MEMORANDUM

DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS DATE: DECEMBER 9, 2014

FROM: KEN GREHM / PETER KRAATZ

SUBJECT: **APPLICATION FOR ABANDONMENT OF MILL SITE ROAD AND CROSS CUT COURT – THE RETREAT AT NORTHSTAR SUBDIVISION**

ACTION REQUESTED / RECOMMENDATION

1. Consider request by Retreat at Northstar property owners to abandon Mill Site Road and Cross Cut Court; and
2. Staff recommends denial of the request to abandon Mill Site Road. Staff has no objection to the abandonment of Cross Cut Court by future Board action pursuant to standard conditions and reservations.

BACKGROUND / SUMMARY

The Retreat at Northstar Subdivision is a residential development consisting of 31 acres, 18 residential lots and one open space lot. The subdivision was approved in February 2005 and filed for record in 2006 in Book BB of Maps at Page 8. The subdivision offered the two roadways within the development for dedication to the public, with the offer of dedication accepted by the Placer County Board of Supervisors on May 9, 2006. Maintenance of the two roads and other related services was funded through County Service Area No. 28, Zone 187. Of the two roads within this subdivision, Mill Site Road connects with the private Schaffer Mill Road to the west, and the public Big Springs Drive to the east, with Cross Cut Court being a cul-de-sac road providing access to the development's interior lots. Roadways are shown on the attached map.

In February of 2014, the Retreat at Northstar Owner's Association filed a request with Public Works (DPW) for the abandonment of the public's interest in Mill Site Road and Cross Cut Court, and to dissolve the County Service Area for the public maintenance of these roadways. Staff understands that the primary reason for the request was to preclude through traffic from the subdivision to the west, Martis Camp. The request for abandonment was distributed for comment to representatives of the Martis Camp developer, the Martis Camp Community Association, the Northstar Property Owners Association, along with various other interested parties, and all servicing utility companies.

Martis Camp is a 668 lot development that was approved in January 2005, with 536 lots sold and an estimated 235 residences completed. Staff understands that lot owners are issued at least one transponder by the Martis Camp Community Association allowing them to enter and exit Mill Site Road via the east gate in Martis Camp. Staff understands that approximately 1,000 transponders have been issued to date and more will be distributed as the remaining lots within Martis Camp are sold. According to the Martis Camp Community Association, its transponder counts indicate actual usage of the east gate has not exceeded 250 vehicle trips in any given day, with usage typically under 150 trips per weekend day, and under 100 trips per mid-week day. DPW traffic counts performed in September 2014 confirm this range of vehicle trips.

Comments received to date indicate support for the abandonment request from the representatives of the Northstar communities, with opposition from the representatives of the Martis Camp development. Martis Camp erected an electronically controlled gate at the easterly terminus of its property allowing residents of that development to exit eastbound to Northstar via Mill Site Road, and enter westbound into Martis Camp, also via Mill Site Road. Law enforcement, fire and emergency personnel also have the capability to enter and exit this gate and utilize the private road through the Martis Camp development by an existing emergency vehicle access easement. Public transit also has the right to utilize the gate and private road through a public transit easement.

In addition to letters of general support or opposition to the abandonment, DPW reviewed requests for preserving the following rights in Mill Site Road and Cross Cut Court, if the roads were abandoned:

1. Reserve a public utility easement in the roads to be abandoned, especially for Southwest Gas and AT&T.
2. Reserve an emergency vehicle access and public transit easement on Mill Site Road.
3. Reserve non-motorized public trail easements for the Tomkins Memorial Trail and any other public trails that touch the two roadways.

The applicant has indicated its acceptance of these requested reservations.

DPW has also received a request from Northstar California (the ski mountain operator) to reserve rights for it on Mill Site Road for mountain operations and maintenance activities as well as for Northstar to potentially provide private shuttle services.

Typically, DPW will recommend to the Board of Supervisors that a request for abandonment be approved if:

1. Objections to the abandonment have been resolved; and

2. Necessary findings can be made in accordance with the California Streets and Highways Code provisions which govern the vacating of public easements. Chapter 4 of Part 3 of the Streets and Highways Code, Section 8324, requires the hearing body to find the street "is unnecessary for present or prospective public use", and Section 892 states "rights-of-way established for other purposes by cities, counties or local agencies shall not be abandoned unless the governing body determines that the rights-of-way or parts thereof are not useful as a non-motorized transportation facility."

Applicant's Concerns

Property owners in the Retreat have stated to DPW that they believe (see attached applicant abandonment request) the current use of Mill Site Road is not safe, prevents the full enjoyment of their property and was not contemplated by their development, the Martis Camp development, or the Martis Valley Community Plan. The Retreat has stated to DPW that it believes that the private road abutting up to Mill Site Road is only for emergency vehicle and public transit use. The applicant cites the following that Mill Site Road was not intended to handle Martis Camp traffic:

1. Mill Site Road is narrow (22 feet wide) and sometimes steep (10 percent); and
2. The "unintended" use of Mill Site Road places an additional traffic burden on Northstar roads that has not been analyzed and the traffic management plan implemented in Northstar did not contemplate use by Martis Camp; and
3. Retreat property owners are paying 100 percent of the cost of maintaining Mill Site Road through a County Service Area that the property owners assert recognizes Retreat property owners as the only entities receiving benefit.

Objector's Concerns

Martis Camp property owners have stated to DPW that they believe (see attached Winberry and Porter Simon protest letters dated July 21, 2014) Mill Site Road provides a convenient and environmentally-friendly access to Northstar, particularly the commercial and retail establishments at the Village at Northstar. They offer the following reasons why abandonment of Mill Site Road should be denied:

1. Martis Camp residents and others currently use Mill Site Road as members of the public and it is inappropriate to abandon the public right and find that Mill Site Road is unnecessary for present or prospective public use; and
2. Abandonment of Mill Site Road would reduce the efficiency of the County's road system by requiring Martis Camp residents to drive a much more circuitous route utilizing more impacted County highways and State Route 267; and
3. Martis Camp property owners have a fundamental right to access a public road that abuts to their private property.

In this particular case, objections to the abandonment application have not all been resolved. Staff therefore presents the following options for the Board's consideration.

OPTIONS

Option A - Denial of Mill Site Road Abandonment Request; Further Consideration of the Cross Cut Court Abandonment Request if requested by the Applicant

Based on the submitted information and any public testimony, deny the Mill Site Road abandonment request based on the presumption that the Board cannot make the necessary findings under the Streets and Highways Code that the road is "unnecessary for present or prospective public use" or other findings that the Board deems appropriate. Since there are no objections to date to abandoning the public rights to Cross Cut Court, staff believes this road segment could be abandoned at a future Board meeting following environmental review, preparation of technical documentation, public noticing and adoption of necessary findings. Staff would recommend any approval by your Board of a Cross Cut Court abandonment be subject to the reservation of easements for utilities, trails and emergency access, and determination of fair market value consistent with County Code requirements, as we all as other conditions as outlined under Option B, below. Dissolution of the CSA for road maintenance of Cross Cut Court could still proceed at the discretion of the property owners.

Option B – Further Consideration of the Mill Site Road and Cross Cut Court Abandonment Requests

Based on the submitted information and any public testimony, direct staff to return to your Board at a future Board meeting for further consideration of both the Mill Site Road and Cross Cut Court abandonment requests following environmental review, preparation of technical documentation, and public noticing. Approval would necessarily include findings that each road is unnecessary for present or prospective public use and is not useful as a non-motorized transportation facility. In the event your Board wishes to consider approval of the request for abandonment of Mill Site Road and Cross Cut Court, the following conditions would be recommended:

- Pay the actual costs to prepare any necessary environmental review, determined by the County, to prepare the abandonment application for Board consideration; and
- Reserve public utility, public transit service, emergency vehicle access and public trail access easements over Mill Site Road and Cross Cut Court; and
- Consider reserving a private easement on Mill Site Road to the Northstar mountain operator for operations and maintenance access, as well as for possible Northstar operated private shuttles; and
- Abandonment would not grant any additional entitlements to properties within the Retreat subdivision, specifically the right to install a gate on Mill Site Road or Cross Cut Court. Any

additional entitlements sought would be subject to separate County land use review and approval. Applicant would be required to obtain any necessary land use entitlement for the abandonment prior to the request returning to your Board.

- Applicant would indemnify County for any actions taken by third parties who may be affected by the abandonment. Form of indemnity would be determined by County Counsel and Risk Management.
- Recording of the abandonment would be contingent on settlement or other disposition to County satisfaction of any claims or legal actions associated with the abandonment and the passing of statutes of limitations of any further claims or legal actions.
- Reservation of potential future public access rights for the County (such as an irrevocable offer of dedication), should such rights become necessary in the future.
- County Service Area Zone 187 would be dissolved and the Retreat property owners would be responsible for all maintenance, including maintaining the roads for the remaining public uses.

As part of potential Board direction for further consideration of the abandonment request, the Board may also wish to further direct staff to review with interested parties the following additional options:

- Reservation of a limited private access easement for Martis Camp property owners on Mill Site Road, including conditions limiting the hours of use and the number of vehicles per day that could use the road.
- Martis Camp property owners would need to contribute their fair share of costs to maintain Mill Site Road to maintain their private access easement.

RECOMMENDATION

The Department recommends that the request for abandonment of Mill Site Road be denied based on the totality of the information reviewed. Staff believes that Mill Site Road is necessary for current or prospective public use based on the current and anticipated usage of the roadway.

Staff recognizes in making this recommendation that both the applicant and the objectors have legitimate concerns. Although the Department understands that Retreat owners would prefer not to have additional cars use Mill Site Road adjacent to their properties, staff does not believe that the volumes exceed the safe capacity of the existing roadway. At the same time, we also believe that the potential increase of these vehicles using State Route 267 to access Northstar, if the connection to Mill Site Road were severed, is also minimal.

After considering all of the reasons for and against supporting an abandonment, including all the support documentation submitted, the Department believes that the Mill Site Road abandonment request should be denied.

ENVIRONMENTAL CLEARANCE

Denial of the abandonment application is not a project as defined by Public Resources Code Section 21065 and does not require any environmental review. Denial of the abandonment application is therefore exempt from environmental review under CEQA. Further consideration of the abandonment request, or portion thereof, would require appropriate environmental review prior to final Board action.

FISCAL IMPACT

There is no fiscal impact associated with the denial of the abandonment.

If the Board wishes to further consider the abandonment, the applicant has submitted an appraisal report determining that the abandonment of the public's interest in the two roads in the Retreat at Northstar would be offset by the reservation of an emergency vehicle access, transit service, public trails and public utility easements from the abandonment. Therefore, staff anticipates, based on its initial review of this appraisal, that there would be no compensation paid to the County for the easement rights to be vacated should your Board so ultimately decide. This determination would be consistent with other abandonments where the abandoned area remains as a private roadway. The cost of complying with any abandonment conditions would be borne by the applicant. Upon recording of a roadway abandonment, the County would no longer be responsible for road maintenance.

Attachments: Location Map
Subdivision Map
Applicants February 24, 2014 Abandonment Request
Winberry Opposition Letter July, 21, 2014
Porter Simon Opposition Letter July 21, 2014
Michael Johnson Letter November 1, 2012
Abandonment Responses
Correspondence

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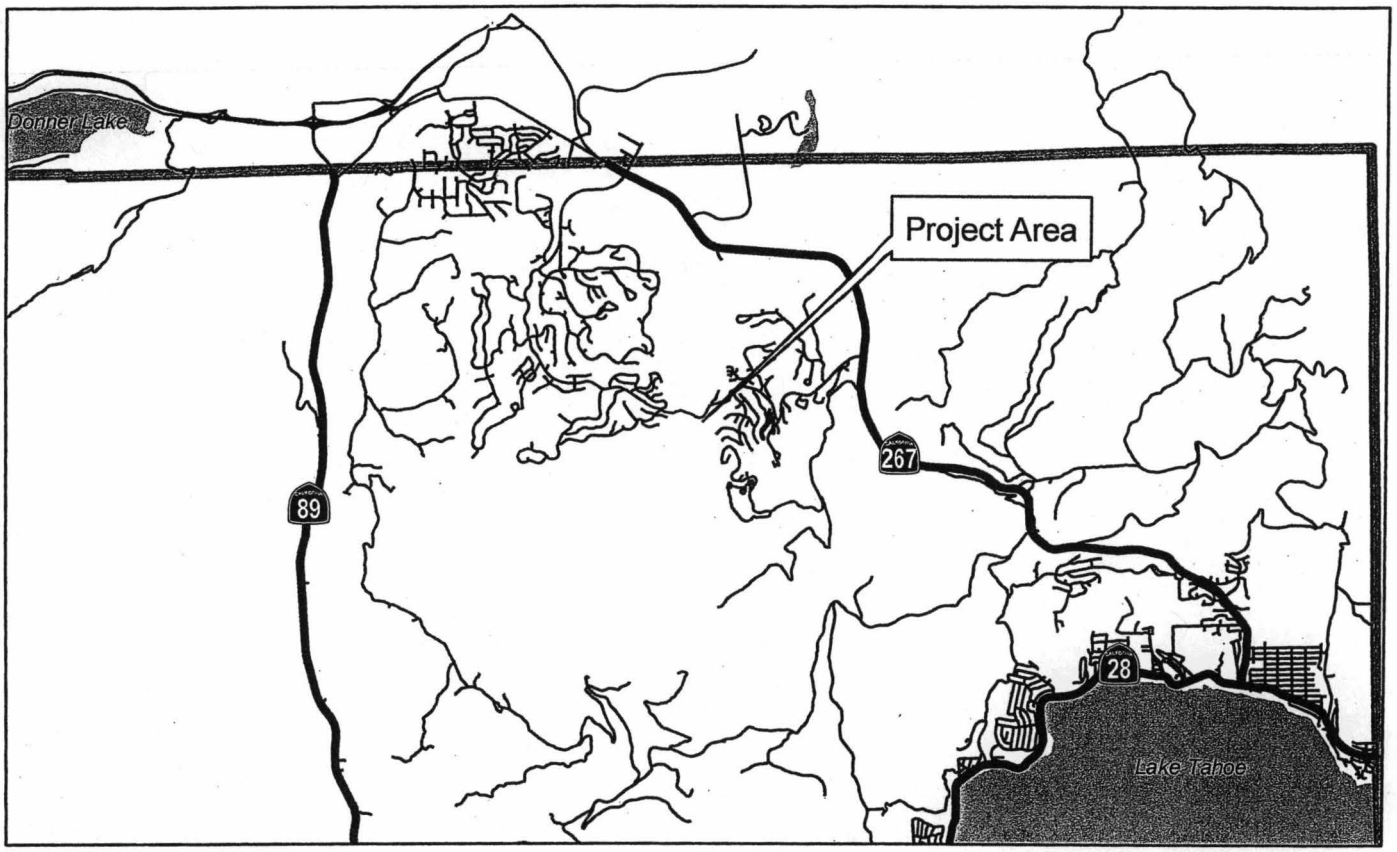
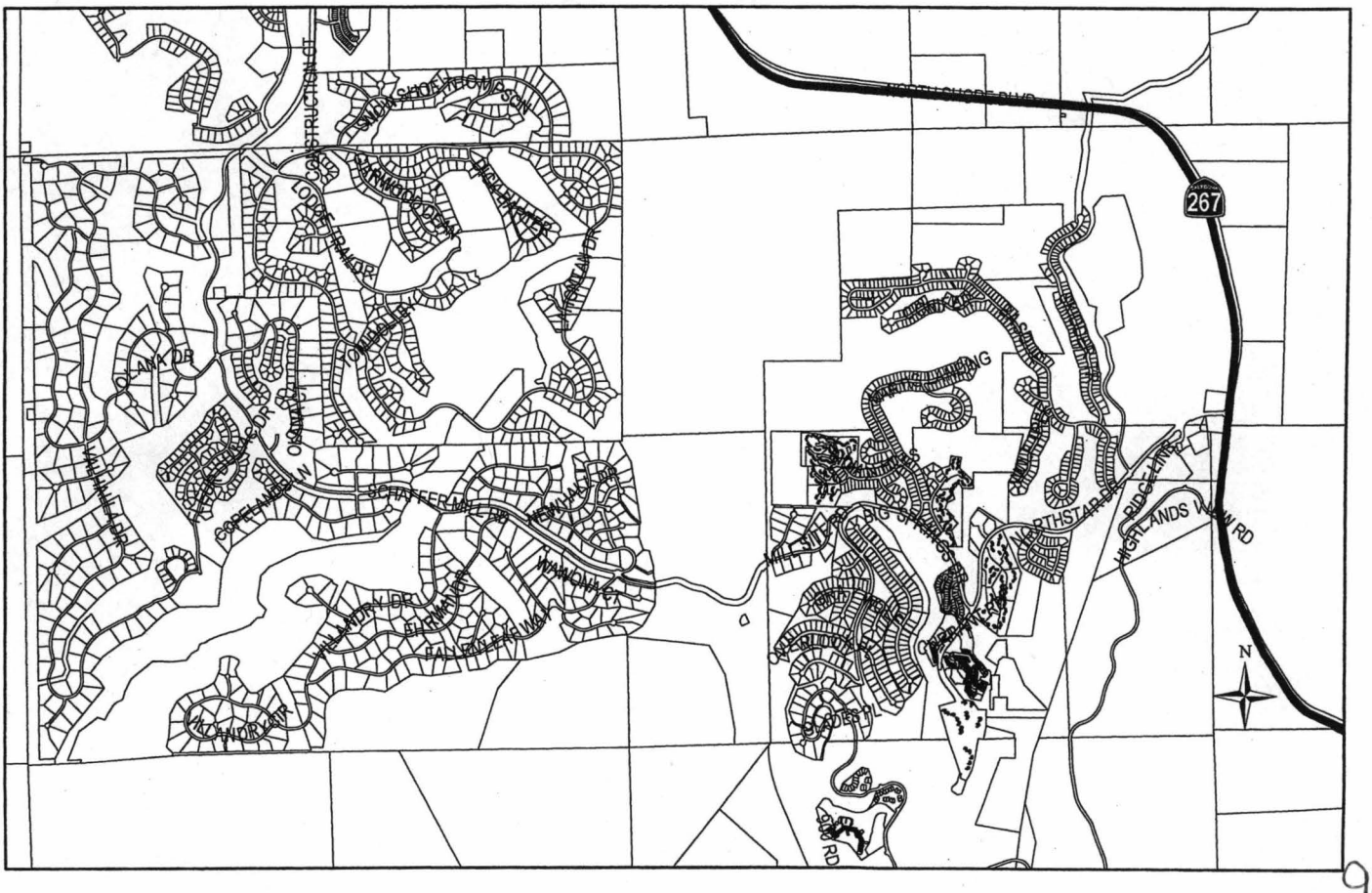
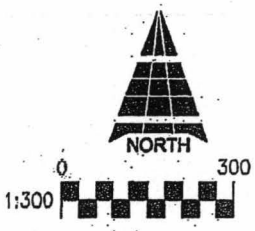
Location Map

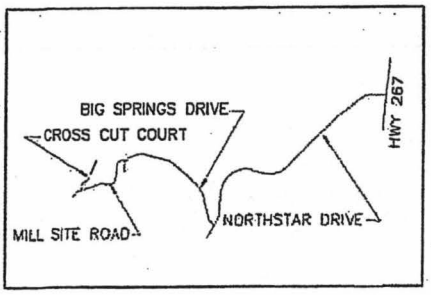


Vicinity Map

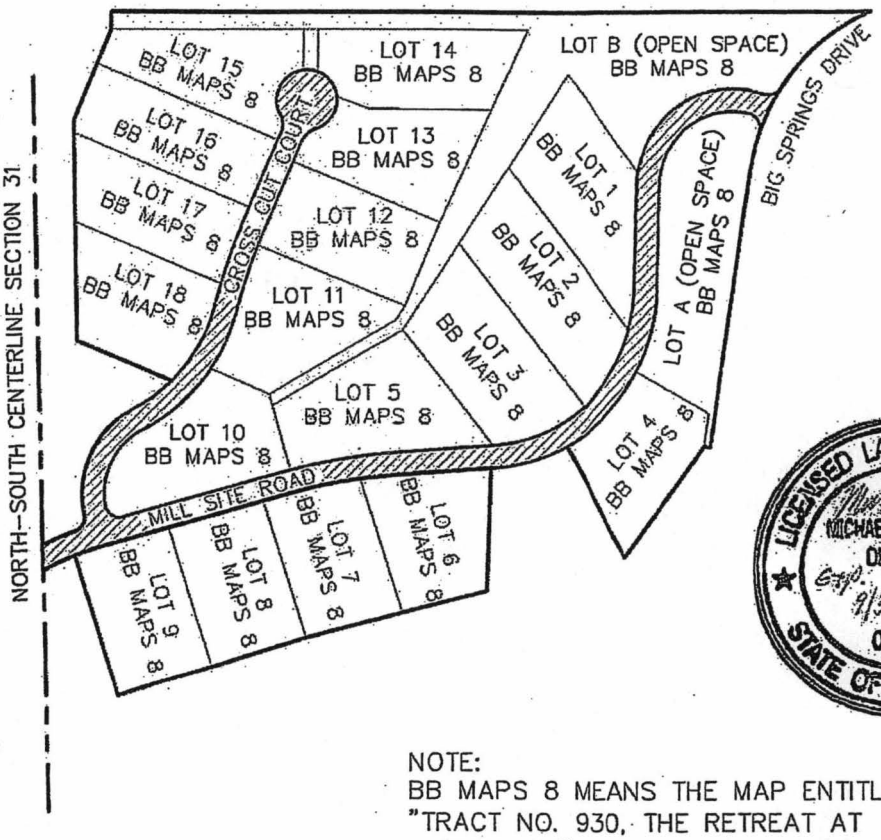


SUBDIVISION MAP





VICINITY MAP
NOT TO SCALE



NOTE:
BB MAPS 8 MEANS THE MAP ENTITLED "TRACT NO. 930, THE RETREAT AT NORTHSTAR", FILED IN BOOK BB OF MAPS, PAGE 8, RECORDS OF PLACER COUNTY, CALIFORNIA.

