board has considered the recommendations of the Planning Commission, reviewed the Regional Foresthill Divide Community Plan and the proposed rezoning, has received and considered the written and oral comments submitted by the public thereon, and has adopted Resolution No. 2008-____ certifying the Final Environmental Impact Report for the Foresthill Divide Community Plan and related entitlements.

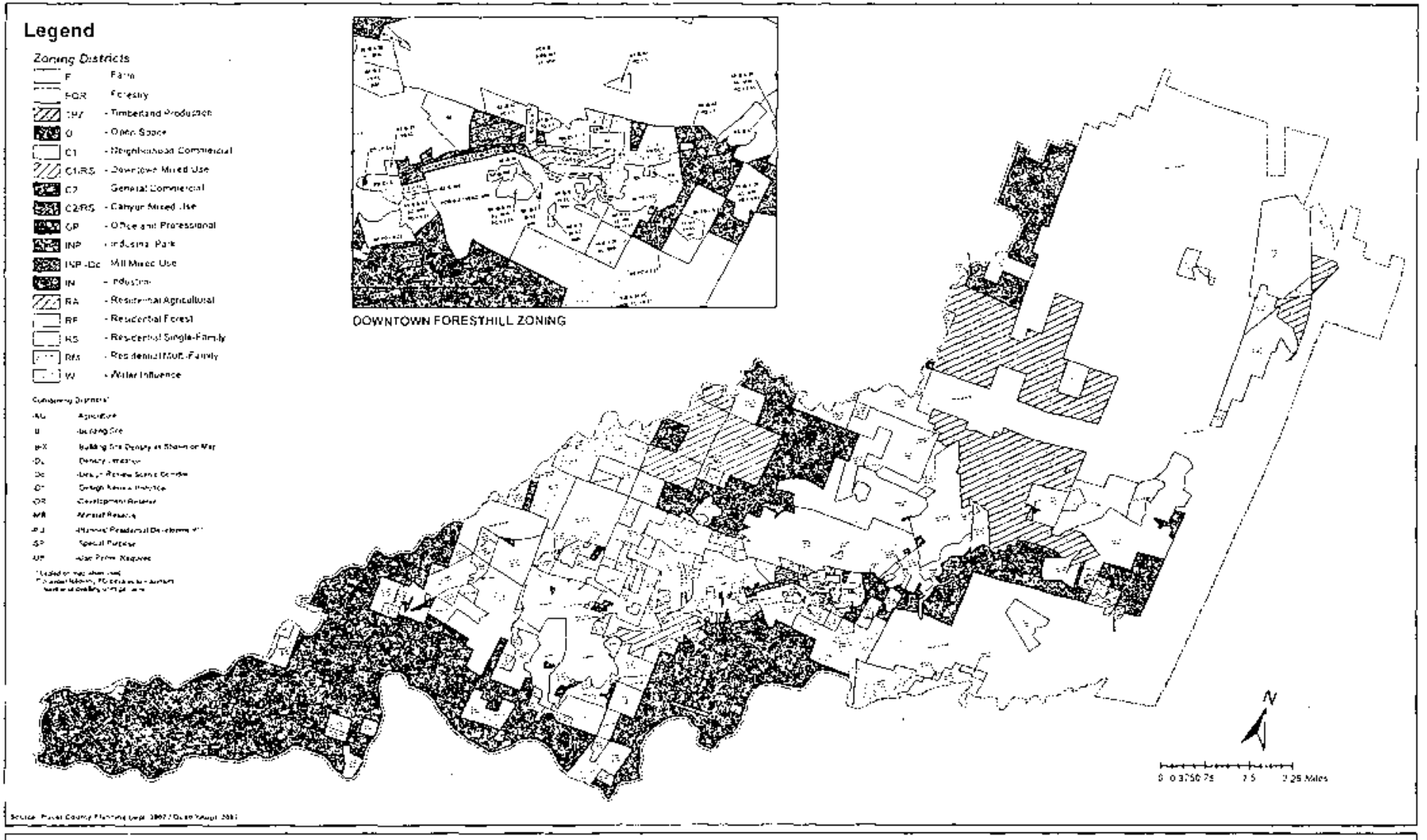
4. The Board has determined that the proposed rezoning is consistent with the General Plan and the Foresthill Divide Community Plan, and is in the best interests of the County by facilitating logical and efficient land use within the Foresthill Divide Community Plan.

5. Notice of all hearings required by statute and ordinance has been given and all hearings have been held as required by statute and ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER:

Section 1: Pursuant to Section 17.06.020 of the Placer County Zoning Ordinance, the Foresthill Divide Community Plan Zoning Map, attached hereto as Exhibit A and incorporated herein by reference, is hereby adopted and shall constitute the zoning map for all property within the boundaries of the Foresthill Divide Community Plan.

Section 2: This ordinance shall take effect and be in full force and effect upon thirty (30) days after its passage. The Clerk is directed to publish a summary of the ordinance within fifteen (15) days in accordance with Government Code Section 25124.



Quad Knopf

FORESTHILL DIVIDE COMMUNITY PLAN
PROPOSED ZONING DISTRICTS

Figure III-2

EXHIBIT A

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COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson
Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Director
Planning Department, Community Development Resource Agency

DATE: October 7, 2008

SUBJECT: **Foresthill Divide Community Plan (GPA-341/Implementing Zoning REA-909) and Environmental Impact Report (SCH No. 2001092094)**

ACTION REQUESTED

The Board of Supervisors is being asked to consider a County-initiated update of the 1981 Foresthill General Plan (now to be known as the Foresthill Divide Community Plan). The proposed project consists of the adoption and implementation of the Foresthill Divide Community Plan, which includes the following components

- Community Development Element, including Population and Housing, Land Use, Community Design, Public Facilities, and Parks and Recreation
- Resource Management Element, including Natural Resources/Conservation/Open Space, Cultural Resources, and Air Quality
- Forest Ranch Development Standards
- Transportation and Circulation Element
- Land Use Diagram
- Zoning Map

SUMMARY

The Foresthill Divide Community Plan includes a land use and circulation plan for the Plan area. The proposed project also includes rezoning of properties within the Plan area as necessary and required to achieve consistency with the proposed Foresthill Divide Community Plan land use designations as recommended by the Planning Commission in November 2005

The Foresthill Divide Community Plan is intended to supersede the 1981 Foresthill General Plan in order to provide an opportunity to comprehensively address issues facing the community and to responsibly and proactively plan for the next 20 years.

CEQA COMPLIANCE

A program-level Final Environmental Impact Report (FEIR) has been prepared for this project and is recommended for certification by the Board of Supervisors as the appropriate environmental document

BACKGROUND

Community Plan Projections and Holding Capacity

The proposed Foresthill Divide Community Plan area encompasses approximately 109 square miles. The time horizon for the community plan is to the year 2030. Should the community grow at a fixed rate of two percent over the next 20 years, population projections indicate that the population at 2030 would be approximately 9,620 persons. This is the population that is anticipated for the Foresthill Community Plan area and provides a foundation for the environmental impact analysis in the Environmental Impact Report (EIR). This population represents 44 percent of the projected residential buildout for the plan area if the two percent growth rate is sustained to 2030.

Based on the proposed land use designations, further refined by the proposed zoning, the buildout or holding capacity for the Community Plan is 22,010 persons for the 109 square mile area, and its maximum number of dwelling units is 8,856. The Plan does not identify a projected buildout date. It is generally assumed that there is over 100 years of growth potential for both residential and non-residential land uses in the Plan Area (based upon an estimated annual growth rate of 2.0 percent).

Chronology

In November 2005, the Planning Commission held the eighth public hearing on the proposed 2003 Foresthill Divide Community Plan and 2003 Draft Environmental Impact Report. At that meeting the Planning Commission took action on a number of land owner requests which resulted in an increase the holding capacity of the Community Plan. The Planning Commission also directed staff to conduct further environmental analysis on the Community Plan and increased density. In addition, the Planning Commission directed staff to analyze impacts associated with an option for the Forest Ranch property that included a potential density of 2,213 dwelling units. As the Forest Ranch Specific Plan Area was not analyzed in the 2003 Draft Environmental Impact Report, comprehensive analysis was completed in the County's community plan EIR.

Since the November 2005 hearing, staff has been working on the preparation of the November 2007 Revised Draft and July 2008 Final Environmental Impact Report (DEIR/FEIR) and the Revised Foresthill Divide Community Plan. The Revised Community Plan, land use diagram and zoning reflects the direction of the Planning Commission given in November 2005.

On February 28, 2008, the Planning Commission held a public hearing to receive oral public comment on the November 2007 Revised DEIR for the Community Plan. After hearing public testimony regarding the DEIR, the Planning Commission directed staff to respond to all written and oral comments in the Final EIR for the Community Plan. Public comments were also received at the February 4, 2008 Foresthill Forum meeting. A total of 56 written comments were received on the DEIR. All comments have been addressed and responded to in the FEIR, which was released to the public on July 30, 2008.

On August 4, 2008, County staff presented the July 2008 Revised Foresthill Divide Community Plan to the Foresthill Forum for the Forum's consideration. Because of the volume of information presented, the Forum was not prepared to make a formal recommendation on the Community Plan. Consequently, the Forum scheduled a second meeting on August 18, 2008 to provide further comments on the Community Plan.

On August 12, 2008, the Planning Commission held its tenth public hearing on the Foresthill Divide Community Plan. At that meeting, staff provided a report on the background of the Foresthill Divided Community Plan process and the Revised Foresthill Divide Community Plan and EIR. After receiving public testimony, the Commission expressed concern over a number of issues regarding the Community Plan and took action to continue the hearing to August 28, 2008. Some issues raised at the hearing included fire hazards and public safety in the Community Plan area, including the Canyon Mixed-Use area, a rezoning request for the Foresthill High School site, alternative emergency access roads, and a considerable amount of testimony on the Forest Ranch project. The Planning

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Commission took action to continue the hearing to August 28, 2008 in order to. 1) allow the Foresthill Forum to make a recommendation on the Community Plan prior to the completion of the Planning Commission's deliberations on the Community Plan; and 2) to provide an alternate policy option for the Forest Ranch Specific Plan Area (Appendix E in the Community Plan), such as identifying the site as a "Future Study Area" within the Community Plan.

On August 18, 2008 the Foresthill Forum held a second public meeting to further deliberate on the Revised Community Plan. At the meeting, the Forum worked with staff on the Community Plan policy document to incorporate minor edits within the Plan. In addition, the Forum made a number of motions including:

1. Unanimous vote (6-0) to oppose the Placer Unified School District's request for a rezoning of the 70-acre Foresthill High School property. The Forum's opposition was with regard to the future residential density and development of the site. The Forum noted that they preferred the site to be maintained as it is (undeveloped) and that if the site were rezoned to allow for one-acre minimum lot sizes and residential uses, the School District could sell the property resulting in a development of up to 70 residential lots. The Forum noted that the Community Plan as proposed already allows for similar residential densities within the surrounding area (Mixed-Use areas), and that they do not want to see additional residential densities on this industrially zoned site.
2. Unanimous vote (6-0) to request that the Planning Commission review the density and fire safe standards in the Canyon Mixed-Use Area. The Forum expressed a desire of the Planning Commission to further address the density of the area and to ensure that fire safe standards are applied to future development within the area.
3. Support for the Forest Ranch Specific Plan Area, Appendix E for the Community Plan (4-2; Roy West and Gail McCafferty opposed). The Forum's opposing members had concern with the high density associated with Appendix E. This support was for the 2,213 unit project.
4. Support for the July 2008 Revised Foresthill Divide Community Plan, with the incorporation of the edits discussed with staff at the August 18, 2008 Forum meeting and with their support for the Forest Ranch Specific Plan.