Michael Dequine and Associates, Inc.
2295 Gateway Oaks Drive, Suite 140
Sacramento, Ca 95833
Phone: (916) 923-5820
Fax: (916) 923-1628

OFFER OF DEDICATION OF PUBLIC ROAD VACATION
THE RETREAT AT NORTHSTAR
PORTION OF THE NE 1/4 OF SEC. 31, T. 17 N. R. 17 E., M.D.M.
PLACER COUNTY, CALIFORNIA

Chk'd by: ___	Dwg By: GL	Scale: 1"=300'	Job# 13-1359	Date: 1/28/2014	Sheet 1 of 1

Applicants February 24, 2014 Abandonment Request

February 24, 2014

Board of Supervisors
County of Placer
175 Fulweiler Avenue
Auburn, CA 95603

RE: Retreat at Northstar – Right-Of-Way & Public Road Easement Abandonment & County Service Area – Zone of Benefit Dissolution

Dear Chairperson Duran and Supervisors Holmes, Montgomery, Uhler and Weygandt:

I respectfully submit this letter on behalf of the Retreat at Northstar property owners and Owner's Association. The Retreat requests that the Placer County Board of Supervisors abandon and vacate the Right-Of-Way (ROW) and Public Road Easement (PRE) as shown on Book BB of Maps, Page 8, making up 0.3-miles of Mill Site Road and 0.2-miles of Cross Cut Court. The Retreat also requests that the County dissolve the Retreat County Service Area – Zone of Benefit for these same roadways. This CSA provides funding for the maintenance of these roadways. With the abandonment of the ROW and PRE, the CSA will no longer be required. If approved, the Association will assume responsibility for maintaining these private roads.

The Retreat Homeowners and Association make this request in accordance with Placer County "Procedures for Abandonment of County Easements" dated July 2013 (specifically Procedure 2(B)), California Street and Highway Code Section 8300 and California Government Code Section 25217.2. The basis for this request is summarized in this letter. A formal application and supporting documentation are enclosed.

I. **Basis for Roadway Abandonment and CSA Dissolution Request**

a. Given the extensive and unintended use of the Retreat's Mill Site Road by Martis Camp, the public road abandonment of Mill Site Road and Cross Cut Court will allow the property owners within the Retreat to once again safely enjoy their community.

b. The Retreat roadways were designed and approved to a narrow (22') and steep (10%) standard appropriate to serve the 18 Retreat homesites. These roadways were **not** designed to serve the the 726 units approved within Martis Camp. At no point along the CEQA analyzed and County approved route from Martis Camp to Northstar via Hwy 267 is the roadway width less than 32', and nowhere along this route is there a residential drive encroachment. By contrast, on the 0.3-miles of the Retreat's Mill Site Road there are 10 driveway encroachments. Privatization of the Retreat roadways will ensure that the Retreat owners are once again permitted the safe enjoyment of their community.

c. Under the Retreat CSA Zone of Benefit, the 18 property owners at the Retreat are required to provide funding to maintain and replace their roadways. These roadways are currently being impacted by over 1,000 vehicles from Martis Camp. The number of vehicles using this roadway is expected to increase in the future as Martis Camp builds out. Thus, the Retreat homeowners are subject to an assessment for which they receive no "special benefit", in violation of California Proposition 218. The dissolution of the Retreat CSA Zone of Benefit will prevent further, ongoing violations of Proposition 218.

d. Privatization of the Retreat roadways will benefit the entire Northstar Community and its visitors by ensuring that the Martis Camp cut-through traffic does not negatively impact the safety and operations of the Mill Site Road/Big Spring Drive and Northstar Drive/Big Springs Drive intersections. The following is an excerpt out of the attached letter from LSC Transportation Consultants (Exhibit G) who analyzed the traffic impacts of both Martis Camp and the Retreat:

> *For the purposes of the traffic analysis conducted by LSC for the [Martis Camp] EIR,* ***none of the traffic generated by Siller Ranch [Martis Camp] was assumed to use the Mill Site Road connection to Big Springs Drive, beyond transit vehicles and emergency vehicles.*** *That is, no private vehicles associated with the Siller Ranch uses were assumed to use the Mill Site Road connection, and no project construction-related traffic was assigned to this route. Consequently, traffic impacts along Mill Site Road and/or Big Springs Drive were not analyzed in the [Martis Camp] EIR. Furthermore, the provisions of a full access roadway connection would be inconsistent with the Martis Valley Community Plan.*

e. Additionally, re-routing the Martis Camp cut-through traffic will prevent these passenger, vendor and construction vehicles from undermining the Northstar Traffic Management System, which many key stakeholder groups helped design and implement. Martis Camp cut-through traffic will not only have a negative impact on the Northstar Traffic Management System, but the ripple effect will deteriorate the level of service on Hwy 267.

II. Supporting Documentation & Timeline

a. The Martis Valley Community Plan was adopted in 2003 by the Placer County Board of Supervisors. The Community Plan's Future Transportation Systems section (p. 72) states:

> *The County had an in-depth analysis performed for two road networks for the development of this plan. One scenario included a through connection between Schaffer Mill Road and Northstar Drive, through connections between the Eaglewood and Sierra Meadows/Ponderosa Palisades developments, and a through connection from Big Springs Drive into the Highlands development in Northstar-at-Tahoe. The second scenario removed the through connections from Schaffer Mill Road to Northstar and from Eaglewood to Sierra Meadows/Ponderosa Palisades developments.*
>
> *Of these two roadway network scenarios, the one with the connections was the proposed roadway network initially presented to the community at public meetings due to the overall circulation benefits. Based on community and landowners input however, this Plan proposes the second scenario and further proposes that the Northstar Highlands to Northstar Village connection via Big Springs Road be limited to transit, pedestrian, bicycle and emergency access.* ***Additionally the proposed roadway system includes transit and emergency access only between Shaffer Mill Road [Martis Camp] and Northstar.***

b. On January 18, 2005, the 726 lot Martis Camp (formerly Siller Ranch) Conditional Use Permit and Vesting Tentative Map (SUB-424/CUP-3008) were approved by Placer County. The Martis Camp Conditions of Approval required there to be an emergency access and transit connection to Northstar. Martis Camp FEIR (p. 3.0-18) reads as follows:

> ***The project [Martis Camp] would provide a 22-foot wide emergency access road on the eastern boarder of the project site connecting to a planned emergency access road in "The***

Retreat" within Northstar-at-Tahoe *that would eventually connect to Big Springs Road. Two emergency access roads would be located along the northern edge of the eastern half of the project site, which would connect with Lahontan's southern border at Pete Alvertson and John McKinney roads. The three emergency access roads would be gated and have Knox boxes or similar devises to provide access to emergency service providers.*

c. The Retreat at Northstar Conditional Use Permit and Vesting Tentative Map (PSUBT20040814), to include 18 homesites, was approved by Placer County on February 23, 2005. The Retreat's Conditions of Approval required the Retreat's Mill Site Road to be extended for a future **emergency access and transit connection** to the Martis Camp community to the east. The Retreat's COA #26 reads as follows:

> *26. Mill Site Road shall be constructed at a minimum to the west property line for a future* ***emergency access / transit access road connection****.*

d. On March 16, 2006, Placer County approved the Improvement Plans for the Retreat subdivision. Subsequently during the summer of 2006, Mill Site Road and Cross Cut Court were constructed in accordance with the approved Conditional Use Permit and Improvement Plans to a Rural Minor Standard of 22' in width with direct driveway access. The Placer County Land Development Code states a Rural Minor Roadway shall serve no more "than 50 units on a cul-de-sac or 75 units on a through road." Given Mill Site Road and Cross Cut Court were designed and approved to only serve the 18 homesites within the Retreat, this was the appropriate roadway section for the Retreat community. As part of the Retreat's improvements, an emergency vehicle access gate was constructed in accordance with the approved Vesting Tentative Map. This point is furthered by the Retreat's design engineer who stated in the attached letter (see attached Exhibit F for additional details):

> *Mill Site Road was intended and designed to meet the requirements for supporting local traffic generated by 18 lots of the Retreat Subdivision. From an engineering standpoint, following Placer County engineering guidelines,* ***Mill Site Road is not suitable for carrying traffic from Martis Camp's 100s of lots [726], except for emergency vehicle traffic or public bus transit use. Doing so may jeopardize public safety, reduce the level of service, increase traffic noise and road maintenance costs at the Retreat, and other roads in Northstar.***

e. On May 9, 2006, along with the Retreat Final Map approval, the Placer County Board of Supervisors resolved to establish County Service Area #28, Zone of Benefit #187 (Resolution 2006-107) to provide road rehabilitation, storm drain maintenance and snow removal services for the Retreat subdivision. As part of this Resolution the Board of Supervisors approved the Retreat's Zone of Benefit Engineer's Report which stated that the legal requirements under California Proposition 218 for the establishment of a Zone of Benefit assessment is as follows, **"An assessment may only be imposed in an amount, which represent a special benefit to an assessed property. These services represent a special benefit to the Retreat Subdivision property in that the services to be funded by the assessments will only benefit the Retreat Subdivision property and the individual lots in the Retreat Subdivision project."**

f. On November 4, 2008, the Placer County Board of Supervisors approved the Martis Camp Unit No. 7A Final Map which included an Emergency Access Easement along the roadway designated as an emergency access and transit connection to Northstar. This particular segment of Schaffer Mill

Road was and is the only portion of Schaffer Mill Road within Martis Camp to be built to a standard narrower than 32'. Given this segment of Schaffer Mill Road was designed and approved as an emergency vehicle access and transit connection, and **not** for general use, it is appropriate that this roadway was constructed as a much narrower 22' wide road. Within the Martis Valley area, Placer County Engineering and Surveying Department consistently requires, per the Land Development Code, a 32' wide roadway section anywhere a road is proposed to service more than 50 units on a cul-de-sac or 75 units on a through roadway. Given Martis Camp was approved for 726 units, it is clear that the emergency vehicle access and transit portion of Schaffer Mill Road was not designed, approved or intended for use other than by emergency and transit vehicles.

g. During the summer of 2010, the Martis Camp developer constructed the emergency access and transit connection portion of Schaffer Mill Road to the eastern property boundary of Martis Camp to meet the emergency access and transit connection portion of Mill Site Road (Retreat). Concurrently, the Martis Camp developer constructed an emergency vehicle access gate at the eastern terminus of Shaffer Mill Road (Martis Camp) and removed the Retreat neighborhood's emergency vehicle access gate that had been in place at the western terminus of Mill Site Road since 2006. The Retreat's emergency vehicle access gate was removed by the Martis Camp developer without permission from the Retreat Owner's Association.

h. Starting in 2010, Martis Camp began issuing transponders to property owners, guests, contractors and vendors that allowed access through the Martis Camp emergency vehicle access gate and cut-through the Retreat subdivision along Mill Site Road. Since 2010 and with the growth of Martis Camp, this cut-through into Northstar via the Retreat community is being used for access to the Northstar Village and Lake Tahoe. It is also being used extensively by Martis Camp contractors and vendors as a construction entrance and exit. As of the end of 2012, with Martis Camp less than 15% built out, Martis Camp had already issued over 1,000 such transponders, allowing hundreds of commercial and passenger vehicles to cut-through the Retreat each day.

III. ROW & PRE Abandonment & County Service Area – Zone of Benefit Dissolution Request

a. Abandon/Vacate the Right-of Way and Public Road Easement as shown on the Subdivision Map for The Retreat at Northstar, Tract No. 930 to create 18 homesites, recorded on May 16, 2006 as Book BB of Maps, Page 8, Placer County official records. Said map dedicated a ROW and PRE over Mill Site Road and Cross Cut Court (see attached Exhibit A & B for reference).

b. Dissolution of County Service Area #28, Zone of Benefit #187 (see attached Exhibit C & D).

c. Please refer to Exhibit E for regional and area overview exhibits.

IV. California Street and Highway Code Section 8300 Compliance

a. Mill Site Road and Cross Cut Court within the Retreat have not been historically used as a nonmotorized transportation facility or for use by pedestrians, bicyclists, or equestrians.

b. Mill Site Road and Cross Cut Court are within the Martis Valley Community Plan area and as referenced above, "...the proposed roadway system includes **transit and emergency access only** between Shaffer Mill Road [Martis Camp] and Northstar."

We understand the importance of emergency connections between neighboring communities. In fact, this request is designed to ensure that the connection between Martis Camp and Northstar is reserved to serve the purpose for which it was originally intended: providing access to the Retreat's Mill Site Road in the event of an emergency.

We ask that you approve this request so that the 18 families that own within the Retreat are able to safely enjoy their community without being overrun by vehicles cutting through from Martis Camp.

We ask that you approve this request such that the 2,000 families and growing that own within the Northstar community area able to enjoy their community without Martis Camp cut-through traffic undermining the Northstar Traffic Management System that the community stakeholders worked so hard to put in place.

Finally, we ask that you approve this request so that the Retreat homeowners will not be unfairly taxed to maintain and replace a road segment used by thousands of Martis Camp residents.

Thank you and best regards,

Chris Hanrattie
Board Member
Retreat at Northstar Owners' Association
chanrattie@crescent.com
(817) 321-1037

Cc (via email): John Weber; Ken Grehm; Michael Johnson; Leslie Amsberry; Rick Erie; Phil Frantz; Dan Dottai

ATTACHEMENTS:

- **Exhibit A:** Mill Site Road & Cross Cut Court PRE Abandonment Legal Description
- **Exhibit B:** Mill Site Road & Cross Cut Court PRE Abandonment Legal Depiction
- **Exhibit C:** Retreat Homeowner's CSA Dissolution Petition
- **Exhibit D:** Retreat HOA's CSA Dissolution Resolution
- **Exhibit E:** Regional & Area Overview Exhibits
- **Exhibit F:** Gary Davis Group Letter dated October 11, 2011
- **Exhibit G:** LSC Transportation Consultants Letter dated February 19, 2014

EXHIBIT A
Legal Description

All of Cross Cut Court and Mill Site Road, as shown on that map entitled "TRACT NO. 930, THE RETREAT AT NORTHSTAR", filed in Book BB of Maps at Page 8, Placer County Records, Placer County, California.

SURVEYOR'S STATEMENT

I hereby state that I am a Licensed Land Surveyor of the State of California and that this description was prepared under my supervision.

Michael R. Dequine

Michael R. Dequine, LS 5614
License Expires 9/30/2014

Dated: 1-28-2014

LICENSED LAND SURVEYOR
MICHAEL RAYMOND DEQUINE
EXP 9/30/2014
05614
STATE OF CALIFORNIA

EXHIBIT B

NORTH

0 300

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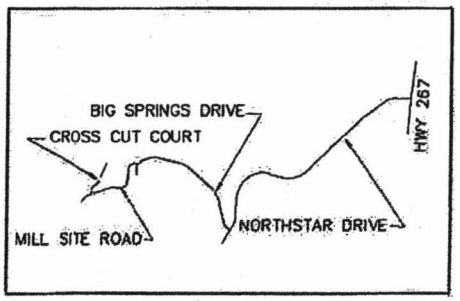
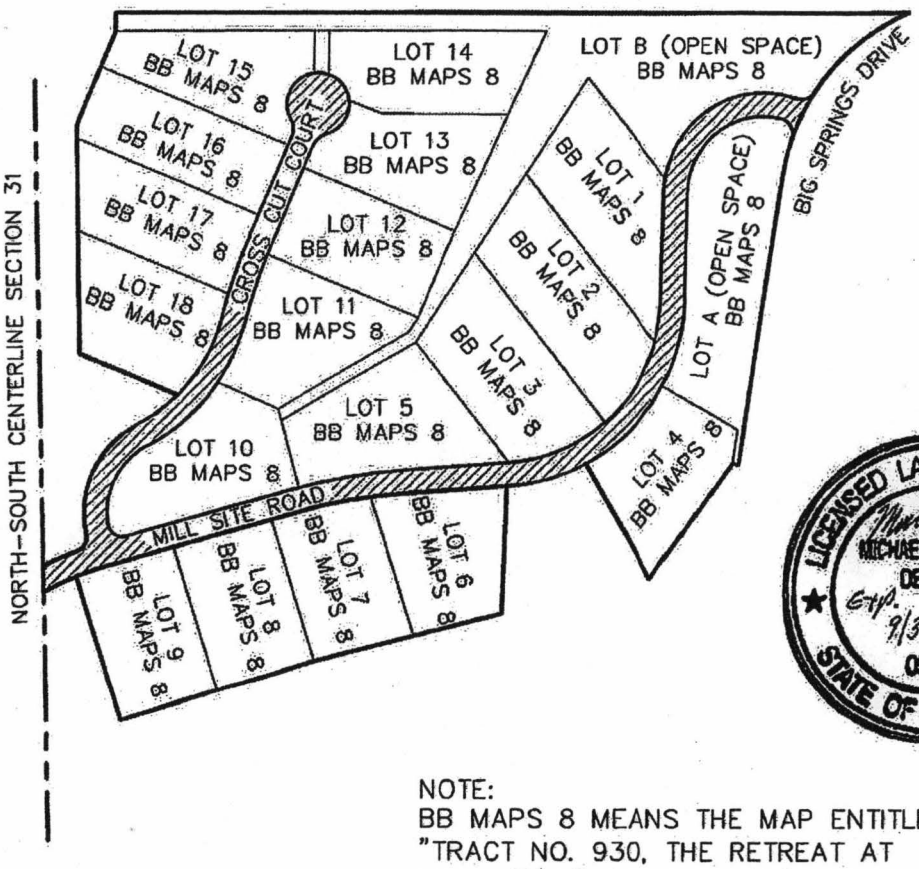


VICINITY MAP
NOT TO SCALE

OFFER OF DEDICATION OF PUBLIC ROAD BEING VACATED



LICENSED LAND SURVEYOR
MICHAEL RAYMOND DEQUINE
Exp. 9/30/2014
05614
STATE OF CALIFORNIA

NOTE:
BB MAPS 8 MEANS THE MAP ENTITLED "TRACT NO. 930, THE RETREAT AT NORTHSTAR", FILED IN BOOK BB OF MAPS, PAGE 8, RECORDS OF PLACER COUNTY, CALIFORNIA.