On August 28, 2008, the Planning Commission held its eleventh public hearing on the Foresthill Divide Community Plan. At that hearing, staff provided a report on the issues discussed at the August 12, 2008 hearing and the Planning Commission received additional public testimony on the Community Plan. After the close of the public hearing, the Commission took the following actions:

1. Directed staff to incorporate changes to the Community Plan prior to the Board of Supervisor's consideration, including edits received from the Foresthill Fire Protection District, the Foresthill Public Utility District, the Foresthill Forum, and other minor revisions as discussed by staff at the hearing.

2. Voted unanimously to recommend to the Board of Supervisors the denial of a rezoning request from the Placer Unified School District to rezone the Foresthill High School site from IN-DC (Industrial Combining a Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining a one acre minimum lot size, with a Planned Development of one unit per acre). The vote was based on the Commission's desire to maintain the existing zoning so as to not help to facilitate additional residential development within the area.

3. Voted to direct staff to designate the Forest Ranch properties as a Future Study Area within the Community Plan (4-1; Mike Stafford opposed, Harry Crabb and Larry Sevinson absent). The Commission directed staff to remove the Forest Ranch Specific Area standards - Appendix E from the Community Plan (i.e., the standards for the 2,213 dwelling unit project), and replace Appendix E with modified language that recognizes the Forest Ranch property as a Future Study Area. The modified language identifies general standards for the consideration

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of a future Community Plan Amendment to the Foresthill Divide Community Plan for development within the area The opposing Commissioner's basis for opposition was with regard to wanting to designate specific land use and densities within the Forest Ranch properties in order to provide the Community with a more firm understanding of future development that could occur within the area through the review of a specific plan.

4. Voted to recommend to the Board of Supervisors the adoption of the Foresthill Divide Community Plan and Implementing Zoning, and approval of the General Plan Amendments for the modification to the Land Use Diagrams for the Auburn-Bowman Community Plan, the Weimar-Applegate-Clipper Gap General Plan, and the Placer County General Plan (4-1; Mike Stafford opposed, Harry Crabb and Larry Sevinson absent). The opposing Commissioner did not state a reason for his opposition to the Community Plan.

DISCUSSION OF ISSUES

Environmental Issues

An Environmental Impact Report (EIR) has been prepared for the project, which evaluated the environmental impacts associated with the implementation of the Foresthill Divide Community Plan. The analysis in the EIR concluded that the project would result in impacts related to population and housing, land use, aesthetics, public facilities, parks and recreation, natural resources and open space, cultural resources, air quality, transportation and circulation, and noise. The following is a summary of the cumulative and significant unavoidable environmental effects evaluated in the EIR:

Cumulative Environmental Impacts

The EIR analyzes cumulative impacts associated with the potential increased densities of the Forest Ranch Specific Plan area, as well as the Community Plan itself. Cumulative impacts that are significant and cannot be avoided were indentified for the Community Plan and for the Forest Ranch Specific Plan area.

Cumulative significant unavoidable impacts for the Forest Ranch Specific Plan area and the Community Plan itself include impacts to Natural Resources/Conservation/Open Space, Aesthetics, Land Use, and Air Quality These impacts cannot be mitigated through the implementation of the Community Plan goals, policies and programs.

Impacts associated with the irreversible conversion of timberland and the fragmentation and loss of wildlife movement corridors are considered as significant, unavoidable and cumulative impacts. The EIR also concluded that implementation of the Community Plan will result in the cumulative increase in night lighting and glare as development proceeds over time

The most relevant land use impact associated with the implementation of the Foresthill Divide Community Plan is the cumulative loss of open space through development activities that permanently convert open space or result in its fragmentation In addition, it is not possible to reduce air quality impacts associated with development within the Foresthill Divide particularly when impacts are considered in a regional context and as a contribution to cumulative impacts. In particular, new stationary and mobile sources will result in significant and cumulative unavoidable impacts that cannot be fully mitigated through the implementation of the Foresthill Divide Community Plan

Significant Unavoidable Environmental Impacts

As directed by the Planning Commission in November 2005, the 2007 Revised EIR analyzes environmental impacts associated with the potential increased densities (net increase of 1,700 units of age-restricted housing) of the Forest Ranch Specific Plan area, as well as the Community Plan project itself. The 2007 Revised EIR identifies significant unavoidable environmental impacts for the Forest Ranch Specific Plan area, as well as the Community Plan project

Significant unavoidable impacts identified for the Forest Ranch Specific Plan area and the Community Plan project include impacts to the following: Population and Housing, Aesthetics, Public Facilities, Natural Resources/Conservation/Open Space, and Transportation and Circulation. These impacts are described below:

Population and Housing:
The EIR evaluated the impacts associated with the jobs/housing balance that would result from the community's growth through the year horizon year of 2030. This balance is an objective that promotes development that locates housing and employment opportunities in reasonable proximity to each other. While the Community Plan has incorporated Mixed-Use areas to encourage residential and job-generating uses to be created within proximity to each other, the number or new jobs created is expected to fall short of the number of new job seekers residing in the area, thereby exacerbating the jobs/housing imbalance that currently exists within the Plan area. Because of this, this impact is considered significant and unavoidable.

Aesthetics:
The EIR concludes that implementation of the Community Plan will result in alteration of views throughout the Community Plan area. The goals, policies and programs contained within the Foresthill Divide Community Plan will reduce these impacts to a less than significant level except in the area of impacts to scenic highways where such impacts are considered significant and unavoidable. Another significant impact that cannot be fully mitigated is the cumulative increase in night lighting and glare as development proceeds over time.

Public Facilities:
The EIR concludes that the ability to provide adequate fire protection services and facilities could result in significant impacts, largely because such facilities and services are not directly provided by Placer County. This is of particular concern given the wildland fire/rural residential interface throughout the Foresthill Divide. Therefore, this impact is considered significant and unavoidable.

Natural Resources/Conservation/Open Space:
The EIR evaluated the impacts associated with the wildlife movement corridors within the Plan area. The EIR concluded that a majority of the habitats that exist within the Plan area today are relatively undisturbed and provide a means for wildlife movement throughout the Plan area. Because further development within the community plan boundary will fragment the habitat and may result in obstructing this movement corridor. Therefore, this impact is considered significant and unavoidable.

Transportation and Circulation:
The EIR identifies a number of potentially significant impacts associated with traffic and circulation that cannot be fully mitigated through the implementation of the Community Plan.

Impacts associated with increased traffic by the year 2030 resulting from increased development throughout the Community Plan area are considered potentially significant and cannot be avoided. Specifically, the DEIR concludes that increased traffic along portions of Foresthill Road cannot be mitigated to a less than significant level. In addition, impacts associated with the potential decrease of level of service at key intersections resulting from increased traffic by the year 2030 throughout the Community Plan area are significant and cannot be avoided. Such intersections occur along Foresthill Road, including the I-80/Auburn Ravine Road/Foresthill Road intersection.

In order for the EIR to be certified, it will be necessary for the Board of Supervisors to make a finding of overriding consideration for each of the significant and unavoidable impacts identified above. Staff is prepared to present the Board with these findings for its consideration once the Board concludes its deliberations.

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Response to Comments Received on the DEIR

The Planning Department received 56 written comments on the Revised DEIR for the Foresthill Divide Community Plan. In addition, oral comments were received at a February 4, 2008 Foresthill Forum meeting and a February 28, 2008 Planning Commission hearing. Written comments were received from various agencies, as well as individual property owners within the Plan area. All comments have been addressed and responded to in the FEIR.

Some written comments requested changes in zoning, which have not been previously recognized by the Planning Commission. The Planning Commission did not provide additional direction to modify the land use or zoning diagram and consequently no additional changes have been made. Incorporation of the zone changes would result in additional density within the Plan area and consequently resulting in the need for further environmental analysis of these new impacts.

Response to Comments Received on the FEIR

Since the release of the FEIR for the Foresthill Divide Community Plan, the Planning Department has received five written comments on the FEIR, which are included in the correspondence received in Exhibit G. All FEIR comments have been addressed and responded to in Exhibit H of this report.

Build-out

Based on the maximum density of the assigned land use designations (including the build-out of commercial as multi-family residential), the Foresthill Divide Community Plan's population build-out population could theoretically, be as high as 62,948 persons, and its maximum number of dwelling units could be 25,296. It is important to note that this theoretical amount of growth cannot be realized during the time horizon of the Foresthill Divide Community Plan, or even within the distant future, because of the lack of suitable wastewater treatment facilities and treated domestic water. Furthermore, market conditions would preclude the conversion of all commercially-designated property to 20+ dwelling units per acre of multi-family residential (where the majority of the theoretical holding capacity can be found). Such a build-out population also assumes 100 percent of the maximum density of each land use district, when in an area like Foresthill such densities cannot be achieved because of infrastructure constraints and environmental constraints (e.g., slope, and on-site septic capabilities). Lastly, the implementing zoning reduces this holding capacity by two-thirds and, consequently, no such densities could be achieved under the proposed zoning. Because of such constraints, the DEIR did not evaluate the theoretical holding capacity of 62,948 persons. Instead, the DEIR focused on predictable impacts between now and 2030, and build-out based upon the recommended zoning within the Community Plan.

Fire Hazard and Protection

At the August 12, 2008 Planning Commission meeting, issues were raised regarding the need for additional discussion in the Community Plan relating to fire hazard and protection within the Plan area. Risk of wildland fire is a serious risk in the Community Plan area, given the surrounding forested areas, the steep slopes, windy areas, accumulated fuel loads, and a hot, dry summer climate. Because of this, and after receiving testimony regarding fire hazard on the Foresthill Divide, the Planning Commission directed staff to work with the Foresthill Fire Protection District to further address the issue of the wildland fire/residential interface that exists within the Foresthill community. Accordingly, staff has met with the Fire District and has incorporated further analysis and policy standards in the Community Plan regarding fire protection.

Modification of Foresthill High School Site Zoning

The Planning Department received a request from the Placer Unified School District for a zoning change request for the Foresthill High School site in the Community Plan area (Assessor Parcel Numbers 007-030-027, 007-045-084, 007-045-083, and 007-030-028). The District is requesting a zone change from IN-DC (Industrial Combining a Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining a one acre minimum lot size, with a Planned

Development of one unit per acre). The reason for the District's request is to provide land use flexibility for the High School site, the potential to providing housing to teachers and staff, and to provide a land use district that is more compatible with the operations of the high school site.

At the August 12, 2008 Planning Commission hearing, public testimony was received regarding the Community's expectation of the future land uses for the subject properties. Members of the Community expressed a desire to maintain the existing industrial zoning and for the property to remain undeveloped and used for educational forestry purposes.

At the August 28, 2008 Planning Commission hearing, the Foresthill Elementary School District and the Placer Unified High School District provided testimony regarding the rezoning request, noting that request was initiated from both District Boards. After hearing testimony regarding the rezone request, the Planning Commission took action to recommend to the Board of Supervisors denial of the High School site rezoning request. The Commission expressed concern regarding supporting a rezoning request that would help to facilitate future residential development of the site.

Forest Ranch Specific Plan Area

The Forest Ranch Specific Plan Area plan area consists of approximately 2,615 acres lying north and east of, and adjacent to, historic downtown Foresthill. The area is generally bounded by Devil's Canyon, Yankee Jim's Road and the Foresthill town site on the south, by Foresthill Road and Blackhawk Road on the east, by the Blackhawk Subdivision and Bureau of Land Management property on the north and by Smith's Point on the west.

Under the current (as well as proposed) zoning for the Community Plan, approximately 1,500 acres of the Forest Ranch property could develop to an ultimate buildout of 533 dwelling units. This density has been previously considered and recognized by the Planning Commission and is reflective of the zoning present on the property today. The 1,500 acres is designated as a Forest Residential Development Reserve in the Community Plan Land Use Diagram, and therefore, pursuant to Sections 17.58.200 [Specific Plans] and 17.52.080 [Development Reserve] of the Zoning Ordinance, the development of this property for 533 units would require the approval of a Specific Plan (See Appendix B in the Community Plan for the draft Specific Plan standards).

The property owners of the Forest Ranch property have proposed an alternate development concept as an option for incorporation into the Foresthill Divide Community Plan. As directed by the Planning Commission in November 2005, this proposal was analyzed in the DEIR for the Foresthill Divide Community Plan, and referred to as the Forest Ranch Specific Plan Area. This proposal would have allowed for 2,213 residential units (including the existing density of 533 units), of which approximately 1,700 would be age-restricted residences. The plan would include an 18-hole golf course, an equestrian center, a 100-unit recreational vehicle park, office and professional uses, and 1,128 acres of open space, although there is no mandate for the construction of the golf course or equestrian center. A maximum of 70,000 square feet of retail floor area and 60,000 square feet office/professional floor area is also proposed.

At the August 12, 2008 Planning Commission hearing, staff discussed its recommendation to not include the Forest Ranch option for 2,213 units, and to instead retain the existing zoned holding capacity of 533 units. Staff also discussed the impacts identified in the EIR for the Forest Ranch Specific Plan. Staff's concerns were based upon a number of issues including the feasibility of the project given a lack of support infrastructure for the proposed density, particularly in the areas of treated domestic water and treated sewage disposal. Staff also had concerns about compatibility with the existing Foresthill community, wildland fire/urban interface, and an oversupply of the housing stock.

After hearing staff's report and recommendation regarding the Forest Ranch Specific Plan Area, the Planning Commission received public testimony regarding the potential incorporation of the Forest

Ranch Specific Plan Area within the Community Plan. The testimony was divided on this issue, with some residents in favor of incorporation of the additional densities and others opposed. In general, those in support of the project favor a development proposal that creates the opportunity to serve as an economic engine for revitalization of the historic downtown area of the Community Plan. Opponents were concerned about the scope and scale of the project. Staff expressed concerns about the lack of treated wastewater capacity, water supply, significant change in the community character and the oversupply of housing.

At the hearing, the Planning Commission expressed concerns regarding whether the increased densities associated with the Forest Ranch Specific Plan Area would adversely impact the commercial viability of the existing downtown area. At the same time, the Commission saw value in providing a mechanism to allow for the future study of the Forest Ranch project area. In response to the direction desired by the Planning Commission for the Forest Ranch area, staff prepared general standards for a Future Study Area for the entire Forest Ranch property area, which could be included in the Community Plan as a replacement for the Specific Plan standards that accompanied the allocation of density for the 2,213 dwelling unit project.

At the August 28, 2008 Planning Commission hearing, the Commission expressed concern regarding the expansive nature of the standards that staff had developed for the Future Study Area. After further deliberation, the Commission adopted a motion (4-1) to incorporate the Future Study Area (Modified Appendix E) into the Community Plan, as revised by the Planning Commission (see Exhibit F). As recommended by the Planning Commission, the Modified Appendix E (General standards for consideration of future amendments to the Foresthill Divide Community Plan) requires that a single Specific Plan be prepared for the entire Forest Ranch area, and that the Specific Plan address the most appropriate arrangement and mixture of land uses, circulation system layout, extent of infrastructure and public services, and the institutional framework necessary to accommodate development.

In recommending the Modified Appendix E, it was the determination of the Planning Commission that it was inappropriate to assign a specific density to this property (i.e., the 2,213 units proposed by the property owner) without the benefit of a site-specific plan and site-specific details as to what was actually being proposed by the property owner. Instead, similar to the Curry Creek Future Study Area, the Planning Commission concluded the Forest Ranch property was in fact an appropriate location for future growth in the Foresthill area, and that the preparation of a Specific Plan would allow the property owner and the County to work collaboratively on a development plan for the Future Study Area.

Land Use Diagram Boundary Changes and Plan Area Amendments

The Community Plan boundaries were expanded from approximately 56 square miles in the 1981 Foresthill General Plan, to approximately 109 square miles in the updated Foresthill Divide Community Plan. As a result, the expansion of the new Plan boundaries overlaps with areas of other Community Plans and the Placer County General Plan Land Use Diagram (see Attachment F). In addition, there are small portions of the 1981 Foresthill General Plan boundaries that are no longer in the updated Community Plan boundaries and will become a part of the Placer County General Plan Land Use Diagram boundary. Therefore, the adoption of the Foresthill Divide Community Plan results in modifications to, and General Plan Amendments to, the Land Use Diagrams for the Auburn – Bowman Community Plan, the Weimar – Applegate – Colfax Community Plan and the Placer County General Plan. Staff is recommending that the Board of Supervisors consider these General Plan Amendments as part of the adoption of the Community Plan. The land use designation and zoning would not change. Only the boundaries would be modified.

RECOMMENDATION

Staff is presenting the Planning Commission's recommendations that the Board of Supervisors take the following actions.

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1. Deny the rezoning request from the Placer Unified School District to rezone the Foresthill High School site from IN-DC (Industrial Combining a Design Corridor) to RF and RF-B-43 PD 1 (Residential Forest and Residential Forest Combining a one acre minimum lot size, with a Planned Development of one unit per acre). See Exhibit E.

2. Designate the Forest Ranch properties as a Future Study Area within the Community Plan and maintain the incorporation of general policy standards for the Forest Ranch Future Study Area within Appendix E in the Community Plan. See Exhibit F.

3. Adopt a motion of intent to adopt the Foresthill Divide Community Plan and Implementing Zoning, and intent for approval of the General Plan Amendments for the modification to the Land Use Diagrams for the Auburn-Bowman Community Plan, the Weimar-Applegate-Colfax Community Plan, and the Placer County General Plan.

4. Direct staff to return before the Board of Supervisors with the necessary findings for the adoption of the Foresthill Divide Community Plan, the certification of the Final Environmental Impact Report, and approval of associated General Plan Amendments related to the Community Plan Update.

Respectfully submitted,

Loren E. Clark for M.J.

MICHAEL J. JOHNSON, AICP
Planning Director

ATTACHMENTS:
Exhibit A – Plan Vicinity Map
Exhibit B – Community Plan Land Use Diagram
Exhibit C – Proposed Zoning Map
Exhibit D – General Plan Amendment Land Use Diagram Exhibits
Exhibit E – Foresthill High School Zoning Exhibit
Exhibit F – Forest Ranch Future Study Area, Appendix E
Exhibit G – Correspondence Received
Exhibit H – Response to Comments on FEIR
(The following documents have been provided to the Board of Supervisors under separate cover and are available for review at the Clerk of the Boards Office:
Revised Foresthill Divide Community Plan, Final Environmental Impact Report, Draft Environmental Impact Report and Draft Appendices). The Revised Foresthill Community Plan can be viewed on the Placer County website at: http://www.placer.ca.gov/Departments/Community Development/Planning/Documents/CommPlans/FDCP/RevisedPolicyDoc.aspx

Copies Sent by Planning:
Rick Bell – Engineering and Surveying Division
Leslie Lindbo – Environmental Health Services
Yu-Shun Chang – Air Pollution Control District
Vance Kimbrell – Parks Department
Karin Schwab – County Counsel
Scott Finley – County Counsel
Tom Miller – County Executive Officer
John Marin – CDRA Director
Crystal Jacobsen – Supervising Planner
Draft EIR Commentors and Interested Parties
Subject/chrono files

224

Foresthill Divide Community Plan (GPA-341/Implementing Zoning REA-909) and Environmental Impact Report (SCH No. 2001092094)

CORRESPONDENCE

RECEIVED BY
Clerk of the Board

AS OF 12/3/08

230

DATE 10/20/08
☐ Board of Supervisors
☐ County Executive Office
☐ County Counsel
☐ Mike Boyls
☐ Planning 30 82

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BOARD OF SUPERVISORS
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Sup D2 ___ Sup D5 ___ Aide D2 ___ Aide D5 ___
Sup D3 ___ Aide D3 ___

November 19, 2008

Placer County Board of Supervisors
Jim Holmes, Chairman

SUBJECT: Foresthill Divide Community Plan 2008

The FDCP is currently being scheduled for the December 9th Board meeting. Considering how long it took to get this Plan done, one can conclude the guidelines established here will stand for a long time. I request your help in establishing a solid and fair basis for the future transportation needs for the Foresthill Divide by considering these adjustments to the FDCP Transportation Element before it is "set in stone":

1. Establish a Level of Service of "C" for Foresthill Road.

2. Extend Foresthill Road Transportation Plan Element area through the Foresthill community to Bath Road.

3 Modify the mitigation fee for the I-80 Foresthill Road/Auburn Ravine Interchange future improvement to apply to Foresthill Divide developments of over 100 units

These issues have been brought up at previous hearings. However, the Forest Ranch issue overshadowed most matters.

Foresthill road is the only quality all weather surfaced transportation route to and from the Divide To set the Level of Service at "D "is unacceptable In the event of an emergency such as another major fire, response teams may not be able to reach Foresthill in an acceptable time because of "congestion" on Foresthill Road. "Congestion" is the "PLANNED" Level of Service.

1 1 I was advised by Public Works staff a level "C" would require a higher mitigation fee. Therefore the option selected was LOS "D" for Foresthill Road. In the future when conditions become congested there would be no funds to remedy the road problem. It is more responsible to pay as you go. Establish a reasonable mitigation fee now. Then as development occurs, money for future road improvements would be available when needed.

2.1 The FDCP shows Foresthill Road Plan Element stopping at Mosquito Ridge Road which is across from the Post Office. This omits the library, Sheriff's office, numerous businesses, the elementary school and Cal Fire. Extending the plan area to Bath Road would also include the eastern approach to the Foresthill community in the Placer County's Transportation Planning Element.

3.1 I-80 interchange is inadequate. It does need improving. When it is improved, that will be a major project. The commercial development in the I-80 interchange area was guided by the Placer County Planning Dept. Now the area has serious congestion. It is unfair to saddle all future Foresthill Divide development (twenty miles distant) with a mitigation fee for future Interchange improvement. Foresthill residents had little or no say on the present development. The responsibility for funding should be Placer County and Caltrans, not the residents of the Divide. A future major development on the Divide could have measurable impact on interchange capacity. For the divide's fair share, I suggest using a 100 unit development as the starting point for a future mitigation fee.

Placer County has an obligation to Foresthill for transportation to and from the Divide. There are many reasons such as: the safety of the citizens in the event of an emergency; for a safe driving experience for commute traffic; shoppers in the greater Auburn area; commerce; recreationists visiting the west slopes of the Sierra Nevada's; and for all residents current and future

Respectfully,

Duane Frink

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NOV 20 2008
CLERK OF THE
BOARD OF SUPERVISORS

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Foresthill Residents for respOnsible Growth, Inc.
P. O. Box 568, Foresthill, CA 95631
(530) 367-4803

December 2, 2008

RECEIVED
BOARD OF SUPERVISORS
DEC - 3 2008

Supervisor Jim Holmes
Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, CA 95603

Dear Supervisor Holmes,

We asked our attorneys, Shute, Mihaly & Weinberger, LLP, to review the Revised Foresthill Divide Community Plan Draft Environmental Impact Report (EIR), the Policy Document and the Final EIR. We also asked them to review the public responses that Foresthill Residences for respOnsible Growth, Inc., (FROG) had submitted to the County during the recent amendment process. During a lengthy conversation, we were told that the above Community Plan documents failed to analyze the impact of the full build out (i.e. 62,000) from the Plan's proposed land use designations as required by CEQA, and further clarified by the Martis Valley Community Plan (MVCP) court decision. We are including the Martis Valley Decision dated May 3, 2005, for your review. See attached court decision.