Michael Dequine and Associates, Inc.
2295 Gateway Oaks Drive, Suite 140
Sacramento, Ca 95833
Phone: (916) 923-5620
Fax: (916) 923-1626

OFFER OF DEDICATION OF PUBLIC ROAD VACATION
THE RETREAT AT NORTHSTAR
PORTION OF THE NE 1/4 OF SEC. 31, T. 17 N. R. 17 E., M.D.M.
PLACER COUNTY, CALIFORNIA

Chk'd by: ___	Dwg By: GL	Scale: 1"=300'	Job# 13-1359	Date: 1/28/2014	Sheet 1 of 1

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

Whereas Zone of Benefit No. 187 of The Northstar at Tahoe – Retreat Subdivision was created on May 9, 2006 by the Placer County Board of Supervisors (Resolution 2006-107), for the purpose of providing funding for the costs of the following extended County services: road rehabilitation and snow removal; and

Whereas The Northstar at Tahoe – Retreat Subdivision consists of 18 residential lots as shown on Exhibit A, attached hereto; and

Whereas, at least a supermajority (two-thirds) of the property owners within Zone of Benefit No. 187 no longer wish for the County to provide the aforementioned services or to be assessed by the County for the costs of providing said services to Zone of Benefit No. 187 and wish to assume responsibility for providing the aforementioned services through their existing homeowners association;

Now, therefore, the undersigned owners of property within Zone of Benefit No. 187 hereby petition the Placer County Board of Supervisors as follows:

a) That the Board adopts a resolution to dissolve Zone of Benefit No. 187 effective as of the earliest possible date, subject to the conditions set forth in Section (b), below.
b) That the dissolution of Zone of Benefit No. 187 shall not be effective until proof of compliance with the following condition has been submitted to the County: (a) The CC&Rs for The Retreat at Northstar Owner's Association have been amended to provide that the Homeowner's Association assumes full responsibility for the CSA services and the property owners have agreed to assess themselves for the costs thereof.
c) That all services being provided by the County to the property within Zone of Benefit No. 187 be discontinued as of the effective date of the resolution of dissolution.
d) That imposition of all benefit assessments imposed upon each parcel of property within Zone of Benefit No. 187 to fund the costs of the CSA services be discontinued as of first new secured property assessment roll after the effective date of the resolution of dissolution.
e) That upon dissolution and after payment of all costs of administration and services for Zone of Benefit No. 187, any unexpended funds collected by the County to provide the aforementioned services be disbursed to The Retreat at Northstar Owner's Association to be held and utilized for the purpose of providing those services.
f) That the Board of Supervisors consider the adoption of a resolution to dissolve Zone of Benefit No. 187 at a hearing in accordance with Government Code section 25210.39b.
g) Concurrently or subsequently to the resolution set forth in Section (f) above, that the Board of Supervisors consider the adoption of a resolution to abandon the Public Road Easement(s) and Public Drainage Easement(s) dedicated within the Zone of Benefit No. 187 and within the subdivision refer to as The Retreat at Northstar, Tract No. 930 (Book BB of Maps, Page 8) at a hearing in accordance with Government Code section 25210.39b (Note: The Public Road Easement and Public Drainage Easement abandonment will not include the abandonment of the Emergency Access Easement(s) and Ingress and Egress Support Easement(s) within the Retreat subdivision.)

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

1. Owner: Crescent Crown Land Holding SPV LLC

   Signed: Suzanne Stevens Dated: 10/29/13

   Printed Name: Suzanne Stevens

   APN: 110-650-002

---

2. Owner: Crescent Crown Land Holding SPV LLC

   Signed: Suzanne Stevens Dated: 10/29/13

   Printed Name: Suzanne Stevens

   APN: 110-650-003

---

3. Owner: Crescent Crown Land Holding SPV LLC

   Signed: Suzanne Stevens Dated: 10/29/13

   Printed Name: Suzanne Stevens

   APN: 110-650-006

---

4. Owner: Crescent Crown Land Holding SPV LLC

   Signed: Suzanne Stevens Dated: 10/29/13

   Printed Name: Suzanne Stevens

   APN: 110-650-008

---

5. Owner: NORTHSTAR LG, LLC

   Signed: [illegible] Dated: 10/31/13

   Printed Name: LEV LEYTES, MANAGER

   APN: 110-065-005

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

6. Owner: Crescent Crown Land Holding SPV LLC

Signed: Suzanne Stevens Dated: 10/29/13

Printed Name: Suzanne Stevens

APN: 110 - 650 - 009

---

7. Owner: Crescent Crown Land Holding SPV LLC

Signed: Suzanne Stevens Dated: 10/29/13

Printed Name: Suzanne Stevens

APN: 110 - 650 - 010

---

8. Owner: Crescent Crown Land Holding SPV LLC

Signed: Suzanne Stevens Dated: 10/29/13

Printed Name: Suzanne Stevens

APN: 110 - 650 - 012

---

9. Owner: Crescent Crown Land Holding SPV LLC

Signed: Suzanne Stevens Dated: 10/29/13

Printed Name: Suzanne Stevens

APN: 110 - 650 - 013

---

10. Owner: DEAN KEHLER

Signed: Dean Kehler Dated: 10/31/13

Printed Name: DEAN KEHLER

APN: 110 - 650 - 004

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

11. Owner: JJJ Real Estate, Inc.

Signed: [signature] Dated: 11/5/13

Printed Name: Jeffrey Joyce

APN: 110-650-001

---

12. Owner: JJJ Real Estate, Inc.

Signed: [signature] Dated: 11/5/13

Printed Name: Jeffrey Joyce

APN: 110-650-014

---

13. Owner: JJJ Real Estate

Signed: [signature] Dated: 11/5/13

Printed Name: Jeffrey Joyce

APN: 110-650-015

---

14. Owner: MAYON FAMILY TRUST

Signed: [signature] Dated: 10/28/2013

Printed Name: MICHAEL H. MAYON, TRUSTEE

APN: 110-650-017-000

7708336201 11:21:57 11-05-2013 5/6

105

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

15. Owner: James LaChance
Signed: [signature] Dated: 4-8-14
Printed Name: James LaChance
APN: 110-650-011

16. Owner: RAN, LLC
Signed: [signature] Dated: 4/15/14
Printed Name: David R. Duncan
APN: 110-650-016

17. Owner: RAN, LLC
Signed: [signature] Dated: 4/15/14
Printed Name: Walter F. McLallen IV
APN: 110-650-016

18. Owner: Schweitzer 2007 Trust / Schweitzer 2005 Trust - TIC
Signed: [signature] Dated: 4/27/14
Printed Name: Richard Schweitzer
APN: 110-650-007

PETITION TO DISSOLVE
COUNTY SERVICE AREA 28, ZONE OF BENEFIT 187

19. Owner: Fred & Lynne Koplin

Signed: [signature] Dated: 5/11/14

Printed Name: Fred & Lynne Koplin

APN: 110-650-018

RESOLUTION OF THE
RETREAT AT NORTHSTAR OWNERS' ASSOCIATION

A. WHEREAS, the Retreat at Northstar Owners' Association is duly organized and existing under the laws of the State of California; and

B. WHEREAS, on May 9, 2006 the Placer County Board of Supervisors resolved to establish a County Service Area (CSA) #28, Zone of Benefit #187 (Resolution 2006-107) to provide road rehabilitation, storm drain maintenance and snow removal services for the Retreat at Northstar subdivision; and

C. WHEREAS, it is hereby acknowledged that the CSA #28, Zone of Benefit #187 Engineer's Report approved by the Placer County Board of Supervisors on May 9, 2006 stated that the legal requirements under CA Proposition 218 for the establishment of a Zone of Benefit assessment is as follows, "An assessment may only be imposed in an amount, which represent a special benefit to an assessed property. These services represent a special benefit to the Retreat Subdivision property in that the services to be funded by the assessments will only benefit the Retreat Subdivision property and the individual lots in the Retreat Subdivision project."; and

D. WHEREAS, it is hereby further acknowledged that the Zone of Benefit assessment requirements stated in paragraph C above and required under CA Proposition 218 are not met with regards to the Retreat subdivision in that the assessment does not solely benefit the Retreat subdivision property; and

E. WHEREAS, the Final Subdivision Map for The Retreat at Northstar, Tract No. 930 to create eighteen (18) homesites, recorded on May 16, 2006 in Book BB of Maps, at Page 8, Placer County official records. Said map dedicated a Public Road Easement(s) over Mill Site Road and Cross Cut Court within the Retreat subdivision;

F. WHEREAS, it is understood that certain property owners within the Retreat subdivision boundary wish to pursue Dissolution of CSA #28, Zone of Benefit #187 and privatization of Mill Site Road and Cross Cut Court within the Retreat Subdivision;

G. WHEREAS, it is understood that the privatization of the Retreat subdivision is intended to include the abandonment of the Public Road Easement(s) and Public Drainage Easement(s) within the subdivision boundary as shown on the Final Subdivision Map for The Retreat at Northstar, Tract No. 930, recorded on May 16, 2006 in Book BB of Maps, at Page 8, Placer County official records but will not include the abandonment of the Emergency Access Easement(s) and Ingress and Egress Support Easement(s) shown thereon;

H. NOW, THEREFORE, the members hereby adopt the following resolution by and on behalf of the Retreat at Northstar Owners' Association;

1. BE IT RESOLVED THAT, should the owners of twelve (12) or more of the homesites within the Retreat subdivision (supermajority) sign the petition for CSA #28 Zone of Benefit #187 Dissolution and abandonment of the Public Road Easement(s) over Mill Site Road and Cross Cut Court within the Retreat subdivision boundary and additionally, the Placer County Board of Supervisors accepts and approves such petition, the Retreat at Northstar Owner's Association hereby agrees to amend its CC&Rs as necessary and assume the aforementioned CSA #28, Zone of Benefit #187 responsibilities;

2. BE IT RESOLVED THAT, the Retreat at Northstar Owner's Association supports the Dissolution of CSA #28, Zone of Benefit #187 and the privatization of Mill Site Road and Cross Cut Court.

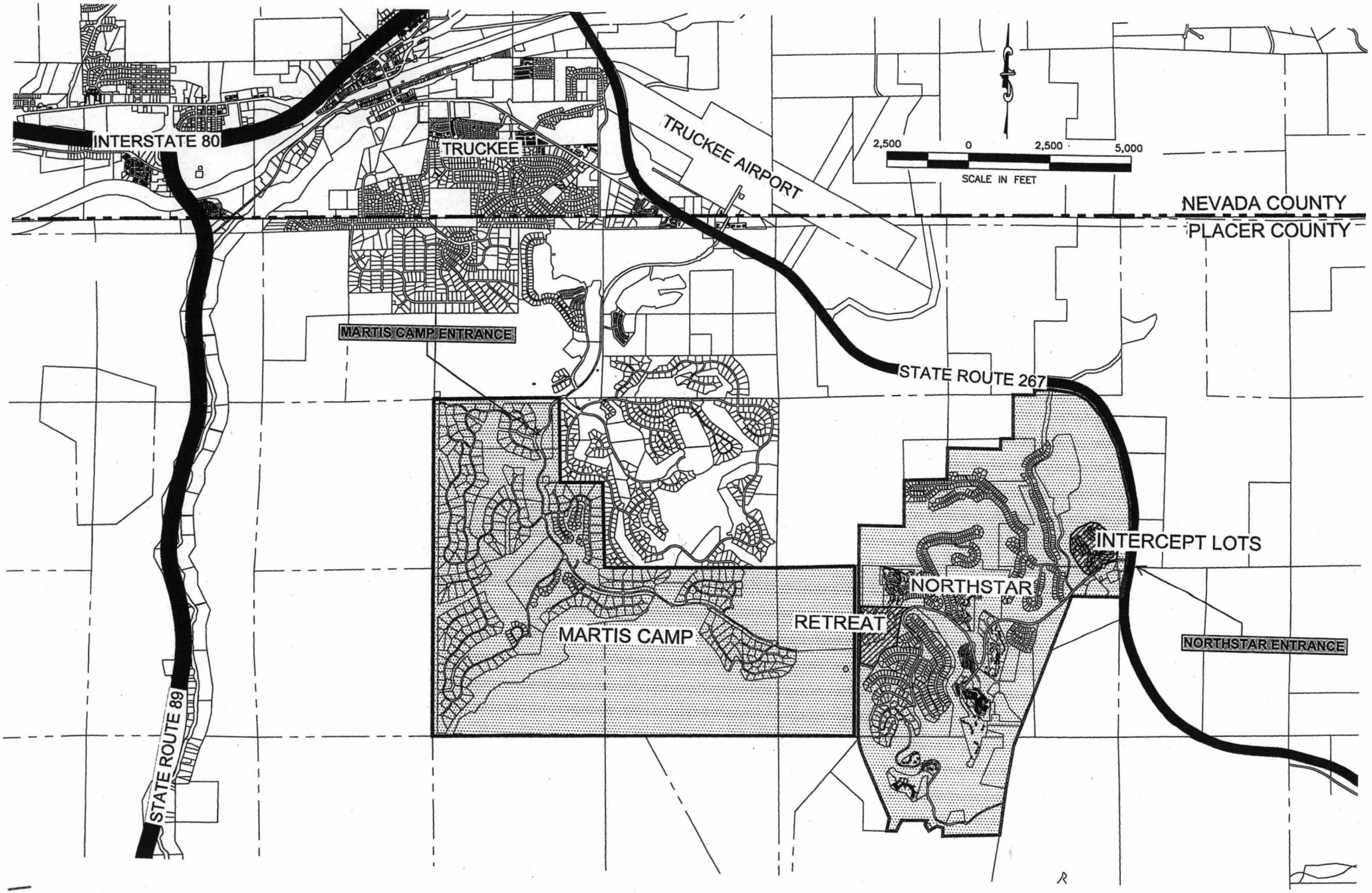
The undersigned, by affixing their signatures hereto, do hereby consent to, authorize, and approve of the foregoing resolutions in their capacity as the Directors of the Retreat at Northstar Owner's Association, this 28 day of October 2013.

By:

Michael Mayon
President

Attested:

Chris Hanrattie
Board Member


INTERSTATE 80
TRUCKEE
TRUCKEE AIRPORT
2,500
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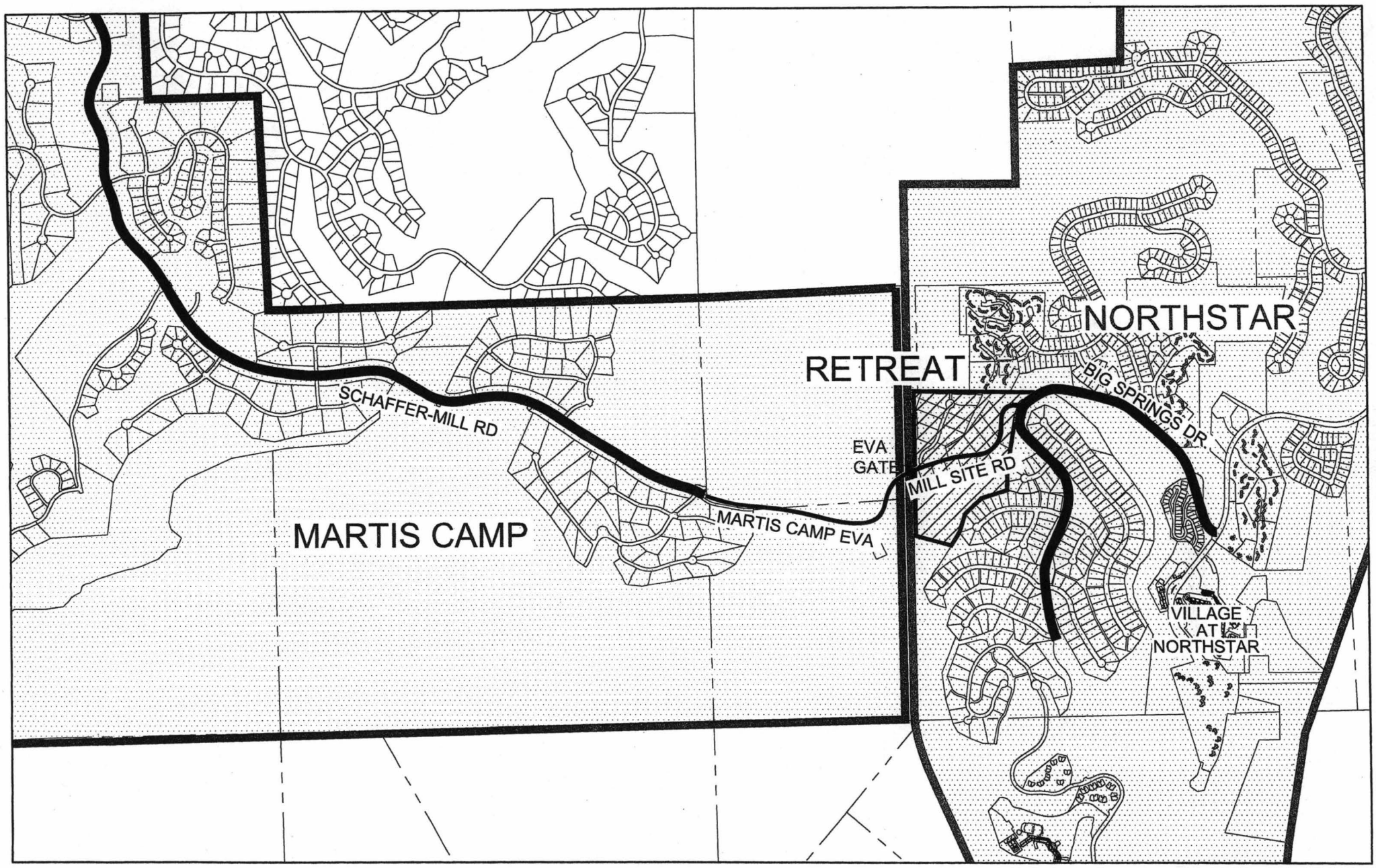
2,500
5,000
SCALE IN FEET
NEVADA COUNTY
PLACER COUNTY
MARTIS CAMP ENTRANCE
STATE ROUTE 267
INTERCEPT LOTS
NORTHSTAR
RETREAT
MARTIS CAMP
NORTHSTAR ENTRANCE
STATE ROUTE 89


NORTHSTAR
RETREAT
BIG SPRINGS DR
SCHAFFER-MILL RD
EVA
GATE
MILL SITE RD
MARTIS CAMP EVA
MARTIS CAMP
VILLAGE
AT
NORTHSTAR

October 11, 2011

Retreat at Northstar Association Board of Directors
VIA Email

RE: RETREAT SUBDIVISION ROAD SECTION, EIR, AND ALLOWABLE USE RELATED TO TRAFFIC VOLUMES.

Dear Board of Directors;

I have been asked to describe the road sections that were required and approved by Placer County for the Retreat Subdivision, and how these might relate to traffic volumes if the road is open to Martis Camp traffic.

Condition of Approval #21 for the Retreat at Northstar Tentative Map required that subdivision road(s) on-site be built to a Rural Minor Residential (Plate 2 LDM) standard. A copy of this Plate is attached for reference. This Placer County detail shows a 22-foot wide street section split into two 11-foot lanes, and includes notes addressing "Allowable Use". Note # 1 limits use of this detail to roads serving relatively small numbers of lots, up to 75 in the most extreme case. What ended up being constructed was a slightly modified version of this County standard, consisting of two 11-foot lanes and a 4-foot shoulder on one side. By comparison, for roads serving more than 75 units, the county requires a larger Street section which is the Rural Secondary Roadway (standard Placer County Plate 3), copy attached, which is a 32-foot wide street section consisting of two 16-foot lanes. This plate includes a note indicating it is for roads serving more that 75 units. The Retreat subdivision was not built with 16-foot lanes. If Placer County ever intended the Retreat roads to serve hundreds of lots from the Martis Camp project, at the very least I would expect Plate 3 to be the required standard, but this was not the standard required by the county. It is clear, that opening up Mill Site Road (that was built to a standard intended to safely serve no more that 75 homes) to hundreds of Martis Camp lots is contrary to County standards and not consistent with the conditions of approval for the Retreat subdivision.

As we have discussed in conversations with Tom Archer, if Mill Site Road was being considered to serve Martis Camp, we would have expected this to have been included in the traffic study and addressed in the EIR. This was not done. In reading the EIR, no traffic volumes beyond those generated by the 18 Retreat Subdivision lots appear to be included. The inclusion of significantly increased traffic volumes through the Retreat Subdivision, generated by the Martis Camp development (which is approved for 600+lots compared to the 18 lots of the Retreat) should have been the subject of detailed analysis through the Traffic Study to address level of service impacts at the intersection of Mill Site and Big Springs Roads, as well as numerous other intersections. Bicycle and pedestrian safety would also have to be analyzed. The EIR would then be required to address additional impacts to noise, air quality, road maintenance costs, etc. etc. With the additional analysis in the Traffic Study and EIR, local property owners would have had

post office box 7409 tahoe city, ca 96145 530.583.9222 fax 583.9294 garydavisgroup.com

additional information as a basis for input during the public hearing process. As it stands the traffic study and EIR that were done, focused only on the impacts of the 18 lot Retreat Subdivision, without consideration of a open access point for traffic from the hundreds of Martis Camp homes.

In summary there is a major discrepancy with the level of traffic Mill Site Road was designed to carry, and how the county is allowing it to be used now. Mill Site Road was intended and designed to meet the requirements for supporting local traffic generated by 18 lots of the Retreat Subdivision. From an engineering standpoint, following Placer County engineering guidelines, Mill Site Road is not suitable for carrying traffic from Martis camps 100s of lots, except for emergency vehicle traffic or public bus transit use. Doing so may jeopardize public safety, reduce the level of service, increase traffic noise and road maintenance costs at the Retreat, and other roads in Northstar.