We were also told that those documents lacked adequate global warming and climate change analysis required by CEQA. We are including publications from the California Attorney General's Office, The California Environmental Quality Act Addressing Global Warming Impacts at the Local Agency Level, and CAPCOA's CEQA & Climate Change, Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. These publications discuss at length how to identify appropriate standards of significance for global warming and the mitigation measures needed to reduce global warming impacts.

As a final note, we were also told that the discussion on water supply was inadequate because there was no analysis on water source for future growth, the required infrastructure for delivery, and if no water available, what was the back up plan. The Vineyards court decision requires that these issues be addressed.

We are asking that you:

1. Delay certification of the FEIR and approval of the Community Plan.

DATE 2/3/09
☐ Board of Supervisors - 5
☒ County Executive Office
☒ County Counsel
☒ Mike Boyle
☐ Planning

2. Ask staff to revise the FEIR to address the issues discussed in our letter above and others which will be elaborated in a letter from our attorney to follow Friday or Monday. (Please note that we are not raising any new issues that we have not commented on in the past.)

3. Recirculate the EIR at that point for public review.

4. Revise the Community Plan to incorporate additional mitigation measures which may arise from the EIR revisions. We are particularly concerned that definite policies and perhaps map changes be adopted in the Community Plan as recommended in our DEIR comments which will ensure:

a. That ultimate buildout beyond the 22,000 discussed in the FEIR does not result,
b. That annual buildout rates do not exceed that assumed,
c. That jobs housing balance goals are achieved concurrently as growth proceeds,
d. That global warming impacts are mitigated (which generally have the practical result of reducing vehicle miles travelled and compacting growth), and
e. That growth in a sprawling pattern does not occur before we run out of water.

Sincerely,

Sherry Wicks, Chair
29 Year Foresthill Resident

cc Placer County Planning Department
Placer County Planning Commission
Anthony J. LaBouff, Placer County Counsel
Jennifer Montgomery, Supervisor-Elect District 5
Placer County Grand Jury
Foresthill Forum
Foresthill Public Utility District
Placer Group Sierra Club
Shute, Mihaly & Weinberger LLP
State of California Attorney General

"Every man holds his property subject to the general right of the community to regulate its use to whatever degree the public welfare may require it."

Theodore Roosevelt

FILED
PLACER COUNTY
SUPERIOR COURT OF CALIFORNIA

MAY 03 2005
JOHN MENDES
EXECUTIVE OFFICER & CLERK
By ___ Deputy

SUPERIOR COURT, STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF PLACER

SIERRA WATCH, a nonprofit public benefit Corporation; LEAGUE TO SAVE LAKE TAHOE; MOUNTAIN AREA PRESERVATION FOUNDATION; SIERRA CLUB; and PLANNING & CONSERVATION LEAGUE, a 501(c)(4) nonprofit organization. **Petitioners,** v. **PLACER COUNTY; BOARD OF SUPERVISORS OF PLACER COUNTY, et. al.** **Defendant**	**No. SCV 16652** **DECISION GRANTING WRIT OF MANDAMUS**

I. INTRODUCTION

This Petition for Writ of Mandamus challenges the adoption of the 2003 Martis Valley Community Plan by the Placer County Board of Supervisors. The action is brought by Petitioners Sierra Watch, League to Save Lake Tahoe, Mountain Area Preservation Foundation, the Sierra Club, and the Planning and Conservation League. They are joined by the Town of Truckee, the National Audubon Society, Sierra Nevada Alliance, and Defenders of Wildlife, all of whom were given leave to file briefs as Amicus Curiae. Respondents are the County of

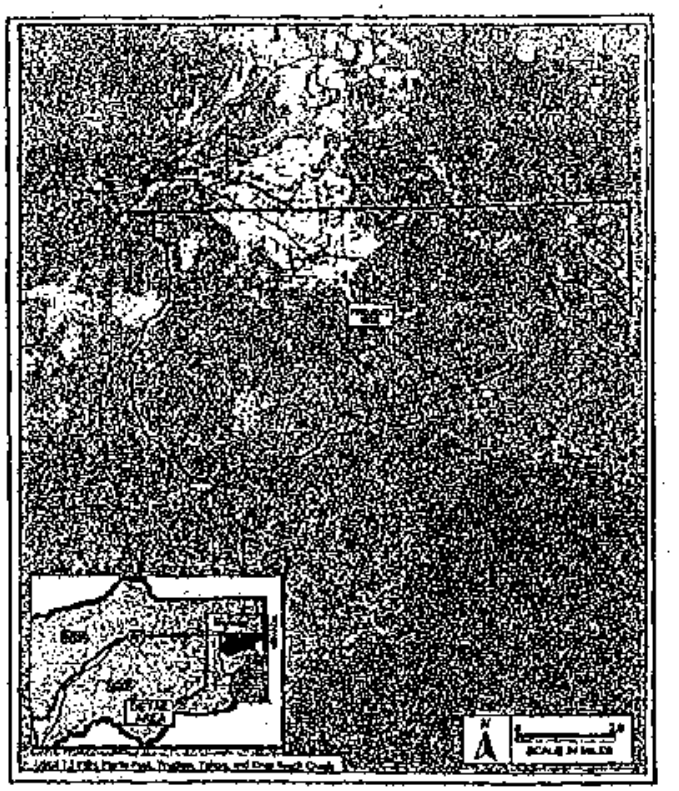
Placer, and interveners East West Partners, Waddle Ranch Investors, Sierra Pacific Industries, DMB/Highlands Group and Martis Valley Associates.

The project under review by this court is the 2003 Martis Valley Community Plan and the related zoning ordinance[1] which implements certain zoning elements of the plan. The 2003 Martis Valley Community Plan[2] replaces the previous Martis Valley General Plan which was adopted in 1975. The MVCP establishes the categories of allowable land uses and sets density standards for each category of land use.

The court's tentative decision was filed in this matter on February 25, 2005. The matter was argued on March 21, 2005 and the matter submitted.

II. DISCUSSION

Martis Valley is an area of approximately 70 square miles situated immediately to the north of the Tahoe Basin. The valley lies in both Placer and Nevada Counties, with approximately 40 square miles situated inside Placer County. The Town of Truckee is situated in the Nevada County portion of the valley, and lies to the immediate north of the Placer-Nevada county line. The valley lies to the east of the Granite



PMC

FIGURE 3.8-1
VICINITY MAP

[1] Ord. No. 5283-B
[2] Hereinafter referred to as the MVCP.

Chief Wilderness area. It is situated south of Interstate 80, east of State Route 89, and is west of the Mount Rose Wilderness area. It is roughly bounded by the Truckee River on the North and West, and the Nevada State Line on the east.[3] The valley is bisected by State Route 267, which is one of the principal routes from the Town of Truckee and Interstate 80 to the North Shore of Lake Tahoe. All parties are in agreement that the valley is an environmentally sensitive region.[4]

After years of study, the Board of Supervisors adopted the MVCP on December 16, 2003. Contemporaneously with the adoption of this Plan, the Board certified the EIR for the project and adopted zoning ordinance No. 5283-B which designated the zoning for the various parcels covered by the plan. The zoning ordinance, along with its attendant maps, set limitations on the number of residential units which would be authorized for each discrete parcel within Martis Valley.

Petitioners contend that the principal fault with the environmental analysis is that the project description was incomplete, inaccurate, and unstable. In this regard the Petitioners assert that by its own terms, the MVCP allows 19,000 residential units[5] within the applicable zoning areas, and up to 5 million square feet of commercial space. The scope of the EIR only evaluates the project based upon residential estimates of approximately 7905 to 9220 residential units and 670,000 to 1,169,586 square feet of commercial space. As a result, the petitioners contend that the entire environmental analysis is flawed because it is based on basic assumptions which are demonstrably false – that the extent of both the potential residential units and commercial building square footage are grossly understated and misleading. Petitioners also assert that the EIR failed to adequately analyze the project impacts to biological resources, traffic conditions, air quality, water and sewer services, affordable housing, and other growth-inducing impacts.

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[3] AR: 8:3185

[4] Opening brief of Petitioners, p1, Responsive brief p2.

[5] The 19,000 figure is exclusive of two properties where residential caps exist: Northstar has a residential cap of 3300, excluding its proposed employee housing, and Martis Ranch, a Sierra Pacific Industries project, which has a cap of 1,320 with an allowance of 160 additional units.

Finally, petitioners assert that the project does not comply with state planning and zoning laws, as it is inconsistent with the Placer County General plan, and is internally inconsistent.

Respondents contend that the MVCP actually reduces the amount of development which was allowable under the 1975 Martis Valley General Plan. They maintain that the residential holding capacity of the area dropped from 12,000 to 8,600 by virtue of the adoption of the MVCP. Respondents contend that the method of calculating the estimated buildout of residential and commercial space was based upon a rational theory, and that as such, the action of the Board in approving the plan must be upheld. Respondents further contend that all of Petitioner's claims depend upon their principal argument that the method of calculating the impacts of total buildout is faulty. Respondents contend that if the Petitioner's main argument fails, all of their arguments must fail.

The court agrees that if the method of environmental analysis adopted by the County is flawed because the extent of the project's potential development was substantially understated, that the project approval did not conform to the law and must be set aside.

A. The project description.

1. Contentions of the Parties.

Petitioners contend that the project description was flawed because it failed to take into account the actual potential for development of the land area covered by the plan. Petitioners arrived at their figures for potential development by multiplying the total acres of land in a particular development category by the density per acre allowable under the appropriate land use designation in Placer County's General Plan. For example, if the plan designated 100 acres as medium density residential, and that land use designation permitted up to 10 units per acre, then petitioners contend that the total units allowable under the project for this area would be a total of 1000 units. Thus calculated, Petitioners contend that the total residential units possible under

the plan consist of gross numbers between 18,569 and 19,373 residential units.[6] Petitioners calculations are included in their "Appendix A" to their brief. That appendix is set forth in full as Attachment 1 to this opinion.

The EIR relied upon a substantially lower figures at probable maximum buildout - between 7,905 to 9,220 residential units. The discrepancy in these numbers depends upon which numbers were used for different portions of the EIR. Petitioners point out in footnote 10 of their brief as follows: "AR 13:006880 (housing analysis utilizes 9,220 units and 1,169,586 square feet of commercial development); 13:006944 (traffic analysis utilizes 9,169 units and 670,000 square feet of commercial development); 10:004819 (air quality analysis utilizes 7,905 units)."

Similarly, Petitioners contend that the project description seriously underestimates the total square footage of commercial building space that is possible under the plan. By using the same method of calculation, Petitioners assert that the MVCP permits between 5,505,984 and 5,627,952 square feet of commercial space. The EIR utilizes a maximum of 1,169,586 square feet as the allowances under the plan.

The lower figures used by the county in their draft EIR are indicated by the following response to comments:

(1) The county applied a reduction factor of 20 percent to the potential for residential development due to the possible loss of land area for roadways, open space, physical land constraints, landscaping, infrastructure and other supporting facilities. The response to comments by the county indicates that the use of a reducing factor of 20 percent "is a common practice by cities and counties in order to estimate actual development potential." The response

[6] Petitioners are unable to more precisely define the total actual numbers for two reasons: (1) the total acreage designation in the plan differs between the numbers in the community plan versus the findings made by the Board on project approval; and (2) there are two residential limits, or caps on construction, on (a) the "Northstar" property [cap set at 3300 residential units] and the "Martis Ranch" property [cap of 1,360 +/- 160 additional units]. Because the total acreage for these properties was not set out, it is impossible to determine the effect of these "caps", and whether they potentially increase or decrease the total number of residential units permissible under the plan.

also indicates that the 20 percent reduction was not applied to existing developed areas, and those areas in which there were proposed developments. The response also points to the use of the 20 percent reduction factor as being "consistent with factors used by the County the Placer County General Plan (referencing the Placer County General Plan Background Report Volume 1, pages 1-34-39)[7].

Petitioners point to further discrepancies in the County's estimates of buildout potential, based upon the County's selective allocation of density factors for the various land use designations. For example, density factors used for Low Density Residential (LDR) utilize a range of 1-5 dwelling units per acre. Medium Density Residential (MDR) utilizes 5-10 dwelling units per acre. Rather than use the highest density factor for calculating the maximum possible total buildout, the county assumed that the LDR would be 3 dwelling units per acre, and that the MDR would be 6 (60 percent of the highest permissible in each case). Thus the density factors used by the county were not at the high or highest end of the allowable density ranges. The justification for using lower density ranges was that "These lower density ranges were used by the County to reflect current and historic densities that these land use designations buildout at (i.e. 3 dwelling units per acre for LDR and 6 dwelling units per acre for MDR).[8]

According to Petitioners, the residential density estimates by the county ultimately reflected less than 50% of that which was possible under the zoning designations as adopted. The County's estimates of commercial square footage resulting from this project amounted to less than 25% of that which Petitioners claim is possible.

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[7] "Holding capacity is normally expressed as the number of people that could theoretically be accommodated in a planning area if all the land were developed to the maximum potential allowed by the land use designations in the general plan. Buildout is the point at which the land in the planning area is being used to the maximum extent allowed by the plan. Recognizing that the buildout of any planning area to its maximum holding capacity will never occur for a variety of reasons (among which are limitations on the capacities of the resources, infrastructure, and public services necessary to support new development, and choices by individual property owners about the desired extent of development on each parcel), holding capacity is usually expressed as some percentage of the theoretical maximum. Based on the County's past experience with development, the general plan study considered the holding capacity at buildout of the general plan to be 80 percent of the theoretical maximum holding capacity."

[8] AR: 11:005106

As noted previously, the 2003 MVCP is an update of the previous 1975 plan. The 1975 plan allowed the construction of approximately 12,000 residential units. The 1975 plan designated 15,360 acres as the total holding capacity of the plan. By comparison, the MVCP increased the number of acres for holding capacity to 20,467.[9]

The County estimates that the total holding capacity of the MVCP is 8,600 dwelling units. This number is not actually contained in the MVCP, but is based upon the numbers as set by the zoning ordinance. The Plan reflects as follows:

> "The Plan area's holding capacity is the product of the permitted densities specified in the land use district, and the acreage within each district. The County has adjusted this figure to reflect actual densities in those areas that are already fully developed. For those areas that are not fully developed, the County has reduced the theoretical maximum holding capacity by 20%. This reduction reflects the fact that due to market or environmental or other constraints, property rarely develops at the maximum theoretical density afforded by the applicable land use designation. In this fashion, the County calculated that the MVCP has a holding capacity of approximately 8,600 dwelling units."

In the Comments and Responses on the Draft and Revised Draft EIR, the use of a 20 percent reduction for potential buildout was justified by the County because it was a "common practice by cities and counties in order to estimate actual development potential." Additionally, the County relied upon "existing and proposed development densities and patterns. . . ."[10]

Respondents also point to a 2003 Ventura County study[11] which concluded that "on the average", projects approved in the county provided less than 80 percent of the planning capacity. While that study reaches the conclusion that from six specific projects analyzed there was an approximate 80 percent buildout of actual holding capacities, the range of variation in project

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[9] Draft EIR, AR 006803-6804. Maintaining the existing plan was determined to be the "no project" alternative.
[10] Comments and Responses to Comments on the Draft and Revised Draft EIR 3.4.2 AR 11:00-5106-5107.
[11] AR 19:36510 "Smart Growth in Action, Part 2: Case Studies in Housing Capacity and Development from Ventura County, California."

specifics, political attitudes, market conditions, and population patterns makes it difficult to use the study as a guideline for "what normally happens" in other areas.[12]

Respondents maintain that the adoption of zoning maps, contemporaneously with the adoption of the MVGP, effectively cap the new construction at 8,600 units. The Respondents describe the process of calculating the probable number of dwelling units within certain designated mapping "polygons" and calculating the maximum density of each parcel. They conclude that the resulting zoning maps reflect the maximum number of units allowed in terms of units per acre for each designated parcel.[13]

Respondents and Real Parties in interest maintain that the issue of the scope of the project, if based upon a rational decision, and supported by substantial evidence, is within the broad discretion of the Board of Supervisors to determine. They base this position on the fact that the MVCP contains a zoning ordinance within it, and as such this includes "the whole of the project". As such, they maintain that the decision to study the scope of the plan as implemented by the zoning ordinance, is governed by the "substantial evidence" standard.

Petitioners claim that the General Plan is the primary document for the approval or disapproval of planning. The zoning map can be changed to meet the expedience of project proponents, developers, or homeowners by a mere zoning change. Respondents argue that the zoning map is a relevant document because the plan specifically notes that zoning changes would

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[12] *Interestingly*, the Study focuses upon such variables as the local market, the political makeup of the lead agency, site specifics, aversion to growth, and lack of foresight by NIMBYs (Acronym for "Not in My Back Yard" i.e. Opponents to specific nearby projects who oppose development because of proximity to their own land). The Ventura County study actually belies the County's reliance upon it. Of the six projects selected for analysis, the final approved densities ranged from 45.5% to 100% of general plan buildable density. In terms of the specific plans, the densities were significantly higher: 82%, 45.5%, 100%, 93.9%, 103.2%, 103.3% and 85%. One project approved at 99.8% of the General Plan Density appeared to be at the behest of the Oxnard City Planning Staff, because of the need for planned densities in conformity with local specific plans, the need for affordable housing, and the need to address a local housing shortage. (AR 71:036534). The court realizes that the County only relies on this study to give an example of the validity of selecting a 20 percent reduction in potential buildout. But the study concluded that 80% was an average, and the individual projects studied had large variations in buildout percentage to General Plan limits as noted above. The study actually seems to benefit the Petitioner's viewpoint that ultimate buildout at or near capacity is possible, or in some cases, probable.

[13] The zoning map is found in the administrative record at 77:38885

not be favored, and because zoning changes would require legislative action. Finally, Respondents contend that an application for a rezone to increase density or reduce parcel size would likely trigger an environmental review.

2. Analysis.

An Environmental Impact Report must contain an accurate description of the project under study.[14] "[A]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." [15] More fundamentally, however, the question which arises in "inadequate description" cases is whether the EIR adequately discussed and dealt with the whole of the future adverse environmental consequences which constitute potential impacts to the environment as a result of adoption of the project.[16] For purposes of environmental analysis, the guidelines define a "project" as the whole of an action which has a "potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following: . . . the adoption and amendment of local General Plans or elements thereof . . . ."[17]

The General Plan is the "constitution" [18] for the future development of the county or region. It sets up the basic parameters for future development and it is the body of law against which proposals for land use must conform. The law places restrictions on the frequency of

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[14] **San Joaquin Raptor / Wildlife Rescue Center v. County of Stanislaus** (1994) 27 Cal.App.4th 714

[15] **County of Inyo v. City of L.A.** (1977) 71 Cal.App.3d 185, 199.

[16] **Laurel Heights Improvement Assn. v. Regents of University of California** (1988) 47 Cal.3d 376, 253 Cal.Rptr. 426.

[17] **Cal. Admin. Code Title 14, § 15378**

[18] "The Legislature has mandated that every county and city must adopt a 'comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning.' (Gov.Code, § 65300.) The general plan has been aptly described as the 'constitution for all future developments' within the city or county. (O'Loane v. O'Rourke (1965) 231 Cal.App.2d 774, 782, 42 Cal.Rptr. 283; Friends of 'B' Street v. City of Hayward (1980) 106 Cal.App.3d 988, 997, 165 Cal.Rptr. 514; deBottari v. City Council (1985) 171 Cal.App.3d 1204, 1212-1213, 217 Cal.Rptr. 790.) '[T]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements. (Resource Defense Fund v. County of Santa Cruz (1982) 133 Cal.App.3d 800, 806, 184 Cal.Rptr. 371.) To be sure, the general plan is not immutable, far from it. But it may not be trifled with lightly, as the limitation on the number of amendments to the general plan in any calendar year attests. (Gov.Code, § 65361; deBottari v. City Council, supra, 171 Cal.App.3d at p. 1213, 217 Cal.Rptr. 790.)" **Citizens of Goleta Valley v. Board of Supervisors** (1990) 52 Cal.3rd 553, 570.

amendment to the mandatory elements of General Plans[19] in order to balance the need for both flexibility and stability.[20]

Respondents do not deny that Petitioners' calculation of the maximum buildout figures of 19,000 residential units and 5,000,000 square feet of commercial space are correct.[21] The figures shown for the number of residential units are based upon one of two alternatives, the first based upon the MVCP (19,373), the second based upon the findings (18,569). The difference between these estimates is not significant, since the EIR assumed, for purposes of environmental study, that 9220 residential units was the likely limit on residential development. Similarly, the figures for total commercial space differed slightly between the MVCP estimates (5,627,952 sq.') and the findings (5,505,984 sq.'). Again, the amount utilized by the County for purposes of the study was 670,000 sq.'

The reductions applied by the County to the maximum total buildout of the residential areas and the potential for commercial space took two separate steps: (1) the across-the-board 20 percent reduction, and (2) the reduction attributable to setting density standards in the zoned parcels at less than the LUD in the General Plan. Even if the County's assumption that a 20 percent reduction in the maximum holding capacity for residential units was reasonable, then the EIR should arguably have focused on those reduced numbers - 15,200 for residential units 4,000,000 sq feet for the commercial square footage. However, the second step, that of the assignment of building densities at less than high, or maximum of the LUD, reduced the EIR's assessment of environmental impacts to the far lesser figures of 9,220 units and 670,000 sq. feet.

The significance of adopting development and density criteria in a general plan is to focus the attention of the public, landowners, potential developers, and government officials as to the County's expectations regarding the totality of development in the area covered by the

[19] **Calif. Govt. Code** § 65358
[20] **DeVita v. County of Napa** (1995) 38 Cal.Rptr.2d 699, 9 Cal.4th 763, 889 P.2d 1019.
[21] Petitioner's methods of calculation are set forth in Attachment A, appended hereto.

General Plan. In this manner, the Government Code requires that the General Plan set forth the standards for population and building density[22] as part of the mandatory land use plan.

The County argues that the scope of the EIR's focus was justifiably reduced by the simultaneous adoption of the MVCP and Ordinance No. 5283-B setting maximum standards on residential and commercial development. They further caution that the plan contains a provision that states that "requests to rezone property to increase density or decrease the minimum lot size should not be supported."[23] The very existence of this language anticipates that requests for zoning changes will be made. The anomaly is that parties requesting zoning changes can increase density over the designated PD zoning and still be in compliance with the MVCP. At best, the language in the MVCP which purports to inhibit zoning changes is precatory – and certainly not binding on any future Planning Commission or Board of Supervisors. As such, the potential for increasing the density of the maximum buildout potential as calculated by the County lies in the discretion of future Planning Commission or Board action.

What is different in this case from those cited by the Respondents is that the MVCP sets density standards which can be reached, but were not studied in the EIR. The bottom line is that the EIR studied the impacts of adopting the Zoning Ordinance which accompanied passage of the MVCP, but it failed to analyze the potential impacts of the MVCP as a separate, independent, and controlling law. The MVCP is the act which triggers the necessity of an EIR, not the zoning

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[22] "The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

"(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. . . ." Calif. Govt. Code §65302(a).