Please understand that my interpretation is not a legal opinion but rather an engineer's review of the information presented to date. Please feel free to contact me at (530)583-9222, ext 17 if you have any questions,

Sincerely,

Greg Moutinho

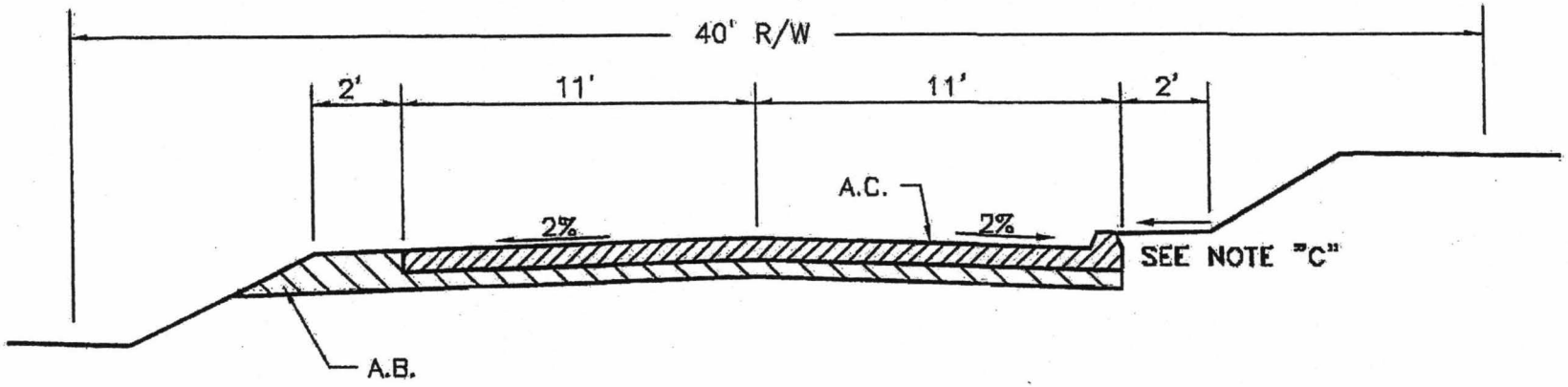
Greg Moutinho, P.E.
Gary Davis Group

APPROVED: _____
DIRECTOR OF PUBLIC WORKS

COUNTY OF PLACER
DEPARTMENT OF PUBLIC WORKS

RURAL MINOR RESIDENTIAL
NO PARKING

DATE: 10-29-96	NTS	PLATE 2



ALLOWABLE USE

1. LESS THAN 50 UNITS ON A CUL-DE-SAC OR 75 UNITS ON A THROUGH ROAD PROVIDING BUILDING SETBACKS ARE A MINIMUM OF 40' FROM THE R/W LINE. OTHERWISE THIS STANDARD APPLIES TO 25 UNITS AND 50 UNITS RESPECTIVELY.
2. NO PARKING – STREETS TO BE SIGNED AS DIRECTED BY ENGINEER.
3. RESIDENTIAL LOTS 40,000 SQUARE FEET AND GREATER.

NOTES:

A) A SEPARATED, MULTIPURPOSE TRAIL OR PATHWAY MAY BE REQUIRED IN ADDITION TO THE IMPROVEMENTS SHOWN ABOVE.

B) ADDITIONAL EASEMENTS AS NECESSARY TO PROVIDE FOR DRAINAGE, CUT/FILL SLOPES, UTILITIES, ETC. MAY BE REQUIRED.

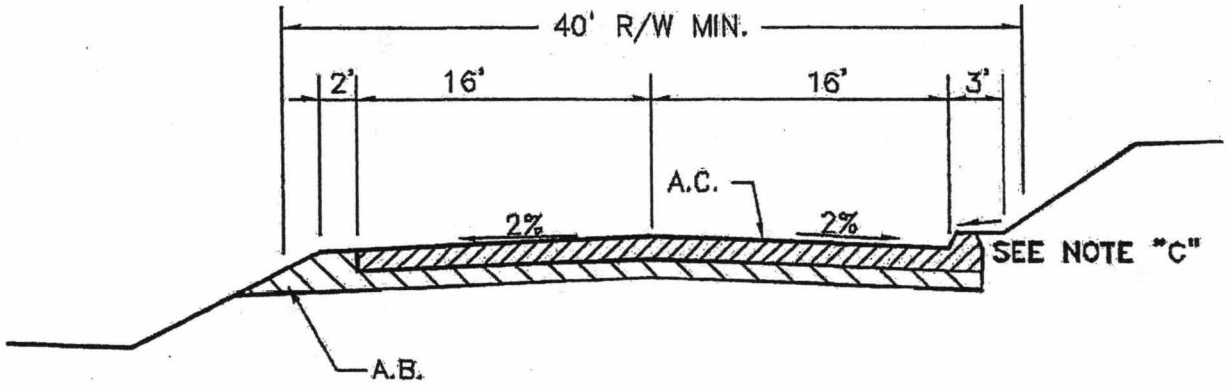
C) 10% MINIMUM SLOPE. FOR ROADS WITH LONGITUDINAL CENTERLINE SLOPES GREATER THAN 8%, USE 18% MINIMUM SLOPE, 22% MAXIMUM SLOPE.

APPROVED: _____
DIRECTOR OF PUBLIC WORKS

COUNTY OF PLACER
DEPARTMENT OF PUBLIC WORKS

RURAL SECONDARY

DATE: 10-29-96	NTS	PLATE 3



ALLOWABLE USE

1. MORE THAN 75 UNITS SERVED.
2. NO PARKING – STREET TO BE SIGNED AS DIRECTED BY ENGINEER.
3. ACCESS CONTROL.
4. RESIDENTIAL LOTS 40,000 SQUARE FEET AND GREATER.

NOTES:

A) A SEPARATED, MULTIPURPOSE TRAIL OR PATHWAY MAY BE REQUIRED IN ADDITION TO THE IMPROVEMENTS SHOWN ABOVE.

B) ADDITIONAL EASEMENTS AS NECESSARY TO PROVIDE FOR DRAINAGE, CUT/FILL SLOPES, UTILITIES, ETC. MAY BE REQUIRED.

C) 10% MINIMUM SLOPE. FOR ROADS WITH LONGITUDINAL CENTERLINE SLOPES GREATER THAN 8%, USE 18% MINIMUM SLOPE, 22% MAXIMUM SLOPE.

TRANSPORTATION CONSULTANTS, INC.

TRANSPORTATION PLANNING AND TRAFFIC ENGINEERING CONSULTANTS

2690 Lake Forest Road, Suite C
Post Office Box 5875
Tahoe City, California 96145
(530) 583-4053 FAX: (530) 583-5966
info@lsctahoe.com • www.lsctrans.com

February 21, 2014

Chris Hanrattie
Crescent Crown Land Holding SPV LLC
777 Main Street, Suite 2000
Fort Worth, TX 76102

RE: Martis Camp Access via Mill Site Rd

Dear Mr. Hanrattie:

As requested, LSC Transportation Consultants, Inc. has reviewed the assumptions in the EIR prepared for the Martis Camp Development, which was previously referred to as "Siller Ranch" (reference the Siller Ranch EIR, Placer County, April 2004), regarding the connection between Martis Camp and Northstar via Mill Site Road. According to page 3.0-18 of the Final EIR, "*The project would provide a 22-foot wide emergency access road on the eastern border of the project site connecting to a planned emergency access road in "The Retreat" within Northstar-at-Tahoe that would eventually connect to Big Springs Road. Two emergency access roads would be located along the northern edge of the eastern half of the project site, which would connect with Lahontan's southern border at Pete Alvertson and John McKinney roads. The three emergency access roads would be gated and have Knox boxes or similar devices to provide access to emergency service providers. The emergency access roads are shown on Figures 3.0-4 and 3.0-4b.*" This page also states, "*Although the project proposes that Siller Ranch Road would be private, the local public transit providers service vehicles would be allowed to use the road to provide transit services through the project using the emergency access road to provide a connection to Northstar-at-Tahoe.*"

For purposes of the traffic analysis conducted by LSC for the EIR, none of the traffic generated by Siller Ranch was assumed to use the Mill Site Road connection to Big Springs Drive, beyond transit vehicles and emergency vehicles. That is, no private vehicles associated with the Siller Ranch uses were assumed to use the Mill Site Road connection, and no project construction-related traffic was assigned to this route. Consequently, traffic impacts along Mill Site Road and/or Big Springs Drive were not analyzed in the EIR. Furthermore, the provision of a full access roadway connection would be inconsistent with the adopted Martis Valley Community Plan. Please contact our office at (530) 583-4053 with any comments or questions pertaining to this letter.

Respectfully Submitted,

LSC Transportation Consultants, Inc.

by Sara T. Hawley PE
Sara T. Hawley, PE, Associate

Print Form

PLACER COUNTY PLANNING DEPARTMENT

Reserved for Date Stamp

AUBURN OFFICE
3091 County Center Drive
Auburn, CA 95603
530-745-3000/FAX 530-745-3080
Website: www.placer.ca.gov/planning

TAHOE OFFICE
565 W. Lake Blvd./P. O. Box 1909
Tahoe City CA 96145
530-581-6280/FAX 530-581-6282
E-Mail : planning@placer.ca.gov

EXEMPTION VERIFICATION

Fee $ _____ Receipt # _____ Accepted by _____ Date Received: _____ File #: _____

--TO BE COMPLETED BY APPLICANT--

Assessors Parcel Number(s) 110-650-ROW-000 & 110-030-067

Property Owner Retreat at Northstar Owner's Association

Mailing Address 12219 Business Park Drive, Suite 8 City Truckee State CA

Phone (817) 321-1037 E-mail address chanrattie@crescent.com

Project Location -- Be Specific Big Springs Area of Northstar

Proposed Project Abandonment of the Right-Of-Way and Public Road Easement(s) as shown on Book BB of Maps, Page 8.

	YES	NO
1. Are any trees located on the property within 50' of any proposed grading? (if yes, show all tree locations and their driplines within 50' of any grading activity)	☐	☒
2. Is the project within a floodplain?	☐	☒
3. Are any archaeological, cultural, or historical sites present?	☐	☒
4. Are any wetlands, riparian areas, or vernal pools present onsite?	☐	☒
5. Are any rare, threatened, or endangered species present onsite?	☐	☒
6. Is the project within an overflight zone of any airport?	☐	☒
7. Can the project impact, or be impacted by, either landfill operations, or sewage disposal facilities?	☐	☒
8. Is the project within the Tahoe Basin?	☐	☒
9. Is there any grading associated with this project?	☐	☒
10. Is there a significant (10,000 sq. ft. or more) amount of impervious surface (paving, roof, sidewalk, etc.) proposed?	☐	☒
11. Is there a potential for increased traffic?	☐	☒

Signature of individual completing this form

Chris Hanrattie - (817) 321-1037
Printed Name and Telephone Number

--TO BE COMPLETED BY REVIEWER--

Categorical Exemption Class and Number _____

Project Planner _____

Field Verification Date _____

Field Planner _____ _____
Name Title

T:\CDRA\KT\WebPostings\Planning\Applications\Exemption Verification.DOC; Rev. 8/06

Winberry Opposition Letter July, 21, 2014

LAW OFFICES OF
LANNY T. WINBERRY

LANNY T. WINBERRY
email:ltw@winberrylaw.com

8801 FOLSOM BOULEVARD, SUITE 172
SACRAMENTO, CALIFORNIA 95826

TELEPHONE
(916) 386-4423
FACSIMILE
(916) 386-8952

July 21, 2014

(Sent Via Email to jweber@placer.ca.gov
and delivered by hand)

Placer County Board of Supervisors
c/o Mr. John Weber
Placer County Department of Public Works
3091 County Center Drive, Suite 220
Auburn, CA 95603

Re: Opposition of DMB/Highlands Group, LLC
To Request for Abandonment of Mill Site Road
Public Road Right of Way

Dear Mr. Weber,

Attached in response to your notice of the above-referenced Request for Abandonment is a Memorandum in Opposition to that Request presented on behalf of DMB/Highlands Group, LLC, the developer and the owner of the unsold portion of the Martis Camp Community which regularly uses Mill Site Road as a convenient and necessary public highway.

Please let me know when this matter is scheduled for public discussion or hearing.

Sincerely,

Lanny T. Winberry

DMB/Highland Group, LLC's Opposition
to the
Petition for Vacation of the County's Public Right of Way
over
MILL SITE ROAD

I. The Issue Presented.

After more than 5 years of public use, the owners of the 18 lots in The Retreat at Northstar ("Retreat") request that Mill Site Road, a public highway approximately 3 tenths of a mile long, be removed from the public roadway system and that it become a private road open only to the 18 lot owners and their invitees. Exhibit B to the Petitioner's application letter depicts Mill Site Road as touching on Big Springs Drive to the east and touching on the north-south centerline of Section 31. That section centerline is the common boundary between lands formerly known as Siller Ranch (now Martis Camp) on the west and the lands of Northstar on the east. That common boundary is where Mill Site Road links up with the private road known as Schaffer Mill Road which traverses the length of Martis Camp. The road depicted in Petitioner's Exhibit B is the public road Petitioners wish to convert to a private road.

Petitioner's claim the partial closure of Mill Site Road will enhance their enjoyment of their property and will eliminate their undefined safety concerns. DMB/Highlands Group, LLC (DMB/H) as the developer Martis Camp and the Martis Camp Community Association oppose the request because the closure of Mill Site Road to public travel would deprive them of the safest, shortest and most environmentally efficient route to the Village at Northstar. The Retreat owners raise several arguments in favor of their request. The following sections refute those arguments and set forth numerous reasons why Mill Site Road must remain a public roadway.

II. Current Conditions.

Martis Camp is a subdivision approved in January 2005, the eastern boundary of which adjoins Northstar. Schaffer Mill Road is a private roadway which begins at the intersection of SR 267 and Airport Road. Prior to the development of Martis Camp, Schaffer Mill Road terminated at the entrance to the Lahontan Community. (See Attachment 1, extract of the December 2003 Martis Valley Community Plan at page 69.) The Vesting Tentative Map of Siller Ranch, now Martis Camp) proposed that roads named Siller Ranch Road and K Street would connect to Schaffer Mill Road and continue to the eastern boundary of Siller Ranch. (See Siller Ranch Condition of Approval 33 quoted below.) Those new road names were changed such that Schaffer Mill Road now continues into Martis Camp at the round-about which serves as an entry point to both the Lahontan Community and Martis Camp. From that entry point, Schaffer Mill Road runs though the length of Martis Camp, ultimately reaching the western end of Mill Site Road where its centerline and grade is aligned with that of Mill Site Road such that vehicular

traffic may enter or exit the public road smoothly at that point. Placer County holds an irrevocable offer of dedication for roadway purposes over Schaffer Mill Road from its origin at SR 267 to the point at which it reaches the round-about serving as the entry to the Lahontan Community and to Martis Camp. Placer County holds an emergency access easement and a public transit easement over all portions of Schaffer Mill Road lying within the boundaries of Martis Camp, but does not hold a dedication or an offer of dedication for the use of that roadway as a public Road. Schaffer Mill Road is a "private" road, whereas Mill Site Road is a dedicated, accepted and open public highway.

Access to the western end of Schaffer Mill Road is closely monitored and controlled at a gatehouse (Main Gate) near the entry round-about at the northernmost boundary. Access to **and from** the eastern end of Schaffer Mill Road is controlled by an electronically operated gate (East Gate), which is also equipped so as to be operable by law enforcement, fire and emergency personnel.

Some 536 lots in Martis Camp are now owned by families who are members of the Martis Camp Community, ("Martis Camp Members" or "Members"). Approximately 25 Martis Camp Members also own property in Northstar-at-Tahoe™. DMB/H owns, and is marketing, the remaining 132 residential lots in Martis Camp. Employees of DMB/H and the Martis Camp Members use Mill Site Road to travel to and from the Village at Northstar, (the "Village") and sometimes to reach SR 267 via Northstar Drive, because it is the shortest and most energy and environmentally efficient route from Martis Camp to the Village.

The 536 families who own lots in Martis Camp, regularly visit Martis Camp and make use of its extensive recreational facilities. Almost all those families have been issued at least one transponder which allows them to enter and exit Mill Site Road via the east gate in Martis Camp. Eventually, a maximum of 668 families will own lots in Martis Camp. Eight transponders have been issued to Northstar for ski operations, but are rarely used. Twelve transponders have been issued to employees of DMB/H who have a sometimes need to travel to and from the Village. All other DMB/H employees are required to use only the Main Gate. Unless they are also Martis Camp Members, Contractors and vendors are not issued transponders, and Martis Camp Members are forbidden to lend their transponders to non-owner contractors and vendors.

While it is true that approximately 1000 transponders have been issued and that more transponders will be issued as the remaining lots are sold, it is **not** true, as the Retreat owners imply, that the total number of transponders or the number of trips from Martis Camp to Northstar will multiply, as the build-out of homes continues in Martis Camp. As more homes are completed, the Martis Camp Members may actually elect to travel to Northstar less frequently than they do now. For example, new owners who often stay overnight in Northstar will no longer need to stay in Northstar when their homes in Martis Camp are completed. Thus, the need for some trips to Northstar will actually be eliminated as the building of homes in Martis Camp continues, somewhat offsetting the trips by the families who purchase the remaining lots.

The 18 Retreat owners have not provided any traffic counts in support of their Request, but contend that the Retreat roadways "are being impacted by over 1,000 vehicles from Martis Camp." They do not allege that all of those vehicles use Mill Site Road on any particular day. Although they argue that the Martis Camp use of Mill Site Road is "extensive" they do not attempt to quantify the traffic of which they complain. In its letter to Mr. Archer dated December 12, 2011, the County noted that Mill Site Road was wider than the 22' shown in County Plate 2 and that there were numerous 22'-wide roads in Placer County functioning satisfactorily at traffic loads of approximately 3,550 daily trips. (A copy of the 2011 letter is provided as Attachment 2.) The County's 2011 letter went on to note that, as built and accepted by the County into the County's Public Roadway system, Mill Site Road isn't only 22' in width, as now alleged by the Retraeat owners, but is actually, "a total of 26 feet of overall pavement width." The letter stated that Mill Site Road, as constructed, (26' of pavement) "is capable of accommodating Average Daily Traffic capacity of 6,800 vehicle trips." (Attachment 2 at page Contrary to the Retreat owners' vague and wholly unsupported allegations of safety concerns, the County has not identified any safety issues arising from the use of Mill Site Road by Martis Camp Members – or any safety concerns at all. When compared to the traffic levels considered normal usage by the County, the vague allegation pertaining to the "impact" of a 1,000 cars without any basis for that number, and without any indication of daily volume, simply fails to support the contention that Mill Site Road is overburdened, or in danger of being over burdened by Martis Camp traffic, or that the Martis Camp traffic poses a safety issue.

Current data provided by MCCA Security Service indicates that on the busiest day of the President's Day weekend this year fewer than 250 cars transited the east gate and entered or exited Martis Camp via Mill Site Road. Similarly, on the busiest day of the Fourth of July holiday weekend this year, the data indicates that fewer than 220 cars transited the east gate and entered or exited Mill Site Road. **This data indicates that Martis Camp traffic is not resulting or contributing to any traffic problems on Mill Site Road and is unlikely to do so in the future.**

The Retreat owners contend that construction traffic to and/or from Martis Camp presents a safety hazard or overburdens Mill Site Road. As pointed out above, transponders are not issued to construction contractors or vendors, unless those persons also happen to be lot or homeowners in Martis Camp. For example, in one instance known to MCCA's Security Services personnel in which this rule was violated, the Member's transponder was deactivated and retrieved from the contractor. And, there are isolated instances, "one-offs", involving deviation from standard operating policy. For example, on October 16, 2012, three trucks which desired to make deliveries to the Mountain Lodge construction site in Martis Camp were granted access at the Main Gate but made a wrong turn at the easternmost round-about and arrived at the Martis Camp side of the East Gate by mistake. Being unable to operate the East Gate, they called MCCA Security and asked to be allowed to exit. Rather than require all three trucks to make a difficult turn-around or to back all the way to the east round-about, MCCA security personnel opened the east gate and allowed them to exit. They returned to Martis Camp via the west gate to complete their deliveries.

Thus, while it is true that more than 1000 transponders have been issued, most of which will operate the east gate, it is not true, as petitioners allege, that contractors and vendors regularly use Mill Site Road to access Martis Camp. Some of the Martis Camp Members are also contractors who may sometimes drive their pick-up trucks on Mill Site Road, but their employees, sub-contractors and suppliers are not allowed to enter or exit Martis Camp via Mill Site Road.

There have been instances in which drivers, some relying on GPS navigation systems, arrive at the east gate and request admission to Martis Camp. On those occasions the drivers have been denied entrance and informed that they are only allowed to enter Martis Camp via the Main (western) gate. Those occurrences could best be reduced by the erection of appropriate signs on the County's right of way at the intersection of Mill Site Road and Big Springs Drive and/or at the intersection of Big Springs Drive and Northstar Drive, and/or at the intersection of SR 267 and Northstar Drive stating that construction deliveries to Martis Camp via Northstar roads are prohibited. There are, undoubtedly incidents of contractors or vendors driving on Mill Site Road by mistake and having to turn around to reach their intended destinations in Northstar. The evidence available to DMB/H and MCCA strongly indicates that neither the contractors working in Martis Camp nor their suppliers are regularly or significantly using Mill Site Road to access their jobsites.

III. The Closure of Mill Site Road to Martis Camp Traffic Would Reduce the Efficiency of the County's Traffic and Circulation Resources in the Martis Valley and Would Cause Substantial, Unnecessary and Adverse Environmental Impacts.

The closure of Mill Site Road to all but private, Retreat, traffic would mean that lot owners in Martis Camp could no longer reach the Village at Northstar™ (the "Village") via Mill Site Road, Big Springs Drive and Northstar Drive, but would, instead, have to drive on Schaffer Mill Road to reach SR 267, then on SR 267 to Northstar Drive, then to the Village. For those Martis Camp Members whose homes are reached via the easternmost round-about on Schaffer Mill Road, the travel distance to the Village is approximately 2 miles via the Mill Site Road route as compared to approximately 9 miles via SR 267 – a difference of some 7 miles. (See Attachment 3, aerial photo showing the circuitous and the direct route and listing the respective distances of the longer and the shorter routes between three points in Martis Camp and the Village.) Thus, if Mill Site Road were to be closed to public traffic, some Martis Camp Members who wished to travel to the Village from their property in Martis Camp would be required to travel approximately 14 additional and unnecessary vehicle miles during each such round trip. Those Members whose homes are near the Main Gate in the north western portion of Martis Camp would have to travel approximately 6 additional and unnecessary miles for each round trip to the Village. (See Attachment 3.) Those Members whose homes are near the middle of Martis Camp would see their round trips to the Village increase by almost 9 unnecessary miles. (See Attachment 3.)

The pending request for a partial closure simply ignores the obvious adverse environmental impacts which would be generated by the additional traffic mileage directly caused by the partial closure of Mill Site Road. Regardless of how many or how few cars from Martis Camp are using Mill Site Road, the total traffic miles for each round trip would be needlessly increased from between approximately 6 miles to approximately 14 miles if Martis Camp traffic to and from the Village were required to take the circuitous route described above and depicted in Attachment 3. Those additional, and wholly avoidable, trip miles would result in unnecessary noise generation, the unnecessary generation and discharge of airborne pollutants and particulates, unnecessary fuel consumption, unnecessary greenhouse gas emissions and unnecessary traffic loads on other public, and sometimes congested, highway segments.

In spite of such obvious and significant and avoidable adverse environmental impacts, the Retreat petitioners argue that the decision to close such a useful public roadway is exempt from study, analysis and publication pursuant to the California Environmental Quality Act, (CEQA). While the closure of something like a *cul-de-sac* or a dead end road to public traffic may not have the potential to produce significant adverse environmental impacts - because the total trip miles involved will not change in those instances - that is not the case here. As explained below, while the County may *reject* or *deny* the request for partial closure of Mill Site Road and vacation of the County's public right of way without any CEQA study, it may not *grant* the request and partially close the road to public traffic prior to studying the potentially significant adverse environmental impacts of such a partial closure and complying with all the procedural requirements of CEQA.

IV. Balancing the Benefits and the Detriments Requires Denial of the Request.

DMB/H, and, more importantly the Martis Camp Community Association, (MCCA) through its legal counsel, strenuously oppose the partial closure and privatization of Mill Site Road. They oppose it because it would needlessly deprive more than 536 families, who are currently members of the Martis Camp community, and another 132 families to come, of the beneficial use of a public roadway – for which there is no comparably efficient alternative. The closure of Mill Site Road to Martis Camp traffic would increase the traffic load on SR 267 thereby needlessly inconveniencing the general public wishing to visit Lake Tahoe and/or Northstar. Unfortunately, the largest increase in traffic on SR 267 resulting from the partial closure of Mill Site Road would be expected to occur at the very times when SR 267 is already at or near gridlock conditions. The Retreat owners believe they and others in Northstar would be marginally benefited by diverting Martis Camp traffic to the circuitous route, but the cost to the public of that benefit would vastly outweigh any such benefit.

The partial closure of Mill Site Road to public usage would **increase** travel demand on the county's roadway system by turning an allegedly significant number of approximately 4- to 8-mile round trips into the same or similar number of approximately 14- to 18-mile round trips, and would, thereby increase the quantity of emissions and

pollutants from automobiles. During some winter weekend peak traffic hours, the federal limits for certain air quality contaminates are exceeded in the Martis Valley. Any exacerbation of such non-attainment conditions would be a significant adverse environmental impact and any project which results in such impacts may not be approved in the absence of "findings of overriding considerations" supported by substantial evidence in the record. Petitioners offer no such evidence, and there is none.

The wholly unnecessary increased traffic load on SR 267 and Northstar Drive and the increased and wholly unnecessary trip mileage imposed on Martis Camp Members would needlessly increase noise generation, needlessly increase traffic related air pollution emissions, needlessly increase fuel consumption and would result in unnecessary congestion on other public roadway segments and contribute to queuing at already heavily burdened intersections. All of those human and environmental detriments greatly outweigh and benefits the partial closure would produce.

Petitioners argue that use of Mill Site Road by Martis Camp Members causes, or eventually will cause, dangerous traffic conditions. They cite no credible evidence to support that assertion or to counter the County's letter dated December 12, 2011 to the effect that Mill Site Road is adequate to safely accommodate up to 6,800 vehicle trips per day.

Because the requested closure would be detrimental to the interests of the motoring, hiking and *breathing* public, and would produce only marginal benefits to a relatively few persons, the request for vacation and partial closure of Mill Site Road must be denied. Such closure cannot be found to be "in the public interest."

V. Granting the Request Would Require an Amendment to the Martis Valley Community Plan.

The petition misstates the public record pertaining to the approval and opening of Mill Site Road as a public road and the approval and development of Schaffer Mill Road as a private roadway subject to a public easement for emergency traffic and publicly operated public transit vehicles. In fact, When the public record is examined, it is clear that the County, in 2003, made a wise and lawful decision with regard to the traffic and circulation issues the petition seeks to revisit.

In 2003, following study and public discussion, the County, in response to public opposition, made a decision to **not** require a public roadway connection through Siller Ranch to Northstar, but only to require an emergency access easement and a public transit easement across Siller Ranch to connect with the public roads in Northstar, including the then proposed Mill Site Road. The use of Mill Site Road is **significantly limited** by the fact that Schaffer Mill Road is, and has always been, a **private roadway**. The County appropriately balanced the public traffic and circulation system in the Martis Valley Community Plan update of 2003.

As demonstrated below, it is clear that the conversion of Mill Site Road from a public highway to a private road available only to the owners for 18 Retreat lots and their guests and invitees would be contrary to the Martis Valley Community Plan, As noted above, granting the pending request would promote the *in*efficient usage of the existing public roadway system and, therefore, would be directly contrary to Goal 5.C of the Martis Valley Community Plan, (MVCP) which seeks to "**reduce the quantity of emissions and pollutants from automobiles**" and to "**increase the energy-efficiency** of the transportation system." The following sub-sections demonstrate that the public roadway system adopted in the MVCP were carefully tailored so as to achieve those goals.

A. At the time the Martis Valley Community Plan (MVCP) was adopted in December 2003, Schaffer Mill Road, as defined on page 65 of the MVCP, began at SR 267 and ended at the entrance to the Lahontan Community, which is now also the main entrance to Martis Camp (formerly Siller Ranch). (See Attachment 1, extract of MVCP at page 69.) (Although Schaffer Mill Road from SR267 to Lahontan and Siller Ranch was a private roadway, it was, and is, subject to an irrevocable offer of dedication to the County.)

B. During 2003, the Siller Ranch project was proposed as a subdivision with private roadways, and The Retreat at Northstar was proposed as a subdivision with public roadways, consistent with the majority of the other roadways in Northstar. (See Attachment 4, County letter to Attorney Faccinto dated November 1, 2012, (without attachments) at page 6. See also Exhibit B to the Petitioner's application letter which depicts Mill Site Road as "the public road being vacated.")

C. As explained on page 72 of the MVCP, (Attachment 1) the County planning staff initially studied a public roadway system which would have required a public, "through connection between [the then current terminus of] Schaffer Mill Road and Northstar Drive." However, "based on community and landowner input" a "second" scenario was adopted, which "removed the through connections from Schaffer Mill Road [at the entrance to Lahontan]to Northstar." The MVCP also noted: "Additionally, the proposed roadway system includes transit and emergency access only between Schaffer Mill Road and Northstar." In other words, the MVCP circulation plan removed the public, through-connection as a requirement for the development of the Siller Ranch land, but "included" a requirement for emergency and transit access over the private roadway envisioned to cross Siller Ranch between the entrance to Lahontan and the western edge of Northstar. The use of the word "includes" is non-exhaustive and does not preclude other uses of the private roadway subject to the emergency and transit easements, such as normal use by Martis Camp residents and guests.

D. In its adoption of the MVCP, the County, in essence, determined, after thorough CEQA study and years of public discussion, that the most efficient

use of the County's public transportation resources in the Martis Camp and Northstar area would be achieved by allowing property owners in Martis Camp to access and use Mill Site Road to reach the Village at Northstar™ but *not* requiring that general or cut-through traffic be allowed to pass through the Siller Ranch project to reach Northstar. Following the adoption of the December 2003 update to the MVCP, the County began implementing the Plan with Goal 5.C and the traffic and circulation "scenario" set forth on page 72 clearly in mind.

E. On January 28, 2005, the Board of Supervisors approved the Vesting Tentative Map for the development of Siller Ranch, expressly allowing private roads but requiring an emergency access easement and a public transit vehicle easement ONLY over its main roadway, "from the project entrance at Schaffer Mill Road. . . [via Siller Ranch Road] to K Street then along K Street . . . to Northstar-at-Tahoe." (See Attachment 5, extract of Siller Ranch Conditions of Approval at COA 33 (quoted in full below.)

F. On February 23, 2005, the Board of Supervisors approved the Vesting Tentative Map ("VTM") for the development of The Retreat at Northstar. That Vesting Tentative Map depicts Mill Site Road as extending to and slightly beyond the common property boundary between Northstar and what was then Siller Ranch and is now Martis Camp. (See Attachment 6, Sheet 2 of the VTM for The Retreat at Northstar.) The Conditions of Approval for The Retreat required that Mill Site Road be dedicated as a PUBLIC highway. (See Attachment 7, extract of Retreat Conditions of Approval at COA 37.A.) The Conditions of Approval for the Retreat also specifically required that, "Mill Site Road shall be constructed at a minimum to the west property line for a future emergency access / transit access road connection." (See Attachment 7 at COA 26.) By requiring that Mill Site Road be dedicated and constructed as a public highway all the way to the west property line, the County ensured that the owners in Martis Camp would have direct physical access to that east end of Mill Site Road and that public transit vehicles, emergency vehicles and, when directed by emergency personnel, the public, would have direct physical access to the east end of the emergency access easement across Siller Ranch in times of emergency. (The legal doctrine of "abutter's rights," which came into full play when Mill Site Road was developed, accepted into the County's public roadway system and was "opened as a public roadway in 2008, is discussed below.)

G. The County accepted Mill Site Road into the public roadway system on December 8, 2008. (See Attachment 4, County letter to Attorney Faccinto dated November 1, 2012, which reads in pertinent part as follows:

With the development of The Retreat project, the owner/developer of the project – Trimont Land Company – offered certain easements for dedication, which were accepted by the Placer County Board of Supervisors on behalf of the public. Conditions 37A and 37C of the Tentative Subdivision Map for the project required the dedication of a 40-foot-wide highway easement to Placer County on Mill Site Road and Cross Cut Court, respectively. Upon the acceptance of the project as complete on December 8, 2008, the Board of Supervisors accepted Mill Site Road and Cross Cut Court into the County's Maintained Mileage System. For the County's purposes, that acceptance in the Maintained Mileage System creates a road that is open to the general public for the use of legally registered vehicles, pedestrians and other non-motorized transportation.

As demonstrated in sub-sections A through G above, the public traffic and circulation plan embodied in the MVCP has been implemented by the County's requirement that Mill Site Road be dedicated, constructed and opened as a *public* road and directly connected to Schaffer Mill Road, a private road. Therefore, granting of the petitioner's request for partial closure and making Mill Site Road a private road, would be contrary to the express provisions of the MVCP and would require approval of an amendment to the MVCP following compliance with the California Environmental Quality Act.

VI. The Restriction On Contractor Traffic Shows that the County Intended to Exclude Only That Type of Martis Camp Traffic from Mill Site Road.

The County's letter to the former attorney for The Retreat, dated November 1, 2012, (Attachment 4, extracted above) explains in considerable detail the basis for the County's conclusions (reached in 2011 and 2012) that neither the MVCP nor the approval documents for Siller Ranch or The Retreat at Northstar prohibit Martis Camp lot owners from entering or exiting Martis Camp via Mill Site Road. Additionally, there is a Condition of Approval (COA) for the Siller Ranch development which contains further evidence that, **at the time of the approval of Siller Ranch** in January 2005, the County consciously elected **not** to prohibit Martis Camp's residential traffic from entering and exiting Martis Camp through Northstar, but did elect to prohibit Martis Camp **construction traffic** from using Mill Site Road in the event Mill Site Road was actually opened as a public road before the Siller Ranch development was completed. Siller Ranch [Martis Camp] COA 30 reads:

30. Construction vehicles' access during construction of this project shall be limited to the following location(s): Schaffer Mill Road. Temporary construction access onto Schaffer Mill Road shall be shown on project Improvement/Grading Plans and shall be improved to the satisfaction of DPW. (CR) (DPW)

COA 30 makes it clear beyond reasonable dispute that the County was aware, at the time of approval of the Siller Ranch development project in January 2003, that Mill Site Road might soon be approved, and might someday be constructed, accepted into the County's public roadway system, and "opened" to the public for use as a public road, and that, in that event, traffic from Martis Camp would then be entitled to use that public road as an entry and exit route. Thus, the County elected to condition the development of Siller

Ranch [Martis Camp] on a restriction which, in effect, prohibited the use of the future Mill Site Road for "[C]onstruction vehicles' access during construction of this project." COA 30 accomplishes the County's intent to limit traffic on Mill Site Road by limiting Siller Ranch construction traffic to the project entrance located **at what was then** the end of Schaffer Mill Road adjacent to the entrance to the Lahontan Community. (See Attachment 1, extract of Martis Valley Community Plan at page 69.) Notably, the County did not impose a Condition of Approval which required that **all** project traffic enter and exit Siller Ranch [Martis Camp] at that project entrance – but, instead, *only* restricted construction vehicle access to that point of entry. Thus, the County must have expressly considered the type of Martis Camp traffic which it wished to prohibit from using Mill Site Road. The County elected not to prevent Martis Camp non-construction traffic from accessing and using Mill Site Road.

Any **present day** confusion regarding the meaning of "Schaffer Mill Road," the entry point referenced in COA 30, is resolved by reference to page 69 of the December 2003 Martis Valley Community Plan, (Attachment 1) and the provisions of Siller Ranch COA 33, which reads:

> 33. **mm 4.4.7b** The project applicant shall provide an easement or other mechanism acceptable to the County to allow the use of Siller Ranch Road (from the project entrance at Schaffer Mill Road to K Street and along K Street through the emergency connection to Northstar-at-Tahoe) by local public transit service vehicles. Local public transit is defined as public transit service provided by Placer County through Tahoe Area Regional Transit or through a contract provider. Local transit service does not include private carriers such as charter companies and tour buses. The easement or other mechanism acceptable to the County shall include provisions regarding hours of operation, number of stops, and security issues. (DPW)
>
> **ADVISORY COMMENT:** This condition shall be implemented prior to the creation of lot 446 and with the Final Map.

(See Attachment 5 at page 14.) COA 33 makes it clear that the route of the required <u>public transit</u> route through Siller Ranch was to proceed "through the emergency connection to Northstar-at-Tahoe." That "emergency connection to Northstar-at-Tahoe" was to begin at "the project entrance at Schaffer Mill Road," (i.e., adjacent to the entrance to the Lahontan Community) and was to proceed over the roads identified on the Siller Ranch Vesting Tentative Map as "Siller Ranch Road" and "K Street" to Northstar-at-Tahoe. The "emergency connection" mentioned in the MVCP and in the approval documents for both Siller Ranch and The Retreat is, therefore, a private roadway segment beginning at the then existing project entrance adjacent to the entry to the Lahontan Community and ending where that roadway segment (labeled K Street on the Siller Ranch Vesting Tentative Map) reached a point on Siller Ranch's common boundary with Northstar. That same point coincided with the location of at which it was anticipated that a public roadway would be dedicated and opened. That public roadway was, and is, Mill Site Road. (See Attachment 8, discussed below, and the map include therein which shows the alignment of what later became the west end of Mill Site Road with what would later become the east end of Schaffer Mill Road.

The thoroughness of the County's attention to both normal and emergency traffic circulation requirements of both Siller Ranch and Northstar is exemplified by the fact that on December 30, 2004, shortly before the Siller Ranch project was approved in January 2005, the County received from the owner of Northstar and recorded an Irrevocable Offer of Dedication of an emergency access easement over the proposed routing of Mill Site Road connecting Siller Ranch, for emergency purposes, to Big Springs Drive. (See Attachment 8, the Irrevocable Offer of Dedication recorded December 30, 2004.) Thus, even if Mill Site Road had never been approved or opened as a public road, the County's requirement for Siller Ranch to have at least an emergency connection between the east edge of Siller Ranch and the then existing public roadway system in Northstar was satisfied at the time Siller Ranch was approved.

In an abundance of caution, and in consideration of their neighbors in Northstar, DMB/H and MCCA have taken the position that the phrase "[C]onstruction vehicles' traffic during the construction of this project," as that term is used in Siller Ranch COA 30, applies not only to the construction of the roads and utility infrastructure in the Siller Ranch [Martis Camp] project, but also the construction of the community's amenities **and** the construction of the individual residences in Martis Camp. While there have been a relatively few isolated incidents during the past 5years in which construction vehicles have been seen on Mill Site Road, DMB/H and MCCA remain vigilant in their attempts to prevent any intentional or inadvertent Martis Camp construction traffic from reaching Mill Site Road via Martis Camp roadways." Construction of the Martis Camp infrastructure and amenities is nearing completion. Thus, the construction traffic issues, however remote and infrequent, are likely to diminish in the future.

VII. The Legal Hurdles for Partially Closing a Public Roadway or Vacating a Public Roadway Easement Cannot Be Met.

If granted, the request would result in a "partial closure" of Mill Site Road preventing members of the general public from continuing to use Mill Site Road while allowing the continued use of Mill Site Road by the 18 Retreat owners and their guests and invitees. Partial closures of public roads are sometimes approved, such as when a *cul-de-sac* or a "dead-end" road is closed to public traffic, but the owners of property and their invitees adjacent to and abutting the road are allowed to continue to use it as a private roadway. However, when such partial closures are opposed and challenged by members of the public who wish to continue using the public roadway for lawful and beneficial purposes, such partial closures have been consistently overturned by the courts of California. See *Citizens for Improved Sorrento Access, Inc., v. City of San Diego,* (2004) 118 Cal. App. 4th 808, 817, 818; *Citizens Against Gated Enclaves v. Whitley Heights Civic Assn.* (1994) 23 Cal. App. 4th 812, 814-816, 821; *Rumford v. City of Berkeley* (1982) 31 Cal. 3d 545, 551-552.

In the line of decisions cited above, (which are discussed in detail in the Martis Camp Community Association's opposition to the closure) it has been determined, consistently, that partial closures of public roadways simply cannot satisfy the strict statutory

requirements for the closure of a public road and/or the vacation of a public easement over a roadway. This is so because the "legislative authority" for completely closing a public roadway is found in Section 21101 of the Vehicle Code. That section requires a finding that the highway is "no longer needed for vehicular traffic." The legislative authority for vacating a public highway right of way is found in Section 8324 of the Streets and Highways Code, which requires a finding that the public street or highway is "unnecessary for present or prospective public use." Thus, a board of supervisors may not close a public road unless it can make a supported finding that the road is no longer needed for vehicular traffic, and it cannot vacate the right of way for a public road that has not been closed because it could not possibly find that an open public road is unnecessary for present or prospective public use. Therefore, the threshold finding for closure of a public road and the subsequent vacation of the right of way for that roadway is that the public roadway is "no longer necessary for vehicular traffic." Here, the Retreat owners propose to keep using Mill Site Road to access their homes in their automobiles, and the County still needs Mill Site Road for emergency access and transit traffic. Thus, Mill Site Road is, undeniably, still needed for vehicular traffic, and cannot be partially closed over the objections of members of the public who do not agree to its closure.