[23] "It is not the intent of the Plan to either encourage or support rezoning requests. Therefore, the requests to rezone property to increase density or decrease the minimum lot size should not be supported. The minimum lot size established by precise zoning is believed to reflect the appropriate maximum density for each area." AR 8:3322.

ordinance. It is true that the MVCP, as a general plan, is the pre-eminent legislative act which decides what is, and what is not a permissible level of development in an area. Where the general plan conflicts with a zoning ordinance, the general plan takes precedence.[24]

The contemporaneous enactment of a zoning ordinance which sets maximum density for each individual parcel is an invitation to landowners and developers to seek changes which are consistent with the densities allowable under the MVCP. The County could have enacted the maximum densities for each individual parcel as part of the MCVP. But they did not. The County could have enacted a Community Plan which set an absolute maximum figure for total residential and commercial development in the Martis Valley. But they did not. Instead, the County left the door open to increases in both residential and commercial development in conformity with the MVCP, but beyond the scope of the development described in the EIR.

The MVCP builds in opportunities to create environmental mischief. First, zoning changes are commonplace occurrences in the planning and development world. Given the highly localized nature of a zoning change on a parcel, the change is susceptible of limited environmental review, including the adoption of a negative declaration. Thus, a succession of zoning changes, which still comply with the overall density standards of the MVCP, may work to cause the building densities to exceed those set forth by the County in the companion zoning ordinance. Second, the opportunity for an environmental study which correlates all of the potential impacts of a "maximum buildout" development will have been finessed. The obvious danger to the environment inherent in the County's method of implementing the MVCP is that the public will have precious little opportunity to challenge the cumulative environmental threats which will accrue given the potential for zoning changes. It does little for project opponents to voice objections to the cumulative impacts of a proposed minor zoning change if multiple

[24] Lesher Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 541, 277 Cal.Rptr. 1, 802 P.2d 317; "]; Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 389, 110 Cal.Rptr.2d 579

projects which have already gained zoning approvals have set the stage for permanent deterioration of environmental conditions. Ultimately, Ordinance 5283-B has the effect of impermissibly deferring environmental review for projects which have the potential for coming into the planning pipeline where the zoning requests exceed the PD zoning designated density, but are still consistent with the MVCP zoning designation. The time to study the likely affects of specific and cumulative impacts is at the time that the potential for development is known, whether or not that development actually occurs.[25]

One must not lose sight of the fragile nature of the area under discussion. The Martis Valley itself is a critically important area for wildlife, habitat, and water resources. Far more importantly, the area encompassed by the MVCP runs along the peaks and rim of the mountains which form the crucible which has forged Lake Tahoe. The valley is the major northern gateway to Tahoe, and as such it is convenient and desirable staging area for travelers to enter the Tahoe Basin. Given the existing and well-known threats to the delicate Tahoe Basin environment[26] increases in traffic, vehicular congestion, deteriorating levels of service and inadequate parking will result in additional deposit of pollutants into the air in the Tahoe Basin. Growth in the Martis Valley will affect Lake Tahoe.

Of particular concern is the impact which the project will have upon traffic and air quality impacts within the Tahoe Basin.[27] The project and each alternative studied conceded

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[25] **Christward Ministry v. Superior Court** (1986) 184 Cal.App.3rd 180, 194; **Bozung v. LAFCO** (1975) 13 Cal.3d 263.

[26] See AR 9:5219-5222, August 19, 2002 letter from TRPA objecting to the project

[27] The court does not understand the County's position as reflected in the FEIR at AR 11:005138 wherein the following is noted: "Specifically in regards to air quality, it is estimated that the Proposed Land Use Diagram could generate up to approximately 2,067 daily trips that would be within the Tahoe Basin. This traffic would contribute to the Tahoe Basin approximately 9.45 pounds per day of ROG, 29.26 pounds per day of NOx and 160.1 pounds per day of PM10 during the summer and 9.95 pounds per day of ROOG, 31.94 pounds per day of NOx and 56.42 pounds per day of PM10 during the winter. ***While the Plan area is not located with (sic) the Tahoe Basin and is not subject to policies and regulations of the Tahoe Regional Planning Agency, these impacts may impede the TRPA's efforts to meet their Environmental Thresholds associated with traffic, noise and air quality. . . .***" (Emphasis added). Does the foregoing mean that although Placer County has 1/3 of the Tahoe shoreline in its jurisdiction that it considers the impacts of their planning decisions in other parts of the county which affect their jurisdiction in the Tahoe Basin not to be subject to TRPA guidelines, thresholds and policies? Cf. **Napa Citizens**

that air pollution levels from the development within Martis Valley could impact the combined abilities of Placer County, Truckee, and the Tahoe Basin to meet mandated air quality standards – including local, state and federal. This impact was highlighted by the Tahoe Regional Planning Agency, which pointedly voiced the concern that the Draft EIR did not address the impacts of development upon the air quality in the basin in general, and traffic conditions within Placer County itself.[28] The recalculation in the FEIR showed that there would be a 27% increase of traffic entering the Tahoe Basin from Highway 267.[29] It appears that the further concerns of TRPA concerning the impacts on parking in the Tahoe Basin were simply not addressed by the county. Despite increasing numbers of vehicles entering the basin, TRPA maintained that there was insufficient parking at beaches and parks for existing levels of traffic, let alone any increases in the traffic generated by the project. This impact appears simply to have remained unaddressed and unmitigated in the FEIR.

This concern is mirrored by the Town of Truckee, which opposes the traffic mitigation plan adopted by the County as having substantial negative consequences upon the quality of local traffic patterns, consistency in local planning, and local character of the town. By approving the MVCP, the County adopted a traffic mitigation plan which is opposed by the Town of Truckee. The mitigation plan provides for signalization of 13 intersections to assist in

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for Honest Government v. Napa County Bd. of Supervisors (2001)91 Cal.App.4th 342, 370 110 Cal.Rptr.2d 579 ["We also do not believe that EIR review can be avoided simply because the project's effect on growth and housing will be felt outside of the project area. Indeed, the purpose of CEQA would be undermined if the appropriate governmental agencies went forward without an awareness of the effects a project will have on areas outside of the boundaries of the project area. That the effects will be felt outside of the project area, however, is one of the factors that determines the amount of detail required in any discussion."]

[28] "The DEIR's 'traffic analysis zone' should include the full extent of the Basin likely to be impacted by traffic associated with development allowed under the updated plan. Primary areas of concern within the Basin include Kings Beach, Tahoe Vista, and Tahoe City. These areas, including their access routes, are presently operating at capacity or in failure mode with respect to transportation issues. Because these areas presently have significant traffic and environmental issues, they are unlikely to accommodate any further congestion or impacts unless significant mitigation measures are provided." Letter, Tahoe Regional Planning Agency, AR 11: 05219. In response to these comments, the FEIR concluded that the increases to peak-hour trips from 3% to Tahoe City and to 9% in Kings Beach, and that these were insignificant increases. Accordingly, no mitigation measures were considered necessary. A later study by the county showed these increases to escalate to 27%.

[29] AR 72:036891

the flow of traffic. Eight of those proposed intersections to be signalized are within the Town of Truckee[30], and given the opposition of the Town to the County's solution, the mitigation plan faces an uncertain and unlikely future.

In the final analysis, Petitioners are correct in their assertion that the EIR failed to study the full scope of permissible development and construction under the MVCP. This failure resulted in artificially limited studies of environmental impacts and consequences to biotic resources, water resources, sewer capacities, wildlife, habitat, traffic and air quality. The insufficiency of the studies has caused a critical failure to analyze the environmental consequences which impact not only the Martis Valley, but the Town of Truckee and the Tahoe Basin as well. Flowing from this inadequacy are the mitigation measures proposed in the MVCP which naturally fail to study and address the true nature and scope of the environmental consequences of the plan as adopted. Because of these combined failures, the Board of Supervisors was not provided with the real and potential magnitude of the environmental impacts of the proposed Community Plan. Accordingly, the County has not proceeded in a manner required by law,[31] and the court will grant the relief prayed for by Petitioners.

The court will proceed below with a cursory analysis of the remaining contentions of the parties. No in-depth analysis will be undertaken as to each contention, however, given that the underlying premise of the Environmental Impact Report, that being the project description fails to properly describe the true potential impacts to the environment as adopted within the MVCP.

B. Biologic Resources

1. Contentions of the Parties

Petitioners allege that the EIR fails to adequately analyze the potential impacts to biologic resources and that the proposed mitigation fails to satisfy CEQA mandates.

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[30] AR 13:006969

[31] **County of Inyo v. City of L.A.** (1977) 71 Cal.App.3d 185, 199-200.

Specifically, Petitioners argue that despite its regional significance of the Martis Valley,[32] the EIR provides only a rote, perfunctory description of the wildlife and plant species which are found therein.[33] Petitioners cite the failure to provide (1) specific information as to the field studies relied on by the EIR,[34] (2) a big picture evaluation of how the resources relate to one another and the relative value of vegetation communities and wildlife habitat,[35] and (3) an adequate analysis of the unlisted plant and wildlife species of Martis Valley. Additionally, Petitioners allege that the EIR's mitigation measures are inadequate in that the EIR merely assumes that the MVCP's own policies justify a finding that no significant impacts will occur, without adequately analyzing the efficacy of the policies themselves.[36] Petitioners allege that other mitigation measures merely provide for temporary protection measures subsequent to project approval. Petitioners maintain that the EIR improperly defers virtually all meaningful mitigation for the MVCP's impacts to the individual project level or to a future date.[37] CEQA discourages such a practice in the context of a general plan approval, for it is at this early stage that the agency has the greatest flexibility to design wide-ranging and effective mitigation measures.[38] Finally, they contend that the County improperly relies on a Habitat Conservation Plan (HCP) that has not yet been implemented.[39]

Respondents counter that the EIR adequately analyzes the impacts to biologic resources for a program-level project. The EIR relies on data from multiple sources to determine the vegetation and wildlife in the Martis Valley and identifies, describes and maps the location of

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[32] AR 13:7208-10; 59:29336
[33] AR 13:7174-80
[34] AR 13:7204
[35] AR 12:6253
[36] AR 13:7210; **San Bernardino Valley Audubon Society v. Metropolitan Water Dist** (1999) 71 Cal.App.4th 382, 400. **Save Our Peninsula Committee v. Monterey County Board of Supervisors** (2001) 87 Cal.App.4th 99, 130.
[37] AR 13:7217; 13:7222; 13:7231; 13:7240; Guidelines §15126.4(a)(1)(B); **Gentry v. City of Murieta** (1995) 36 Cal.App.4th 1359.
[38] Guidelines §15168 (b)(4)
[39] AR 40:22037

plants, animals and habitats, devoting particular attention to special- status species.[40] The Respondents submit that the degree of specificity required in an EIR corresponds to the degree of specificity involved in the underlying project.[41] While a first-tier EIR cannot defer its entire analysis, "it may legitimately indicate that more detailed information may be considered in future project EIRs."[42] Respondents argue that the EIR also identifies common species within the area and concludes the impacts would be insignificant.[43] With respect to the mitigation measures, the County reasonably assumed that future development projects would have to comply with policies aimed at protecting biological resources.[44] Additionally, where the EIR relies on plan policies to mitigate a significant impact, those policies contain specific criteria.[45]. Further, the EIR does not improperly defer mitigation. When site-specific projects are proposed, site-specific surveys for special-status species or habitat are required and the EIR establishes performance criteria and, in some instances, potential avoidance methods applicable to the affected resource.[46] This approach is authorized by CEQA.[47] Finally, Respondents argue that the broad policies of the MVCP establish a plan-wide strategy for protecting resources.[48]

2. Analysis

The EIR references field studies within "key locations" of the project area.[49] However, those field studies were not included in the EIR itself, nor does it identify which locations were

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[40] AR 10:4854-4855; 13:7174-7253; 13:7180-7181; 13:7190-7203; 13:7215-7240; 13:7252-7253

[41] Guidelines §15146(b); **Rio Vista Farm Bureau Center v. County of Solano** (1992) 5 Cal.App.4th 351, 374; **Defend the Bay v. City of Irvine** (2004) 119 Cal.App.4th 1261, 1277; **Al Larson Boat Shop, Inc. v. Bd of Harbor Commissioners** (1993) 18 Cal.App.4th 729,741-742

[42] **Al Larson, supra, at** 746; **Schaeffer Land Trust v. San Jose City Council** (1989) 215 Cal.App.3d 612, 625.