DMB/H and the Martis Camp Community Association, (MCCA) on behalf of its members, strenuously object to the partial closure of Mill Site Road. Therefore, if the County were to approve the partial closure of Mill Site Road and/or the vacation of the public easement over that road, the partial closure and vacation would but be subject to judicial invalidation. A proposed partial closure of only Crosscut Court would likely be unopposed and its closure unchallenged.

VIII. The closure of Mill Site Road may not be approved prior to CEQA study and evaluation of adverse environmental impacts.

The County has taken the position, that neither the Martis Valley Community Plan, the approval documents for Martis Camp nor the approval documents for The Retreat at Northstar eliminate "abutter's rights" or otherwise prevent homeowners in Martis Camp from accessing Mill Site Road at its western terminus and using that road as a part of the public roadway system. (See Attachment 4, the County's letter to Attorney Faccinto dated November 1, 2012.) Therefore, the *status quo* is that homeowners in Martis Camp are lawfully using Mill Site Road to avoid several miles of circuitous travel to travel to and return from the Village at Northstar.

As explained in the foregoing sections, the request to partially close Mill Site Road proposes a change in the *status quo* in a manner which will have significant adverse environmental impacts. Thus, County approval and implementation of the request to close Mill Site Road would be a "project" as that term is defined in CEQA. (Public Resources Code §21065.) Discretionary projects cannot be approved or carried out by the County prior to CEQA study and analysis. (Public Resources Code §21080.) None of the statutory or categorical exemptions pertain to the project proposed by the request for

vacation. (CEQA Guidelines §150661(b).) On the other hand, the County may, (and should) deny the request without CEQA analysis. (Public Resources Code §21080(b)(5) and CEQA Guidelines §15270.)

IX. The Doctrine of Abutter's Rights Establishes Fundamental Private Property Rights to the Use Of Mill Site Road

The eastern end of Schaffer Mill Road, where it touches upon Mill Site Road is owned by DMB/H, but is subject to a roadway easement benefiting every lot in Martis Camp. From the time Schaffer Mill Road was first connected to Mill Site Road, DMB/H and Martis Camp employees began using Mill Site Road regularly and as needed to reach the Village at Northstar and, presumably, other destinations. After Schaffer Mill Road was complete and paved through its connection to Mill Site Road, the lot owners in Martis Camp began using Mill Site Road for their purposes. Such use was, and is, consistent with Mill Site Road's status as a public road, in that, "[T]he streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof, subject to legislative control." (*Ex parte Daniels* (1920) 183 Cal. 636, 639.) Clearly, DMB/H employees and the Martis Camp Members are entitled, as members of the general public to access and use Mill Site Road by entering it at its intersection with Big Springs Road. They also have a private right to access Mill Site Road from its western terminus, where it abuts the land over which they have a private roadway easement.

The owner of real property abutting a public roadway has a fundamental property right to access and use the roadway. In *People v. Ricciardi*, (1943) 23 Cal. 390, at page 397, the California Supreme Court held:

> The courts of this state, from time immemorial and in cases too numerous to mention, have declared and enforced the abutting property owner's right to a free and convenient use of and access to the highway on which his property abuts. [Numerous citations omitted.] It was declared in the case of *Eachus v. Los Angeles etc. Ry. Co.*, supra, 103 Cal. 614 [37 P. 570, 42 Am.St.Rep. 149], at p. 617, that this right of ingress and egress attaches to the lot and is a right of property as fully as is the lot itself and any act by which that easement is destroyed or substantially impaired for the benefit of the public, is a damage to the lot itself, within the meaning of the constitutional provision under which the owner is entitled to compensation.

The County has taken the position in correspondence and in litigation that there is nothing in the MVCP or in the approval documents for Martis Camp or The Retreat at Northstar which prevents the exercise of the rights of abutting property owners to access and use Mill Site Road. (See Attachment 4, County letter to attorney Faccinto dated November 1, 2012 at pages 7 and 8.)

X. If the Vacation and Partial Closure Request Were Granted, the County Would be Required to Condition the Grant upon Petitioners Paying for the Damage to Property Values Martis Camp Resulting from the "Taking" of Their Rights to Directly Access the Public Roadway System in Northstar.

Abutter's rights are a fundamental private property right. *People v. Ricciardi*, (1943) 23 Cal. 390, at page 397 quoted above. As recognized in *Ricciardi,* the Fifth Amendment to the United States Constitution provides that private property may not be taken for public use without due process of law **and** the payment of "just compensation." Therefore, if the County were to decide to grant the current request and extinguish the abutter's rights, it would be required to determine and pay "just compensation" for the "taking" of the private property rights of all those adversely affected. There is no reason for the County to incur such an obligation.

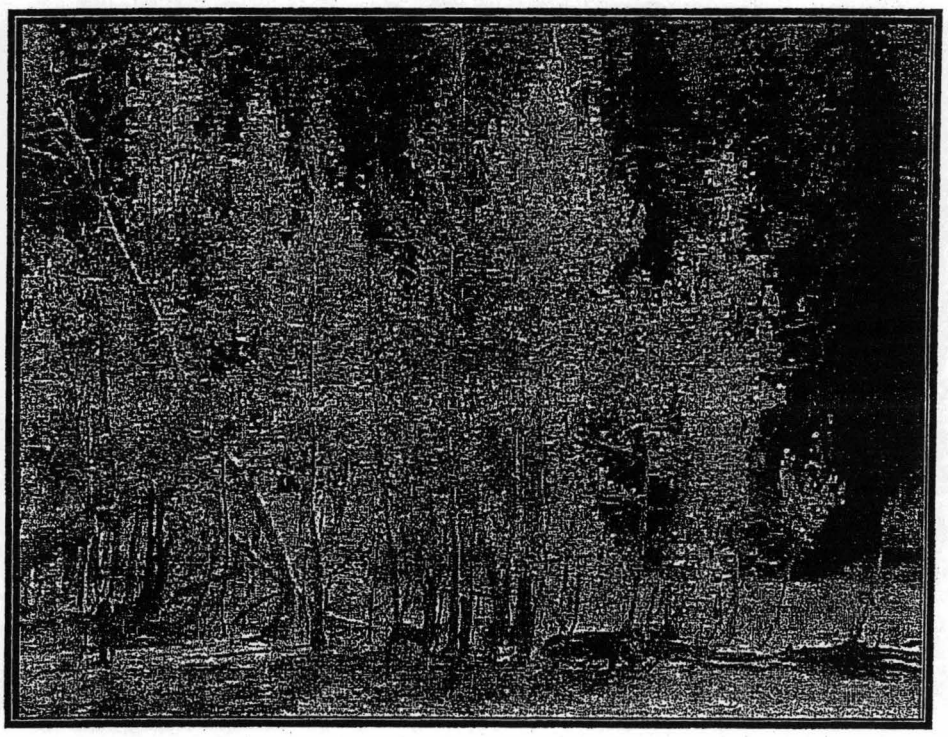
In an effort to avoid the obligation to pay for the taking of the public's rights, and the taking of the Martis Camp Members private abutters rights as well, Petitioners submit an "appraisal" which contends that the public right of way over Mill Site Road is worth **nothing**. There are 536 families who own property in Martis Camp and the owner, developer and marketer of the approximately 132 remaining lots, who beg to differ. To those members of the public in particular, the public right of way over Mill Site Road is quite valuable. Furthermore, the abutters' rights petitioners seek to extinguish are uniquely valuable and cannot be taken unless some compelling governmental need is articulated and the payment of just compensation is made. The County must not countenance petitioner's ludicrous attempt to circumvent the County's own requirement of a fair appraisal of the value of County's and the public's rights which petitioners propose to extinguish so as to enhance the value and enjoyment of their private property.

XI. Conclusion.

In light of the foregoing, the County should not grant the request to partially close Mill Site Road and vacate the public easement over that road while allowing the petitioners to continue using it as a private road.

ATTACHMENT 1

MARTIS VALLEY COMMUNITY PLAN



Adopted by the Board of Supervisors
December 16, 2003

135

5.B.2 The County shall consider the need for future transit right-of-way in reviewing and approving plans for development. Rights-of-way may either be exclusive or shared with other vehicles.

5.B.3 The County shall pursue sources of funding for transit services as identified in the future Martis Valley Transit Development Plan.

5.B.4 The County shall undertake, as funding permits, and participate in studies of inter-regional recreational transit services.

5.B.5 The County shall require funding contributions by new development for implementation of transit services to meet future demand. On-site transit systems as well as off-site transit alternatives and park and ride facilities will be encouraged.

5.B.6 The County shall consider the transit needs of senior, disabled, minority, low-income, and transit-dependent persons in making decisions regarding transit services and in compliance with the Americans with Disabilities Act.

5.B.7. The County shall support efforts to provide demand-responsive service ("paratransit") and other transportation services for those unable to use conventional transit.

Transportation Systems/Demand Management

Goal 5.C: To maximize the efficient use of transportation facilities so as to: 1) reduce travel demand on the county's roadway system; 2) reduce the amount of investment required in new or expanded facilities; 3) reduce the quantity of emissions of pollutants from automobiles; and 4) increase the energy-efficiency of the transportation system.

Policies

5.C.1. The County shall promote the use of transportation systems management (TSM)/transportation demand management (TDM) programs that divert automobile commute trips to transit, walking, and bicycling.

5.C.2. The County shall promote the use, by both the public and private sectors, of TSM/TDM programs that increase the average occupancy of vehicles.

5.C.3. All transportation entities serving the Community Plan area should become members of the Truckee-North Tahoe Transportation Management Association (TNT/TMA).

5.C.4. The County shall work with other responsible agencies to develop other measures to reduce vehicular travel demand and meet air quality goals.

5.C.5. During the development review process, the County shall require that proposed projects meet adopted *Trip Reduction Ordinance* (TRO) requirements.

Non-Motorized Transportation

classification hierarchy.

Freeways.

Freeways are multi-lane roadways which serve to move people and goods long distances at high speeds. No direct access to adjacent properties is allowed or provided. Rather, access to adjacent properties is provided via access ramps which connect to local and regional surface streets. All crossings of freeways are grade separated to alleviate any conflict with through travel on the freeway. Interstate 80, while not located within the plan area, is the only freeway which serves Martis Valley. It is a four-lane roadway, with access to the plan area provided via State Route 267.

Interstate 80 serves a variety of traffic purposes, including: interstate and inter-regional movement of goods; interstate and inter-regional automobile travel; recreational travel to the attractions of the Sierra Nevada mountains, Lake Tahoe, and Reno; and weekday commuting.

Highways

State Route 267 (SR 267) provides all regional access within Martis Valley. SR 267 originates at I-80 near the Town of Truckee and extends south through the Martis Valley, terminating at State Route 28 in Kings Beach on the North Shore of Lake Tahoe. Local roadways along SR

267 provide the sole access to major existing developments, including the Northstar-at-Tahoe ski area, Truckee-Tahoe Airport, and the Lahontan residential-golf development.

Other Roadways

Collector roadways providing access within Martis Valley are Northstar Drive, Big Springs Drive, Airport Road and Schaffer Mill Road. Northstar Drive provides access from SR 267 to the Northstar-at-Tahoe Ski Resort and associated residential and commercial areas. It is generally a two-lane configuration, with an eastbound left turn lane at the stop-sign-controlled, T-intersection with SR 267. Big Springs Drive is a stop controlled T-intersection with Northstar Drive.

Airport Road is a two-lane roadway providing main access to the Truckee-Tahoe Regional Airport, as well as other industrial and commercial businesses on the northeast side of SR 267. Schaffer Mill Road, which is also two lanes, extends southwest from the same point on SR 267, providing access to the Lahontan residential development. SR 267/Airport Road/Schaffer Mill Road intersection is a signalized intersection.

2. Existing Roadway Conditions

Traffic operations are quantified in terms of "level of service" (LOS). LOS is a qualitative measure of a number of factors which include speed and travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operation costs. LOS is expressed as a letter grade ranging from LOS "A" to LOS "F," representing progressively worsening traffic operating conditions. LOS "A" can be characterized as free flow traffic conditions, with little or no delay. LOS "F" at the other end of the scale, represents forced

All other land uses: commercial, recreational, etc., were assigned ITE trip rates without modification. With these rates the model was run and compared against existing traffic volume data and was determined to be within an acceptable accuracy range.

After the calibration was complete the County determined that two time periods would be used for determining the future roadway network needs. As stated previously, the time periods used for the Martis Valley Community Plan Update were summer weekday PM hour and the winter 30th highest hour. These two time periods were chosen to ensure that the intersections/roadways would be adequately designed for peak directional traffic flows. The volumes obtained from the model for year 2021 assumed full build-out of both the Town of Truckee and Martis Valley Plan Area and are the basis for the future road network used for the Capital Improvement Program (CIP).

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

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

Roadway Improvements

Improvements to the transportation system in the plan area are required to attain the desired goals and policies of the Community Plan and maintain the County's LOS standards. A majority of the improvements required are capacity enhancing and are due to the large land holdings that are currently undeveloped within Martis Valley. Some examples of these areas are Hopkins Ranch, Eaglewood, Lahontan II, Village at Northstar-at-Tahoe, Waddle Ranch, Martis Ranch, and the Siller Property. The improvements outlined below are based on the Proposed Land Use Plan and if any other Land Use Option is chosen the improvements may change.

State Route 267

The future traffic projections at full buildout of Martis Valley and Town of Truckee indicate SR 267 will need four-lanes from Waddle Ranch to the intersection of Brockway Road and Joerger Drive. Within a 20-year projection SR 267 may not require four-lanes for the entire segment listed above; however, the segment from Schaffer Mill and Airport Road intersection to the intersection of Brockway Road and Joerger Drive is projected to have four-lanes. Also within 20-years, signalization and intersection improvements will be required at Northstar Drive and SR267.

ATTACHMENT 2

COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

ADMINISTRATION

December 12, 2011

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

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

Dear Mr. Archer:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

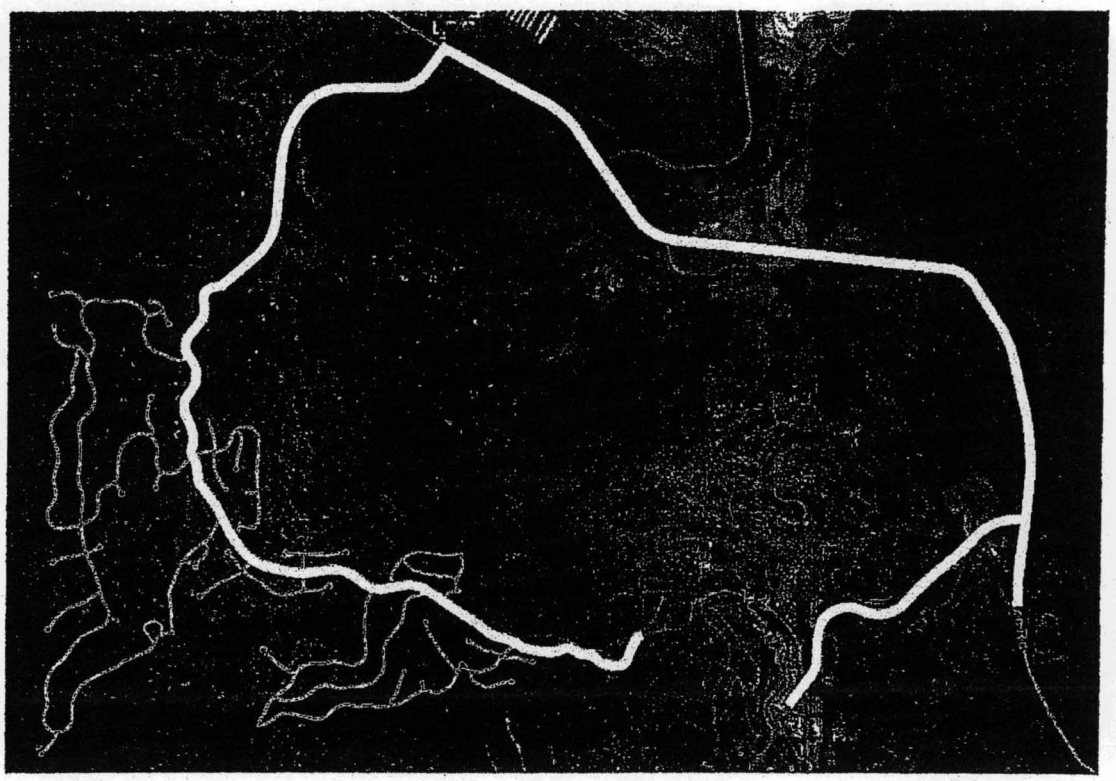
I hope that this letter has responded to your client's concerns regarding the public use of Mill Site Road. Should you have any questions regarding the information set forth in this letter, please call me directly at 530-745-3099.

Sincerely,

MICHAEL J. JOHNSON, AICP
Agency Director

ATTACHMENT 3

ATTACHMENT 3
Aerial Map of Circuitous Route



The yellow line near the bottom, and on the left side of the GoogleEarth™ aerial photo above traces the route of Schaffer Mill Road from its junction with Mill Site Road in Northstar, west to the point at which it reaches the easternmost round-about in Martis Camp (first blue line encountered) and then further west and north to reach the origin of Schaffer Mill Road at SR 267. The yellow line across the top and down the right side of the photo traces the route of SR 267 from its intersection with Schaffer Mill Road to its intersection with Northstar Drive. The yellow line then traces the route of Northstar Drive to the Village at Northstar™ (the "Village.")

According to Google Maps, the distance from the easternmost roundabout in Martis Camp to the Village is 1.7 miles if one travels over Mill Site Road and Big Springs Drive and is 8.9 miles if one travels the circuitous route via SR 267. Those distances, when measured from the roundabout near the center of Martis Camp are 7.5 and 3.1 miles respectively. When measure from the Main Gate at Martis camp, the distances are 6.7 miles via SR 267 and 3.9 via Mill Site Road and Big Springs Drive in Northstar.

ATTACHMENT 4

COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

ADMINISTRATION

November 1, 2012

Randall M. Faccinto
Stoel-Rives LLP
555 Montgomery Street, Suite 1288
San Francisco, CA 94111

SUBJECT: Reported Violation of Conditions of Approval – Roadway Connection Between Martis Camp and The Retreat Subdivisions

Dear Mr. Faccinto:

The County has received your letter, dated May 1, 2012, as well as a subsequent letter, dated August 23, 2012 and e-mail correspondence dated September 24, 2012, regarding the above matter.

The County has interpreted your collective correspondence as an assertion that there is a violation of the Conditions of Approval for the Martis Camp (formerly Siller Ranch) project regarding the roadway connection between Martis Camp and The Retreat subdivision (located within the adjacent Northstar, California development). As stated in your May 1, 2012 letter, it is your contention that the County has failed to recognize that the emergency access gate provided for by approvals of the Martis Camp subdivision limits the connection between Martis Camp and The Retreat only to emergency vehicle access and possibly future public transit access.

Based upon your inquiries and related correspondence received from other interested parties, the County has investigated the issues raised in your correspondence pursuant to Placer County Code Article 17.62 (Code Compliance and Enforcement) to determine whether or not Martis Camp is in violation of its Conditions of Approval regarding the use of the accessway between the Martis Camp and The Retreat subdivisions. This letter provides the County's response.

In preparing this letter, I have reviewed the following correspondence:

1. My letter to Thomas S. Archer, The Retreat Homeowners Association counsel at the time, dated December 12, 2011.

2. Your Letter and Memorandum to Robert Sandman at Placer County Counsel dated May 1, 2012.

3. Letter and Memorandum from Lanny Winberry to Robert Sandman dated July 24, 2012.

4. Letter from Northstar Property Owners Association to Placer County Board of Supervisors Chairwoman Jennifer Montgomery dated August 21, 2012.

5. Your Letter and Memorandum to Robert Sandman dated August 23, 2012.

6. Letter from Lanny Winberry to Robert Sandman dated September 24, 2012.

7. Your e-mail to Robert Sandman dated September 24, 2012.

Copies of the above-referenced letters and email are attached for your reference. I have also reviewed various other background materials, project documents, and correspondence that are on file with the Placer County Community Development Resource Agency. These other documents include the respective projects' Conditions of Approval and environmental review documents.

Background

While your letters and correspondences state that the Martis Camp project is in violation of its Conditions of Approval regarding the use of access into The Retreat/Northstar development, I could not find where you identified which specific Condition(s) of Approval were allegedly being violated. On this basis, I have reviewed all Conditions of Approval for the Martis Camp project that have potential relevance or relationship to the access between Martis Camp and The Retreat.