[43] AR 13:7207; 13:7209-7210; 13:7215; 10:4854-4855; 13:7175-7180; 13:7207-7215

[44] **Village Laguna of Laguna Beach v. Orange County Bd of Supervisors** (1982) 134 Cal.App.3d 1022, 1030; **Dry Creek Citizens Coalition v. County of Tulare** (1999) 70 Cal.App.4th 20, 33-34

[45] AR 13:7244-7245

[46] AR 13:7217-7240; 13:6733-6750; 12:6443; 13:7217-7240; 13:6241.

[47] **Pala Band of Mission Indians v. County of San Diego** (1998) 68 Cal.App.4th 556, 577

[48] AR 8:3410-3417

[49] AR 13:7204

studied. Thus, it cannot be determined if the field studies provided adequate information for the conclusions reached in the EIR.

Further, to the extent that the EIR relies on the HCP for mitigation of impacts, such reliance is improper as the HCP has not yet been adopted.

C. Traffic Conditions and Air Quality

1. Contentions of the Parties

In addition to the arguments discussed in detail above with respect to the under-calculation of potential buildout, Petitioners also argue that the EIR fails to adequately analyze traffic impacts associated with the 17,000 acres designated as "Forest" land which designation allows development of skiing and skiing related facilities, including parking. The EIR only analyzes potential skier traffic volume generated by the existing Northstar facilities and the proposed ski facilities for Siller Ranch.[50] In addition to ignoring the potential traffic impact of future ski facilities, the EIR dismisses the top 29 worst winter scenarios and examines the impacts of only the 30th highest winter peak traffic volume.[51] The County's reliance on the American Association of State Highway and Transportation Officials recommendation that the hourly design for rural highways should generally be the 30th highest volume is misplaced.[52] While that may be a valid consideration when designing mitigation measures, CEQA requires that the EIR analyze the whole of the project's impacts, notwithstanding any design standards that might pertain to the choice of mitigation measures.[53] The EIR also failed to consider any traffic impacts other than those on SR 267, despite TRPA's comments that the EIR must also consider the impacts of the project on the segment of SR 89 connecting Highway 80 to Lake

[50] AR 13:006949
[51] AR 13:6919
[52] AR 11:5147
[53] Guidelines §15378(a); Citizens to Preserve the Ojai v. Ventura (1986) 176 Cal.App.3d 421, 431

Tahoe, as that route would serve as the primary alternative to SR 267.[54] Additionally, the EIR fails to address TRPA's conclusion that the project's contribution to traffic entering the Basin at Brockway Summit will cause a violation of TRPA's standards.[55]

Respondents contend that no analysis of impacts from developments which may or may not occur is required.[56] Where additional ski facilities were reasonably foreseeable, the EIR considered their potential impacts.[57] Additionally, using the 30th highest winter weekend peak hour traffic volume to assess the road systems levels of service was appropriate. The County acknowledged that traffic will exceed the systems capacity during certain peak hours, but it also identified and explained the policy reasons for accepting intermittent congestion.[58] Respondents further argue that the EIR adequately analyzed the traffic impacts on SR 89/Donner Pass Rd intersection,[59] the segment of SR 89 south of Donner Pass Road,[60] and trip counts and turning movements for SR 89 south of Interstate 80,[61] as well as traffic volumes along SR 28 east and west of the SR 267 intersection. Finally, with respect to the argument that the EIR does not comply with TRPA standards, the EIR did apply TRPA standards to the SR 267/SR28 intersection, as well as segments of SR 28 east and west of SR 267, and found that the impacts would be less than significant and this finding was based on substantial evidence.[62] The fact that TRPA disagrees does not render the EIR inadequate.[63]

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[54] AR 11:005148, 5150; AR 11:005220-21. **Napa Citizens for Honest Government v. Napa County Bd of Supervisors**, supra, 91 Cal.App.4th 342, 369 (cannot avoid preparing EIR where effects of project will occur outside project area boundaries).
[55] AR 72:36891; Guidelines §15125(d)
[56] **Laurel Heights I, supra**, at 398; **Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners ("Berkeley")** (2001) 91 Cal.App.4th 1344, 1357-1363; **Residents Ad Hoc Stadium Committee v. Board of Trustees** (1979) 89 Cal.App.3d 274, 286
[57] AR 1:129; 11: 5148-5149; 13-6949
[58] AR 1:208; 11:5147-5148; **Association of Irritated Residents v. County of Madera ("AIR")** (2003) 107 Cal.App.4th 1383, 1397
[59] AR 13:6919-6928
[60] AR 13:6921; 10:4502-4509
[61] AR 13:6924-6929
[62] AR 13:6933, 13:6939-6941, 13:6969, 13:6975; 12:6507; 12:6502-6568
[63] Guidelines §15151; **AIR, supra**, at 1397

2. **Analysis**

The EIR's failure to consider the potential traffic impacts of ski facilities allowed by the "Forest" land use designation renders the EIR inadequate. While it is true that potential future development need not be considered in a project level EIR unless that development is a reasonably foreseeable consequence of the project,[64] that is not true in a program-level EIR. The purpose of a program level EIR is to consider all possible impacts of the potential development allowed by the general plan being proposed. By definition, a program-level EIR is speculating on the type and amount of development which could result from the adoption of the proposed general plan. Respondents' argument, if taken to its logical conclusion, would allow counties to completely ignore the potential impacts of projects which had not yet been proposed when adopting a general plan, despite the fact that the general plan allowed future development.

Additionally, the EIR improperly ignores the impacts of the 29 highest peak winter hours of traffic. While the County may chose to design its roads for the 30th highest winter-hour conditions, it may not omit analysis of the worst winter traffic conditions for the purpose of determining the impact of that traffic on air quality.

Finally, while the EIR may have analyzed certain portions of SR 89, it did not analyze the entire SR 89 as requested by TRPA for potential impacts caused by the proposed project.

D. Water and Sewer Services

1. Contentions of the Parties

In addition to the arguments discussed in detail above with respect to the under-calculation of potential buildout, Petitioners also argue that the EIR fails to adequately analyze the availability of the identified alternate water source under the Truckee River Operating

[64] Berkeley, supra

Agreement,[65] and the environmental impacts associated with tapping that source.[66] Additionally, Petitioners argue that the EIR fails to adequately analyze the cumulative impacts to sewer services in that it inexplicably concludes that cumulative conditions (including the Plan area, Placer County, Nevada County and Truckee) will only produce 1.15 mgd of wastewater, despite previously concluding that the project itself will produce 1.8 mgd.[67] Finally, Petitioners argue that the EIR fails to analyze the environmental impacts from allowing septic systems on properties in Martis Valley over one acre.[68] The EIR merely states that no analysis was required because all septic systems will be required to meet County and state regulations.[69] This response is inadequate under CEQA.[70] It also ignores the fact that the Lahontan Regional Basin Plan prohibits septic systems, which creates an inconsistency within the MVCP's own policies because it is impossible to allow septic systems and comply with the Lahontan Regional Water Quality Control Board at the same time.[71]

Respondents argue that relying on the 6000 acre-feet of water under the TROA is not speculative as the TROA process has been on-going and the parties have agreed to a "preferred alternative" providing 6,000 acre feet for use in the valley.[72] Additionally, the TROA water is not necessary as the aquifer alone can supply sufficient water.[73] Petitioner's argument regarding the analysis of cumulative flows should be disregarded as it was not raised with the County. However, the argument is flawed as it is based on a misunderstanding. The EIR determined that cumulative flows would increase by 1.15 mgd, not that the cumulative flows

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[65] 6000 acre-feet of surface water may be available following the execution and implementation of the Truckee River Operating Agreement (TROA). AR 13:7108
[66] **Napa Citizens, supra,** at 373.
[67] AR 13:7338, 7342
[68] AR 8:3375
[69] AR 11:5274
[70] **County of Amador v. El Dorado County Water Agency** (1999) 76 Cal.App.4th 931, 948
[71] AR 11:5274; 13:7099
[72] AR 13:7071-7073; 38:21033-21034; 34L18994-19006
[73] AR 13:7107-7109; 11:5125; 37:20683-20693; 35:19586-19675; 11:5204-5205; 11:5124-5127; 52:36582-26588

would total 1.15 mgd.[74] Additionally, as sewer service is provided on a first-come, first-serve basis,[75] and the MVCP requires that new development provide written verification from the Tahoe-Truckee Sanitation Agency that adequate capacity exists before the County will approve the project.[76] Thus, the MVCP provides adequate safeguards against a shortfall of sewage capacity. As to the septic system argument, the MVCP policies prohibit septic systems unless both the County and LRWQCB agree, based on site-specific conditions, that the septic systems can be installed without threatening water quality.[77]

2. Analysis

Since the court has already concluded that the EIR uses an invalid measure of the potential development under the proposed MVCP, it follows that the analysis of the availability of water and sewer services for that development is also flawed. Additionally, the EIR fails to analyze the environmental impacts of utilizing the alternate water source identified in the EIR.[78] However, Petitioners' arguments regarding the cumulative flows and septic systems fail. While the potential cumulative wastewater flows are most likely understated because of the understated amount of development, the EIR does not erroneously conclude that the cumulative flows are less than the flow from the project itself. Additionally, the policies in the MVCP with respect to septic systems are sufficient to protect the water quality.

E. Affordable Housing and Growth Inducing Impacts.

1. Contentions of the Parties.

Petitioners assail the affordable housing element of the plan. Essentially, they contend that it is virtually non-existent. The amicus brief of the Town of Truckee emphasizes the problem:

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[74] AR 13:7342
[75] AR 38:20982
[76] AR 8:3375; 8:3382
[77] Napa Citizens, supra, at 374.
[78] Ibid. at 374.

"As the town repeatedly stated throughout the process (citation) and the County conceded, the project will create thousands of new jobs (citation); however, the project will provide no workforce housing.(citation). Rather, the County proposes that the workforce housing impact will be mitigated by an unadopted[79] employee housing ordinance and an unadopted exclusionary housing requirement. (citation)."[80]

The Draft EIR concluded that there is a shortage of affordable housing in the Lake Tahoe Basin and the project area.[81] This problem was categorized as constituting a potentially significant impact.[82] The mitigation suggested in the DEIR was MM4.2.2. which provided for 10% of each approved development to be affordable or low income housing. This mitigation measure, along with the adoption of policy 3.A.4, (requiring new or expanding resorts to provide for 50% of necessary employee housing) was deemed to reduce the cumulative housing impacts to less than significant.[83] In the final EIR, however, MM4.2.2 was deleted. Respondents attribute this deletion to the fact that the policies adopted in the housing plan had "enshrined as policy" the measures provided by MM 4.2.2. The county also called for the drafting of an Employee Housing ordinance and an ordinance setting forth the housing elements of MM 4.2.2. The former ordinance has not been passed, and the latter exempts Martis Valley from its operation. There is no analysis as to how these combined policies will affect the known shortages of low income and affordable housing. Moreover, these mitigation techniques are simply broad statements of policy which do not carry the force of law.

2. Analysis.

The status quo which the court perceives, based upon the briefs of the parties and the administrative record, is that the extent of mitigation for exacerbating the existing affordable

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[79] Respondent's brief concedes as much: "The Housing Element commits the County to adopt an ordinance implementing this policy (citation). At the time the Board approved the plan, the County had made significant progress developing such an ordinance."
[80] Amicus Brief of Town of Truckee, p. 2.
[81] AR 9:3686, 9:3694
[82] AR 9:3702
[83] AR: 9:3710-3712

housing impacts are (1) the adoption of policies which would urge the provision of affordable housing in future development at the rate of 10%, and (2) the policies of adopting ordinances which reflect solutions to the affordable housing shortage. To date the only proposed ordinance dealing with the "inclusionary" affordable housing element specifically exempts the Martis Valley from its operation, and no ordinance has been adopted which relates to employee housing. In short, the adopted plan contains no affordable housing element which mitigates the known increases in demand for affordable housing. This, in and of itself, would be sufficient to set aside the MVCP as not conforming to the law.[84]

F. Failure to Recalculate

1. Contentions of the Parties

Petitioners argue that the EIR must be recirculated because the Final EIR (FEIR) contains significant new information that was not contained in the draft EIR.[85] Specifically, the FEIR deleted the mitigation measure for affordable housing contained in the draft EIR as noted above.[86] Additionally, the County presented significant new information regarding the project's impacts on traffic in the Tahoe Basin.[87] The EIR also failed to include, or respond to comments submitted by the Calif. Dept of Fish and Game (CDFG).

Respondents argue that recirculation is not necessary because (1) the affordable housing mitigation measure was deleted as being redundant because the same requirement had been adopted as a policy[88] (2)the increase in traffic was not new information as it had been included in the draft EIR,[89] and (3) the comments by CDFG were received after the close of the draft EIR

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[84] **Napa Citizens for Honest Government v. Napa County Bd. of Supervisors, supra,** 91 Cal.App.4th 342, 110 Cal.Rptr.2d 579
[85] **Save Our Peninsula, supra,** at 130-31.
[86] AR 11-5144-45
[87] AR 11:5148-5154
[88] Guidelines §15088.5(a))
[89] AR 9:3749-3754, 9:3766-3767; 10:4502-4503; 10:4537

comment period and did not provide data substantiating its concerns or provide information regarding significant new impacts.

2. Analysis

The EIR should have been recirculated. As discussed above in the section on affordable housing, the FEIR improperly deleted a mitigation measure contained in the draft EIR and contains no analysis as to how the policies will affect the known shortages of low income and affordable housing. Additionally, the increase in traffic and the information contained in the comments from CDFG constitute significant new information necessitating the recirculation of the EIR.

The comment letter from the California Department of Fish and Game was dated in 2002, however it is not stamped "received" by the county until 2003. The record contains no adequate explanation for this discrepancy. The county maintains that the letter was received after the comment close of the DEIR period, and so it was not required to comment. This latter position is disingenuous.[90] Lacking an explanation for how the letter was not "received" until after the comment period, the County takes issue with the content of the letter as containing no data or studies. In any event, the County prepared a response to the letter, but public notice or input on CDFG's letter was foreclosed by failing to recirculated.

The California Department of Fish and Game is the trustee agency for the biotic resources which are potentially affected by the MVCP. CDFG holds these resources in trust for

[90] The County does not maintain that the letter was sent too late by CDFG. It maintains that it was "received" by them too late. The County produces no references in the record which would support the conclusion that the date on the letter from CDFG was in error. Nor does the County attempt to explain how a letter dated in 2002 was not received until 2003. It would appear to be incumbent upon the County to explain in the record how this confusion occurred. If the letter is properly dated, but did not come to the County's attention until after the DEIR was circulated, the least the county should have done is inquire of CDFG whether the letter was actually sent in 2002, or if the date was a typographical error. If CDFG admitted to sending the letter too late, then the County has no control over the miscommunication, and the letter would have been, in fact, "too late". Absent this kind of inquiry on the part of the County, however, the court must assume that the letter was properly dated and delivered, but was merely "undiscovered" by the County until 2003 when then stamped it "received". Under this circumstance, the onus should be on the County to fix the problem, which, in this case, would mean a recirculation.

the people of the State of California[91]. The record is replete with references to the fragile nature of the environment, and its importance as a transition link area between the Granite Chief wilderness area and the Tahoe Basin. The importance of the biotic resources in this area cannot be underestimated. Where insufficient or no notice of a project has been given to a relevant trustee agency, a decision approving the project there is a prejudicial abuse of discretion.[92] The failure to consider the comments of the CDFG produces a result identical to the failure to give notice. The letter was not included in the DEIR, and the public's comments regarding CDFG's opposition to the project as proposed were therefore foreclosed. For this reason, a recirculation of the EIR was required.

The MVCP conflicts with the PCGP and is internally inconsistent.

1. Contentions of the Parties

Petitioners assert that the MVCP violates numerous policies in the county-wide Placer County General Plan (PCGP). Specifically, the MVCP's land-use designations promote growth far from existing communities in violation of the PCGP's policy of concentrating new growth within existing communities.[93] Additionally, the MVCP provides for substantial development in the midst of large areas of intact forest,[94] provides for numerous islands of development that will fragment habitat (id), and allows for development in wildlife corridors[95] in violation of the PCGP's policies requiring the protection and restoration of biological resources.[96] Further, the MVCP includes policies which parallel the infill development and natural resource protection

[91] Guidelines, § 15386.
[92] Fall River Wild Trout Association v. County of Shasta (1999) 70 Cal.App.4th 482 ("The County's failure to send a copy of the mitigated negative declaration to the Department of Fish and Game, a trustee agency, deprived the County of information necessary to informed decision-making and informed public participation [Kings County Farm Bureau v. City of Hanford, supra, 221 Cal.App.3d at p. 712, 270 Cal.Rptr. 650.]) id. p. 492. in Sierra Club v. State Bd. of Forestry (1994) 7 Cal.4th 1215, 1236.
[93] AR 8:3474; 13:6805
[94] AR 8:3474; 13:6805; 59:29331
[95] Ibid.
[96] AR 19:11211-17

policy of the PCGP, and thus the Land Use Diagram (LUD) is fatally inconsistent with the MVCP' own policies as well.[97] The MVCP is internally inconsistent as well in that the adjusted residential holding capacity listed in the text of the MVCP[98] is inconsistent with the approved residential holding capacity in the LUD.[99]

Respondents argue that in approving the MVCP, the County did not approve any actual development and that regardless of the land use designations in the LUD any future development in Martis Valley must comply with the policies of the PCGP. Additionally, the court is required to give deference to the County's determination that the MVCP is consistent with the PCGP and uphold such finding unless the court determines that it was not "arbitrary, capricious, or entirely lacking in evidentiary support."[100] Moreover, most of the areas designated for development in the LUD are located immediately adjacent to existing communities within Martis Valley. AR 8:3474. Further, the Board had ample reason to find that the LUD was consistent with the policies of the PCGP and the MVCP given that the plan preserves 83 percent of the plan as open space. Petitioners are also barred from challenging the MVCP's designation of certain land east of Hwy 267 for residential development as the 1976 Martis Valley General Plan already designated that same land for development[101] and that Plan was incorporated into the PCGP in 1994. The time for challenging such designation expired 90 days after adoption of the 1976 Martis Valley General Plan.[102] Petitioners may challenge the LUD only to the extent that it changes land use designations.[103] Finally, the MVCP and the new zoning restrictions significantly reduce the amount of development authorized under the 1975 plan.

2. Analysis

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[97] AR 8:3311, 3312, 3414, 3415; 59:29330
[98] AR 8:3326-27
[99] AR 8:3322, 3474; Appendix A
[100] **Mitchell v. County of Orange** (1985) 165 Cal.App.3d 1185, 1191; **Karlson v. City of Camarillo** (1980) 100 Cal.App.3d 789, 798
[101] AR 8:3474 (LUD); 13:6806 (1975 land use map)
[102] Govt Code §65000(c)(1)
[103] **Grant v. City of Riverside** (1991) 2 Cal.App.4th 259, 289; **Napa Citizens, supra**, at 388.

Respondent's argument that the MVCP did not approve any actual development and that any future development must comply with the PCGP's policies is disingenuous at best. As the MVCP is the general plan for Martis Valley, any future development proposed for Martis Valley will be compared to the policies set forth in the MVCP, not to those set forth in the PCGP. Thus, to the extent the policies in the two plans are inconsistent, future development in Martis Valley may be inconsistent with the PCGP. However, it does not appear that the County's determination that the MVCP and the LUD are consistent with the PCGP was arbitrary, capricious or entirely lacking in evidentiary support.

III. CONCLUSION

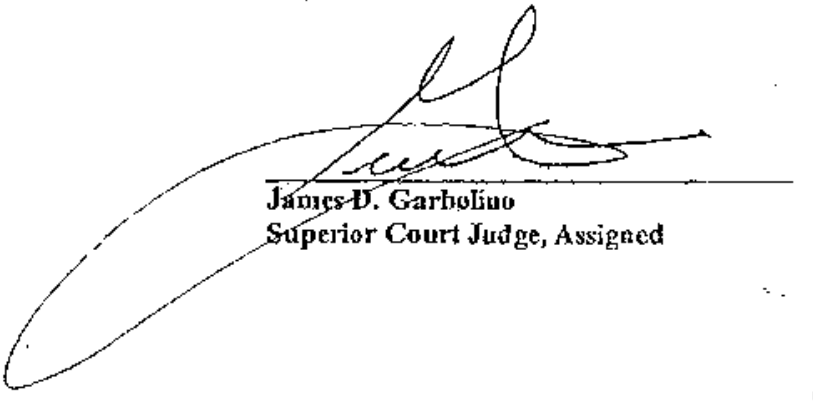
The Petition is granted. A peremptory writ of mandate shall issue from this court directing the Respondent, County of Placer, to:

1. Set aside its resolution certifying the final environmental impact report and findings;
2. Set aside its resolution adopting the Martis Valley Community Plan;
3. Set aside Placer Co. Ord. No. 5283(b)
4. Suspend all project approvals and activities that could result in any change or alteration to the physical environment which are based upon the Martis Valley Community Plan;
5. File a return to this writ no later than 20 after granting of the writ herein;

Under Public Resources Code section 21168.9(b) this Court will retain jurisdiction over respondent's proceedings by way of a return to this preemptory writ of mandate until the Court has determined that respondent has complied with the provisions of CEQA.

6. Petitioner shall be entitled to their costs of suit.

Dated: May 3, 2005



James D. Garbolino
Superior Court Judge, Assigned

I, the undersigned, declare:

1. That I am a citizen of the United States.
2. That I am over 18 years of age.
2. That I am not a party to the within action.
3. That my business address is Placer County Superior Court, 11546 B Avenue Auburn, Ca 95603
4. That I am familiar with the business practices of the County of Placer for collection and processing of correspondence for mailing with the United States Postal Service on the same date of placement for collection.
5. __X__ MAIL (Placing a true copy thereof enclosed in a sealed envelope with postage prepaid, in the United States Post Office mail box at Auburn, California)

X PERSONAL SERVICE

____ INTEROFFICE MAIL

Dated: 5-6-05

S. Z.

Shelly Ziegelmann, Clerk
Placer County Superior Court

Rachel Hooper
Shute Mihaly & Weinberger
396 Hayes St.
San Francisco, Ca 94102

Representing Peitioners

Daniel P. Selmi
916 South Albany Street
Los Angeles, Ca 90015

Representing Peitioners

Richard Crabtree
Law Offices of Richard Crabtree
854 Manzanita Court, Suite 110
Chico, Ca 95926

Representing Respondents

Whit Manely
Remy, Thomas, Moose and Manley
455 Capitol Mall
Sacramento, Ca 95814

Representing Intervenors

Judge Willam A. Newson
PO Box 160
Dutch Flat, Ca 95714