The Martis Camp (formerly Siller Ranch) residential subdivision was approved by the Placer County Board of Supervisors in January 2005. As part of that project approval, the following Conditions of Approval address the connection between Martis Camp and The Retreat/Northstar development:

ROADS/TRAILS

27. Construct the following road(s) to a Rural Secondary (Plate 3 LDM) standard: Siller Ranch Road, A Road (as shown on the Tentative Map), B Drive (as shown on the Tentative Map) from Siller Ranch Road to A Drive, and H Drive (as shown on the Tentative Map) from A Drive to Siller Ranch Road. All other on-site subdivision road(s) shall be constructed to a Rural Minor Residential (Plate 2

LDM) standard with 22 feet of pavement width (based on CDF and Truckee Fire Protection District requirements). The road(s) and storm drainage shall be maintained by the Homeowners Association. All subdivision streets, except Siller Ranch Road, shall be designed to meet 25 mph design speed criteria, as specified in the latest version of the Caltrans Highway Design Manual, unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). ***(CR) (DPW)***

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

39. *As part of the phase that creates Lots 148 and 149, construct an emergency access connection between Lots 148 and 149 to provide a connection through the putting course to Siller Ranch Road (as shown on the Tentative Map) to the satisfaction of the serving fire district and the DPW. (DPW)*

    As a part of the phase that creates Lots 242 and 243, construct an emergency access connection between Lots 242 and 243 to provide a connection to the adjacent Lahanton project to the satisfaction of the serving fire district and the DPW.

    As a part of the phase that creates Lots 595 and 598, or before, construct an emergency access connection to the adjacent Northstar project to the satisfaction of the serving fire districts and the DPW.

GENERAL DEDICATIONS/EASEMENTS

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

    A) A 40-foot-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along all on-site subdivision roadways, except golf cottage roads in Lot 605. (CR) (DPW)

FIRE PROTECTION

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

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

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

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

The Retreat at Northstar residential subdivision was approved by the Placer County Planning Commission in February 2005. As part of that project approval, the following Conditions of Approval address the connection between Martis Camp and The Retreat at Northstar development:

ROADS/TRAILS

21. ***mm*** *Construct a public road entrance onto Big Springs Drive to a Major Plate 27-1, LDM standard. The design speed of Big Springs Drive shall be 30 mph, unless an alternate design speed is approved by the DPW. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant or authorized agent from DPW. The Plate 27 structural section within the main roadway right-of-way shall be designed for a Traffic Index of 7.0, but said section shall not be less than 3" AC/8" Class 2 AB unless otherwise approved by the DPW.*

26. Mill Site Road shall be constructed at a minimum to the west property line for a future emergency access / transit access road connection.

PUBLIC SERVICE

35. Create a County Service Area (CSA) Zone of Benefit or annex to an existing CSA Zone of Benefit, if appropriate. The CSA will be established concurrent with and on the Final Map. In the event that the CSA is abolished by the Board of Supervisors, or the CSA is otherwise not able to function, the Homeowners'

Association shall be responsible for all services previously provided by the CSA. Road maintenance and other services may be provided by the Northstar Community Services District,. as approved by the DPW. The CSA, NCSD, or homeowners association shall provide the following services: ***(DFS)***

A) Snow removal ***(CR)***
B) Road maintenance ***(CR)***
C) Storm drainage maintenance for facilities located within public easements excluding structural stormwater quality enhancement facilities (BMP's). ***(CR/MM)***

GENERAL DEDICATIONS/ EASEMENTS

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

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

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

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

Analysis

There are multiple references in your correspondence to the Martis Valley Community Plan and limitations that may be imposed on roadway connections between Martis Camp and The Retreat subdivisions based upon language in the Community Plan. As you are aware, the Martis Valley Community Plan is a policy document to guide development within the Martis Valley area. This policy document is meant to inform decision-makers when reviewing specific development projects. When a development project is approved, and specific Conditions of Approval are approved for that development project, those Conditions of Approval (and not the Community Plan) become the primary guiding document for the implementation of that particular development project. The Community Plan remains relevant as part of the approval process, with applicable policies within the Community Plan taken into consideration with the approval of the development project.

In our review of the Transportation Section of the Martis Valley Community Plan, Placer County staff and I could find no goals, policies and implementation programs that addressed the roadway connection between the Martis Camp and The Retreat subdivisions. There is a statement within the Martis Valley Community Plan (under the Community Plan Transportation "Discussion" section on Page 72) that states:

> *Schaffer Mill Road is classified as a collector road and will be the access to a majority of the large land holdings remaining within the Martis Valley. Dedicated turn lanes will be required into all of the large developments that front Schaffer Mill Road for the entire length of the roadway. This roadway will be extended to make a connection with Northstar-at-Tahoe, via Big Springs Drive, as an emergency access and as a local transit route when conditions on SR 267 warrant.*

It is important to note that, when the Martis Valley Community Plan was adopted in 2003, the Martis Camp residential subdivision had not yet been approved by the Board of Supervisors. Accordingly, Schaffer Mill Road terminated at what is now the northerly boundary of the Martis Camp subdivision, adjacent to the entrance to the Lahontan residential subdivision. At that time, the owners of the Martis Camp project were considering the development of private roadways within the Martis Camp project. Accordingly, language was included in the Martis Valley Community Plan to convey that there would be a roadway connection between the then-terminus of Schaffer Mill Road and Big Springs Drive, and this roadway connection would be available for emergency access and as a local transit route. This is in fact how the Martis Camp project was approved, and emergency access and future local transit easements have been retained. In my review of this language in the Martis Valley Community Plan, I can find no prohibition on traffic from Martis Camp utilizing the public roadways within The Retreat/Northstar development and, as noted above, there are no goals, policies or implementation programs in the Community Plan that address such a prohibition.

Because the Martis Camp project (January 2005) was approved prior to The Retreat project (February 2005), the County was aware that the Martis Camp project had been approved with private roadways. Accordingly, because The Retreat was being developed with public roadways, Condition 26 was included with The Retreat project to assure that an emergency access/transit road connection was provided between the public roadways in The Retreat and the private roadways in Martis Camp. As written, Retreat Condition 26 does not prohibit vehicles from Martis Camp to access the public roadways within The Retreat.

As noted in your correspondence, there appears to be ongoing confusion regarding the public status of the roadways within the Retreat at Northstar subdivision and the private status of roadways within the Martis Camp subdivision. To address this confusion, this letter also addresses the rights and privileges associated with the public use of Mill Site Road, as well as

the rights, privileges and restrictions associated with the private roadways within the Martis Camp development.

With the development of The Retreat project, the owner/developer of the project – Trimont Land Company – offered certain easements for dedication, which were accepted by the Placer County Board of Supervisors on behalf of the public. Conditions 37A and 37C of the Tentative Subdivision Map for the project required the dedication of a 40-foot-wide highway easement to Placer County on Mill Site Road and Cross Cut Court, respectively. Upon the acceptance of the project as complete on December 8, 2008, the Board of Supervisors accepted Mill Site Road and Cross Cut Court into the County's Maintained Mileage System. For the County's purposes, that acceptance in the Maintained Mileage System creates a road that is open to the general public for the use of legally registered vehicles, pedestrians and other non-motorized transportation.

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

On Page 2 of your Memorandum attachment to your May 1, 2012 letter, you state:

> "The Martis Camp Map/CUP does not authorize any road connection between the two subdivisions at this location, except for emergency access and public transit use. Use of that connection for a public road, as an inter-project private road access for Martis Camp owners, was not a part of the DMB Martis Camp project proposal, or the Retreat developer's (Trimont Land Company) proposal for its project. No plan for a public or private road connection at this point was brought before the Planning Commission or Board of Supervisors of Placer County, nor was it included in the CEQA required environmental impact review for either project, and for that reason a public or private road connection was and is not authorized by either project's approvals. In fact, in granting the Martis Camp approvals, the County expressly stated that use of the road connection for anything other than emergency or transit use would require additional County approval and subsequent environmental review."

As shown in the Conditions of Approval listed above for both the Martis Camp and The Retreat projects, there is no exclusive language that prohibits vehicles from Martis Camp from utilizing the public roadways within The Retreat residential subdivision. Each project requires the

provision of an emergency access and future public transit connection, but staff can find no language that prohibits the public use of public roadways within The Retreat residential development.

The County disagrees with your contention that "No plan for a public or private road connection at this point was brought before the Planning Commission or Board of Supervisors of Placer County, nor was it included in the CEQA required environmental impact review for either project, and for that reason a public or private road connection was and is not authorized by either project's approvals." Contrary to your last sentence in the referenced paragraph, County staff can find no reference in the Conditions of Approval, for either the Martis Camp or The Retreat project, that expressly precludes the use of the roadway connection for uses other than emergency or transit use.

On Page 2 of your Memorandum attachment to your May 1, 2012 letter, you also state that "the Martis Camp Map/CUP conditions of approval require a gate limiting use of the connection for emergency access to be installed and that it have a Knox Box key system. . . ". In fact, the subject Condition of Approval (Condition 146, addressing "Fire Protection" issues) is not requiring that a gate be constructed, but rather if a gate is constructed on any emergency access roads, the emergency access roadway and gate needs to be designed to meet Fire District, County, and State standards (unless exceptions are approved).

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

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

On this basis, I have concluded that the Martis Camp residential development project is not in violation of any of its Conditions of Approval. As a result, no Code Enforcement action on the part of the County is warranted or required. Accordingly, no Code Enforcement action will be commenced.

This letter constitutes the final action of the County of Placer in this matter. No further appeal may be taken.

Sincerely,

MICHAEL J. JOHNSON, AICP
Agency Director

Attachments:

1. Letter from Michael Johnson to Thomas S. Archer, dated December 12, 2011
2. Letter and Memorandum from Randall M. Faccinto to Robert Sandman, dated May 1, 2012
3. Letter and Memorandum from Lanny Winberry to Robert Sandman, dated July 24, 2012
4. Letter from Northstar Property Owners Association to Placer County Board of Supervisors Chairwoman Jennifer Montgomery, dated August 21, 2012
5. Letter and Memorandum from Randall M. Faccinto to Robert Sandman, dated August 23, 2012
6. Letter from Lanny Winberry to Robert Sandman, dated September 14, 2012
7. E-mail from Randall M. Faccinto to Robert Sandman, dated September 24, 2012

ATTACHMENT 1

Letter from Michael Johnson to
Thomas S. Archer, dated
December 12, 2011

ATTACHMENT 5

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

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

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

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

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

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

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

areas to become permanent circulation (e.g., cart paths in golf course, roadways, and parking areas, etc.) or other designated routes approved by the DRC.

In construction areas to be revegetated where the subsoil layer has been compacted, ripping shall be conducted during final stages to loosen soil allowing for better subsurface drainage and root penetration.

Field staking of the limits of construction activity on the golf course shall be completed and field reviewed by DRC prior to grading activity commencing. This shall include all tees, greens, fairways, cart paths, stream crossings, and other areas affected by development of the golf course. **(DPW)**

No mass pad grading shall be permitted within this subdivision for the development of residential lots. The intent of this condition is to limit the extent of grading to that reasonably necessary for residential construction and to ensure protection of wetland areas and other sensitive environmental resources.

These restrictions shall be noted on the Information Sheet and/or within the development notebook described elsewhere in these conditions of approval for each affected lot. **(CR) (PD) (DPW)**

ROADS/TRAILS

27. Construct the following road(s) to a Rural Secondary (Plate 3 LDM) standard: Siller Ranch Road, A Road (as shown on the tent. map), B Drive (as shown on the tent. map) from Siller Ranch Road to A Drive and H Drive (as shown on the tent. map) from A Drive to Siller Ranch Road. All other on site subdivision road(s) shall be constructed to a Rural Minor Residential (Plate 2 LDM) standard with 22' of pavement width (based on CDF and Truckee Fire Protection District requirements). The road(s) and storm drainage shall be maintained by the Homeowners' Association. All subdivision streets except Siller Ranch Road, shall be designed to meet 25 mph design speed criteria, as specified in the latest version of the Caltrans *Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). **(CR) (DPW)**

ADVISORY COMMENT: The CDF and the Truckee Fire Protection District may provide written approval of a roadway pavement width of less than 24'; however, the roadway pavement width shall in no case be less than the Placer County Plate 2 LDM standard of 22' (or for the golf cottage access roads not less than the Plate 1 LDM standard of 18').

28. If the proposed "roundabout" entrance is not constructed, the project road entrance shall be constructed to a Plate 27, LDM standard or as approved by DPW. The design speed of Siller Ranch Road shall be 45-mph, unless an alternate design speed is approved

by the DPW. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant c authorized agent from DPW. The Plate 27 structural section within the Siller Ranch Roaa right-of-way shall be designed for a Traffic Index equivalent with the Traffic Index of Siller Ranch Road, but said section shall not be less than 3" AC/8" Class 2 AB unless otherwise approved by the DPW. **(CR)** **(DPW)**

29. **mm 4.1.6a** Prior to commencement of any construction activities requiring complete or partial closure of roadways outside the project site, the project applicant shall complete the following tasks to the satisfaction of the Placer County Planning and Public Works Departments **(PD)** **(DPW)**

A) Obtain written approval from the Director of Public Works for proposed temporary road closures or detour routes on County maintained roads.

B) Submit for review and approval of a Traffic Control/ Detour plan.

C) Ensure that at least one travel lane along Schaffer Mill Road is maintained open.

D) Post notice of construction activities along affected roadways two weeks prior to construction.

E) Provide written notice to property owners along affected roadways and Truckee Fire Protection District one week prior to roadway closures (if closures are required).

F) To ensure public safety, clearly mark and secure roadway construction areas.

G) Allow for emergency vehicle access at all times.

H) Steel plates shall be placed over open trenches at the end of each workday [or other appropriate measures will be taken] to restore vehicle access to all residents, or as approved by the Placer County Department of Public Works.

30. Construction vehicles' access during construction of this project shall be limited to the following location(s): Schaffer Mill Road. Temporary construction access onto Schaffer Mill Road shall be shown on project Improvement/Grading Plans and shall be improved to the satisfaction of DPW. **(CR)** **(DPW)**

31. **mm4.1.6b** During construction activities, the project applicant shall limit the amount of daily construction equipment traffic by staging heavy construction equipment and vehicles on the project site at the end of each workday rather than removing them. Construction staging areas shall be included on improvement and grading plans in a location acceptable to the County. **(DPW)**

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

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

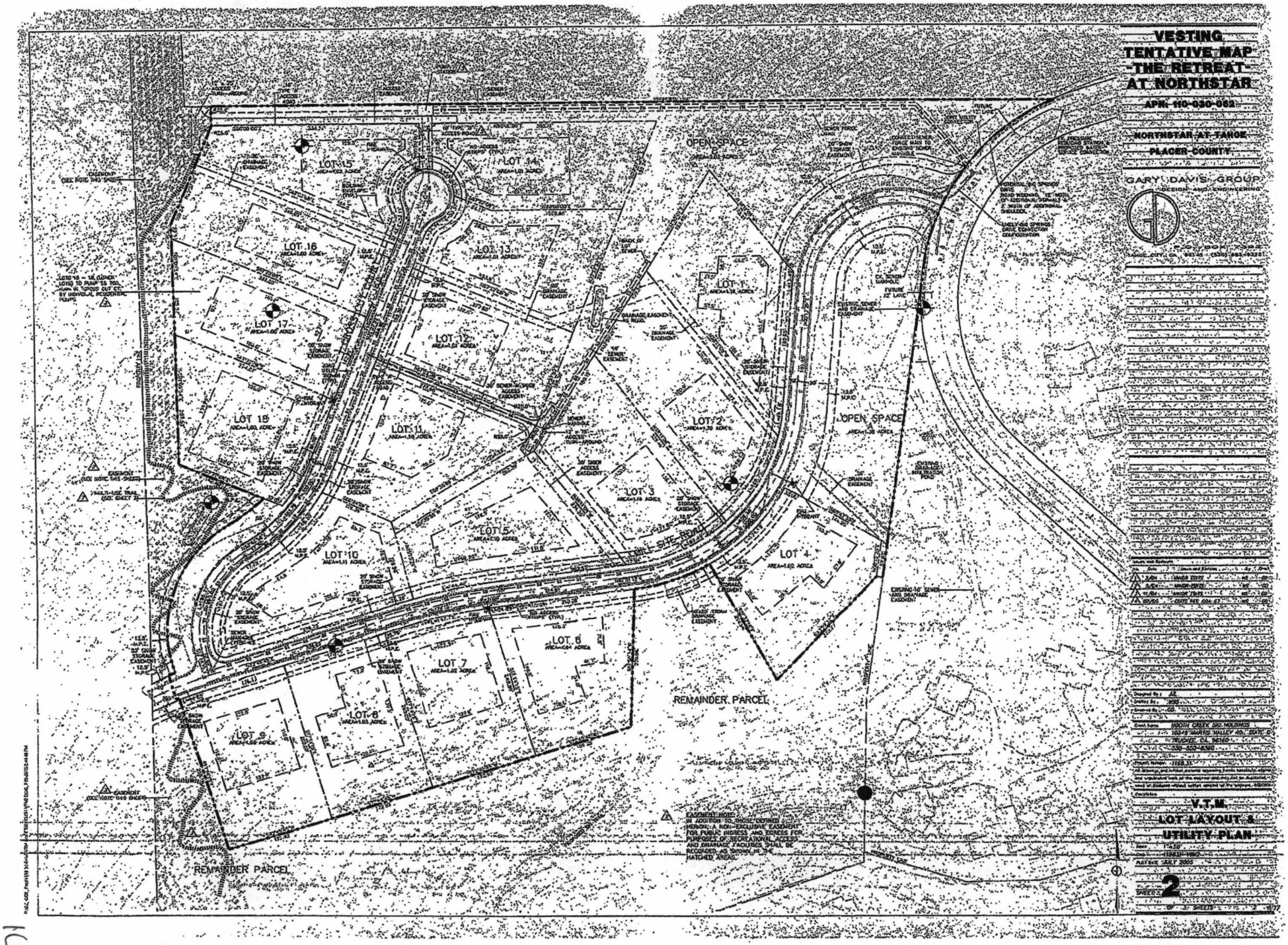
33. **mm 4.4.7b** The project applicant shall provide an easement or other mechanism acceptable to the County to allow the use of Siller Ranch Road (from the project entrance at Schaffer Mill Road to K Street and along K Street through the emergency connection to Northstar-at-Tahoe) by local public transit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

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

34. **mm 4.4.2** Prior to the issuance of building permits for each recreational and non-residential facility, the project applicant shall identify parking areas and number of spaces on the facility site plans. The provision of parking shall generally be in accordance with the Placer County Zoning Ordinance requirements for parking, unless parking design and space requirement exceptions are approved by the County. **(PD)**

35. **mm 4.4.6** The project applicant shall pay its "fair share" for necessary intersection improvements as identified in Table 4.4-16 and 4.4-17 of the EIR. However, if better estimates of the cost for the improvements as identified in Tables 4.4-16 and 4.4-17 of the Draft EIR are available at the time of payment, these cost estimates shall be used to determine the project's fair share contribution. If the Placer County Board of Supervisors adopts a traffic mitigation fee program, or an update to the current traffic mitigation fee ordinance, and the new or updated program recognizes cross-jurisdictional impacts within the Town of Truckee, that action and program will supercede the fair share contribution requirements of this mitigation measure. **(DPW)**

ATTACHMENT 6


VESTING
TENTATIVE MAP
THE RETREAT
AT NORTHSTAR
APN: 110-030-062
NORTHSTAR AT TAHOE
PLACER COUNTY
GARY DAVIS GROUP
DESIGN AND ENGINEERING
V.T.M.
LOT LAYOUT &
UTILITY PLAN
SHEET 2
OF 2 SHEETS
JULY 2005
OPEN SPACE
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17
LOT 18
REMAINDER PARCEL
REMAINDER PARCEL
EASEMENT NOTE:
IN ADDITION TO THOSE DEPICTED HEREON, A NON-EXCLUSIVE EASEMENT FOR PUBLIC INGRESS AND EGRESS FOR PURPOSES OF RECREATIONAL ACCESS AND DRAINAGE FACILITIES SHALL BE RECORDED AS SHOWN IN THE HATCHED AREAS.

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ATTACHMENT 7

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

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

1. This Vesting Tentative Map authorizes the development of 18 building sites with two common area open space lots, called "The Retreat at Northstar".

   Also approved is the development of one ski trail to access the subdivision and water lines to serve the development.

2. The following Sample Condition #'s: ip3, ip7, ip12(mm), ip15(mm), ip20, ip21, ip23(mm), ip24, ip25, ip26, ip27, ip29, ip30; g7(mm); rt12, rt13; ps5; mc7, mc9, mc10, and ep1, apply to this project as printed in Volume 7, Number 1, dated July 2004 as listed in this conditions A) thru U) below:

   A)ip3 Staging Areas: Stockpiling and/or vehicle staging areas shall be identified on the Improvement Plans and located as far as practical from existing dwellings and protected resources in the area. **(MM)** (DPW)

   B)ip7 The connection of each existing residence within this project to public sanitary sewers is required, shall be shown on the Improvement Plans, and shall be included in the engineer's estimate of costs for subdivision improvements. Note: Hook-up fees are not to be included in the Engineer's Estimate. **(EHS/DPW)**

   C)ip12 Storm water run-off shall be reduced to pre-project conditions through the installation of retention/detention facilities. Retention/detention facilities shall be designed in accordance with the requirements of the Placer County Storm Water Management Manual that are in effect at the time of submittal, and to the satisfaction of DPW. The DPW may, after review of the project drainage report, delete this requirement if it is determined that drainage conditions do not warrant installation of this type of facility. In the event on-site detention requirements are waived, this project may be subject to payment of any in-lieu fees prescribed by County Ordinance. No retention/detention facility construction shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals. **(MM)** (DPW)

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

24. Lots where subdivision roadway cuts/fills exceed four feet in vertical height (as measured from finished road grade at the point of access) or driveway grades would exceed 12 percent at any reasonable access location specific development standards for the lots shall be established for inclusion in the development notebook and with appropriate CC&R restrictions and notification to the satisfaction of the DRC. Said driveways shall have a paved width of not less than 10 feet, a minimum structural section of 2 inches AC/4 inches AB, and shall extend from the roadway edge not less than 50 feet into the lot, or as deemed appropriate by the DPW. These driveways shall be constructed such that the slope between the street and building site does not exceed 16 percent, or as otherwise approved by the servicing fire district and the DPW. (DPW)

25. Proposed road names shall be submitted to the DPW Addressing Division (530-889-7530) for review and shall be approved by the DPW prior to Improvement Plan approval. (DPW)

26. Mill Site Road shall be constructed at a minimum to the west property line for a future emergency access / transit access road connection.

27. Prior to final map approval, the project applicant shall pay its fair share (0.6 percent as identified in Mitigation Measure MM 4.4.7) to the construction of a traffic signal at the SR 267/Northstar Drive intersection. Should Caltrans not approve the signalization, the applicant shall provide p.m. peak hour traffic control for the duration of the construction activities. If a signal is not provided prior to commencement of construction, traffic control shall be provided between 3:30 p.m. and 6:30 p.m. Monday through Friday and from 3:30 p.m. to 5:30 p.m. on Saturday. In addition, construction traffic shall be prohibited during peak winter skier traffic periods. Specifically, construction traffic shall not be allowed to occur from 7:00 a.m. to 9:30 a.m. and 3:30 p.m. to 6:00 p.m. on peak holiday weekends and any peak skier days that occur from Christmas through President's Day weekend. (DPW)

28. Prior to final Map approval, the project applicant shall pay 0.6 percent of the improvements identified in the Comprehensive Traffic Monitoring and Reporting Program. (DPW)

29. Prior to final map approval, the project applicant shall pay its fair share (0.6 percent) of providing an eastbound left-turn lane and northbound through lane at the SR

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

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

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

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

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

H) Adequate fire flow shall be provided within the project as required by the Northstar Fire Department.
A minimum of 1,500 gallons per minute for two hours and a minimum 20-pound per square inch residual fire flow will be required.

GENERAL DEDICATIONS/ EASEMENTS

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

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

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

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

ATTACHMENT 8

PLACER, County Recorder
JIM MCCAULEY
DOC- 2004-0175761
Acct 6-FIDELITY TITLE
Thursday, DEC 30, 2004 12:36:13
NOC $0.00
Ttl Pd $0.00 Nbr-0001211766
rec/DH/1-8

RECORDING REQUESTED BY:
FIDELITY TITLE CO.

Project Name

NORTHSTAR
PN 8259

When recorded return to
Placer County Department
Of Public Works

L. AMSBERRY

COUNTY OF F

Department of Public Works

EMERGENCY ACCESS EASEMENT

OFFER OF DEDICATION

For the receipt of one dollar ($1.00) or other good and valuable consideration, Trimont Land Company, A California Corporation,
the undersigned GRANTOR(S), HEREBY irrevocably offers for dedication to the County of Placer, State of California, an easement for use by public, County, State Agencies or their agents, and their vehicles, in response to law enforcement, fire, medical or emergencies caused by natural disaster on and across all that real property situated in the County of Placer, State of California, bounded and described as follows:
(Any and all interest in the property conveyed by grantor to the County of Placer pursuant to this instrument runs with the land and is binding on the heirs, assigns and successors of the grantor.)

SEE EXHIBITS 'A' and 'B' ATTACHED HERETO

Trimont Land Company,
a California corporation

Dated: 11-9-04

By: [signature]

Name: Timothy L. Silva

Title: Vice President

SEE ATTACHED SHEETS 1 & 2
FOR TRUSTEE'S SIGNATURE

See reverse side for acknowledgement

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ACKNOWLEDGEMENT

State of California }
County of Placer }

On Nov. 9, 2004 before me, Virginia Allee, Notary Public (name, title of officer),
Personally appeared Dorothy L. Silva
☐ personally known to me –OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

VIRGINIA ALLEE
Commission # 1476179
Notary Public - California
Nevada County
My Comm. Expires Mar 13, 2008

Virginia Allee
Signature

CAPACITY CLAIMED BY SIGNER

☑ INDIVIDUAL(S) SIGNING FOR ONESELF/THEMSELVES

☐ CORPORATE OFFICER(S)
_____ TITLE(S)
_____ COMPANY

☐ PARTNER(S) _____ PARTNERSHIP

☐ ATTORNEY-IN-FACT
_____ PRINCIPAL(S)

☐ TRUSTEE(S) _____ TRUST

☐ OTHER _____ TITLE(S)
_____ TITLE(S)
_____ ENTITY(IES) REPRESENTED
_____ ENTITY(IES) REPRESENTED

CONSENT TO RECORDATION:
The County of Placer hereby consents to the recordation of the Offer of Dedication attached hereto. The County does not accept said offer at this time, but reserves the right to do so in the future, pursuant to authority conferred by Ordinance 5152-B.

SIGNATURE

DATED:_____ _____
TITLE:

ACCEPTANCE (1): BY AUTHORIZED AGENT:
This is to certify that the interest in real property conveyed by the deed or grant deed dated_____, 20____, from _____
To the County of Placer, a government agency, is hereby accepted by the undersigned agent on behalf of the Board of Supervisors of the County of Placer pursuant to authority conferred by Ordinance 5152-B, adopted on January 15, 2002, and the Grantee consents to the recordation thereof by it's duly authorized agent.

SIGNATURE COMPLETED BY (TYPE OR PRINT)

DATED:_____ _____
TITLE:

ACCEPTANCE (2): BY BOARD OF SUPERVISORS:
This is to certify that the interest in real property conveyed by the deed or grant deed dated_____, 20____, from_____
to the County of Placer, a government agency, is hereby accepted by the Board of Supervisors of the County of Placer pursuant to authority conferred by Resolution No._____ of said Board adopted on_____ _____, and the Grantee consents to the recordation thereof by it's duly authorized agent.

Dated:_____ _____
Chairman, Board of Supervisors of the County of Placer

Rev.8/00

TRUSTEE'S STATEMENT

First American Title Insurance Company, Trustee under that document recorded on April 25, 2002, as Instrument No. 2002-0047310, Placer County Official Records, and amended by Amendment to Amended and Restated Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement recorded on September 29, 2004 in Document No. 2004-0128705, Placer County Official Records, and assigned by Assignment of Amended and Restated Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement to U.S. Bank National Association recorded on September 29, 2004, in Document No. 2004-0128706, Placer County Official Records, and hereby consent to the preparation and recording of this emergency access easement.

First American Title Insurance Company

By: Gary A. Lee

Print: GARY A. LEE

Title: Assistant Secretary

NOTARY ACKNOWLEDGMENT

STATE OF California)
COUNTY OF Placer) S.S.

On 11/15/04, before me, Marsea P Mallory, Notary Public, personally appeared Gary A. Lee

MARSEA P. MALLORY
COMM. # 1284713
NOTARY PUBLIC-CALIFORNIA
PLACER COUNTY
COMM. EXP. DEC. 16, 2004

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subjected to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(~~ies~~), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Marsea P Mallory

Print Name Marsea P Mallory

My Commission Expires 12/16/04

My Principal Place of Business Is The County of Placer

My Commission No. 1284713

171

First American Title Insurance Company

11855 Edgewood Road, Auburn, CA 95603 Phone (916) 885-2464 FAX (916) 885-5982

AUTHORIZATION FOR TRUSTEE

DATED	March 15, 2002
RECORDED	April 25, 2002
TRUSTOR	Trimont Land Company
TRUSTEE	First American Title Insurance Company
BENEFICIARY/IES	U.S. Bank National Association
INSTRUMENT NO.	2002-47310
OFFICIAL RECORDS OF	Placer County

I/We, the undersigned Beneficiary(ies) under the above described Deed of Trust securing a Note of even amount and date, do hereby authorize and instruct the above Trustee, without further consent or authority from the undersigned, to sign an Emergency Access Easement in favor of County of Placer **affecting the property described in said Deed of Trust, as Trustee for the undersigned.**

BENEFICIARY/IES:
U.S. BANK NATIONAL ASSOCIATION

By: [signature]
Name:
Title: Assistant Vice President

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ACCEPTANCE

This is to certify that the interest in real property conveyed by the deed or grant deed dated NOVEMBER 9, 2004, from TRIMONT LAND COMPANY, A CALIFORNIA CORPORATION

To the County of Placer, a government agency, is hereby accepted by the undersigned agent on behalf of the Board of Supervisors of the County of Placer pursuant to authority conferred by Ordinance 5152-B, adopted on January 15, 2002, and the Grantee consents to the recordation thereof by it's duly authorized agent.

Placer County does not accept maintenance responsibilities within this Emergency Access Easement

Dated 11-17-04

By: John P. Weber
Title: Right-of-Way Agent

EXHIBIT 'A'
Emergency Access Easement

REAL PROPERTY in the County of Placer, State of California, described as follows:

A PORTION of Parcel 2-A as described in the Grant Deed to Trimont Land Company, recorded within Document Number 1992-0090695, Placer County Official Records, also a portion of Section 31, Township 17 North, Range 17 East, M.D.M., described as follows:

AN EASEMENT for emergency access purposes over, along, and across a strip of land, 40 feet in width, the centerline being described as follows:

BEGINNING at a point on the Northwesterly line of Big Springs Drive as shown on the map entitled Big Springs at Northstar Phase 1, recorded in Book T of Maps at Page 14, Placer County Records, from said point the most northerly point of Big Springs Drive bears along the Northwesterly line of Big Springs Drive the following three (3) consecutive courses and distances:

1) along the arc of a 355.00 foot radius curve to the right, having a central angle of 40°53'17", being subtended by a chord which bears North 46°47'10" East 248.00 feet
2) East 3.77 feet;
3) along the arc of a 630.00 foot radius curve to the right, having a central angle of 18°11'37", being subtended by a chord which bears North 71°33'17" East 199.21 feet;

thence from the said Point of Beginning along the centerline of said easement to be described, the following eight (8) consecutive courses and distances:

1) North 63°41'40" West 3.80 feet;
2) along the arc of a 150.00 foot radius curve to the left, having a central angle of 111°05'51", being subtended by a chord which bears South 60°45'24" West 247.38 feet;
3) South 05°12'29" West 199.95 feet;
4) along the arc of a 300.00 foot radius curve to the right, having a central angle of 77°38'50", being subtended by a chord which bears South 44°01'54" West 376.16 feet;
5) South 82°51'19" West 214.61 feet;
6) along the arc of a 1000.00 foot radius curve to the left, having a central angle of 10°05'34", being subtended by a chord which bears South 77°48'32" West 175.92 feet;
7) South 72°45'45" West 324.82 feet;
8) along the arc of a 600.00 foot radius curve to the left, having a central angle of 9°48'31", being subtended by a chord which bears South 67°51'29" West 102.59 feet

LICENSED LAND SURVEYOR
JERRY W. TIPPIN
6/30/06
L.S. 3422
STATE OF CALIFORNIA

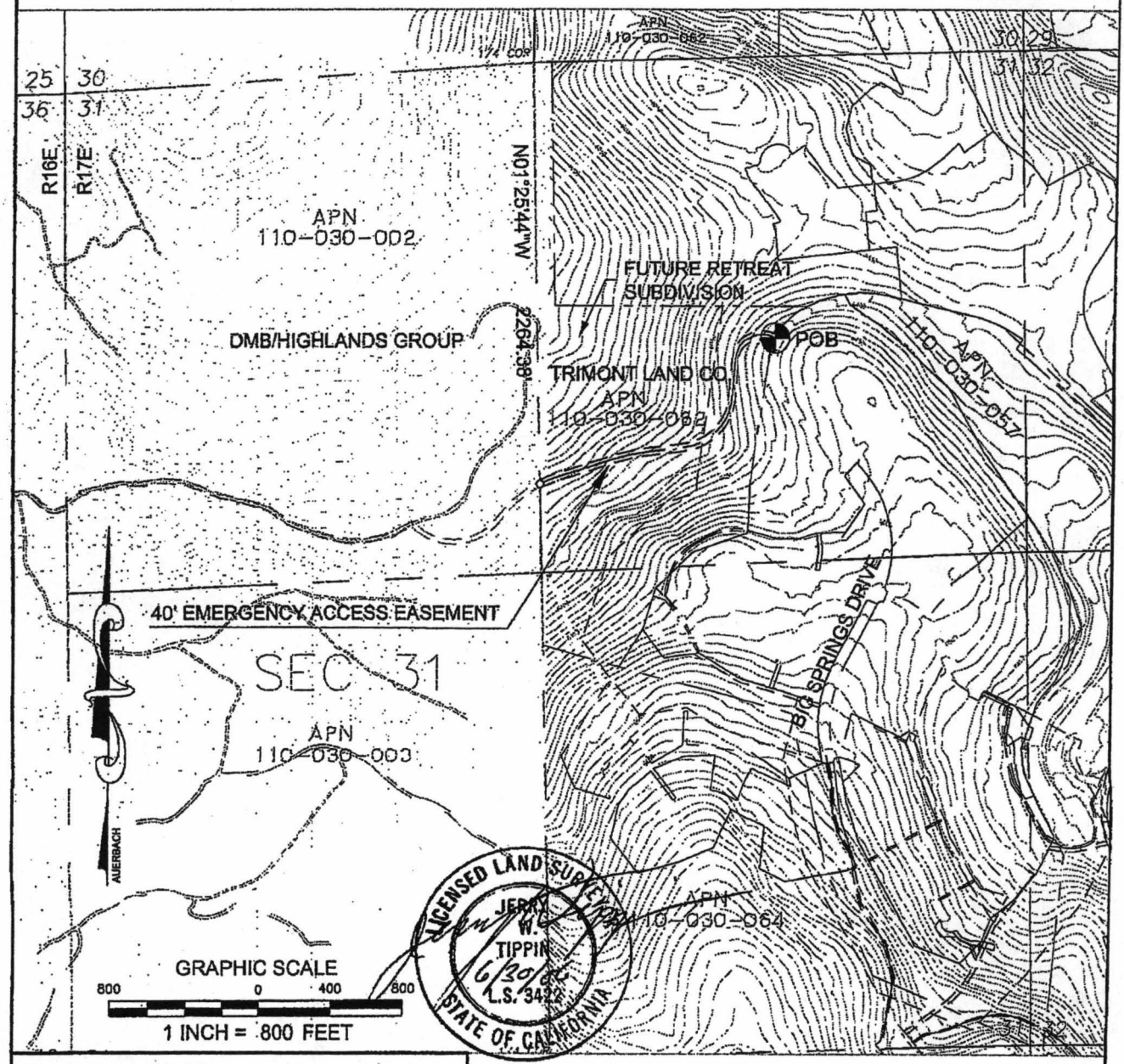
EXHIBIT 'B'

EMERGENCY ACCESS EASEMENT

A PORTION OF THAT PARCEL RECORDED IN DOCUMENT NUMBER 1992-0090695, O.R.P.C. LOCATED IN SECTION 31, TOWNSHIP 17 NORTH, RANGE 17 EAST, M.D.M.

COUNTY OF PLACER — CALIFORNIA

SCALE: 1" = 800' — OCTOBER 26, 2003



AUERBACH ENGINEERING CORP.

civil engineering • land surveying • environmental planning

p.o. box 5399 • tahoe city • ca 96145

phone: (530) 581-1116 fax: 581-3162

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION

PAGE 1 OF 1

PREPARED FOR: NORTHSTAR MOUNTAIN PROPERTIES

APN: 110-030-062 2000.01K

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ATTACHMENT 3

ATTACHMENT 3
Aerial Map of Circuitous Route

The yellow line near the bottom, and on the left side of the GoogleEarth™ aerial photo above traces the route of Schaffer Mill Road from its junction with Mill Site Road in Northstar, west to the point at which it reaches the easternmost round-about in Martis Camp (first blue line encountered) and then further west and north to reach the origin of Schaffer Mill Road at SR 267. The yellow line across the top and down the right side of the photo traces the route of SR 267 from its intersection with Schaffer Mill Road to its intersection with Northstar Drive. The yellow line then traces the route of Northstar Drive to the Village at Northstar™ (the "Village.")

According to Google Maps, the distance from the easternmost roundabout in Martis Camp to the Village is 1.7 miles if one travels over Mill Site Road and Big Springs Drive and is 8.9 miles if one travels the circuitous route via SR 267. Those distances, when measured from the roundabout near the center of Martis Camp are 7.5 and 3.1 miles respectively. When measure from the Main Gate at Martis camp, the distances are 6.7 miles via SR 267 and 3.9 via Mill Site Road and Big Springs Drive in Northstar.

Porter Simon Opposition Letter July 21, 2014

Louis A. Basile
Kelley R. Carroll*†
Peter H. Cuttitta*
Steven C. Gross*
Brian C. Hanley*
Stephen C. Lieberman
James L. Porter, Jr.*
James E. Simon

PORTER SIMON
A PROFESSIONAL CORPORATION

Ravn R. Whitington+

Dennis W. De Cuir, A Law Corporation, *Of Counsel*

† Certified Specialist in Estate Planning, Trust & Probate Law
** Also licensed in Nevada*
+ Also licensed in Colorado

July 21, 2014

VIA CERTIFIED MAIL, FACSIMILE: 530-745-3540 & EMAIL: jweber@placer.ca.gov

Placer County Department of Public Works
Attn: John P. Weber, Right-of-Way Agent
3091 County Center Drive, Suite 220
Auburn, CA 95603

Re: Comments in Opposition to Petitioners' Request to Abandon Mill Site Road

Dear Mr. Weber:

My office represents the Martis Camp Community Association (the "Association"). The Association operates the private roads within Martis Camp for the benefit of its members and their guests. Currently, the Association's membership includes the owners of 536 lots (approximately 25 of whom also own homes within Northstar) and, at build out, will include 668 lots. These owners are tax-paying constituents of Placer County who are entitled to travel on Placer County's public roadways, including the short .3 miles of Mill Site Road.

Consistent with their legal rights, the Association and its member owners have used Mill Site Road for the past several years because it provides convenient and environmentally-friendly access to Northstar, particularly the commercial and retail establishments at the Village at Northstar. As a result of this longstanding use, the Association and its owners (currently 536 and, eventually, as many as 668 families) have an expectation and vested property rights to continue to use Mill Site Road, which serves a valid public purpose that outweighs the petitioners' (18 lots) desire for additional privacy under the guise of safety concerns.

As set forth in greater detail below, Mill Site Road is safe for its current and future uses, which are well below the road's capacity. Mill Site Road is also necessary for current and prospective public use (including by the Association's members and petitioners themselves), and its closure would not serve the public interest. Accordingly, Mill Site Road cannot, and should not, be abandoned under the applicable legal standards governing petitioners' abandonment application. Therefore, the Association hereby submits the following comments in opposition to the proposed abandonment of Mill Site Road.

{00454931.DOC 1 }

PETITIONERS' PROPOSED ABANDONMENT WOULD CAUSE ADVERSE ENVIRONMENTAL IMPACTS

The proposed abandonment of Mill Site Road to allow use *only* by petitioners (Retreat owners) and their guests -- and not the general public as currently allowed -- would have a detrimental effect on Martis Camp owners and the environment. The Association and Martis Camp owners can currently access the Village at Northstar through Mill Site Road, Big Springs Drive, and Northstar Drive, a convenient route (approximately two to four miles depending on the location of the owner's home within Martis Camp). If Mill Site Road is abandoned by Placer County, Martis Camp owners would have to drive a circuitous route (approximately seven to nine miles each way depending on the location of the owner's home within Martis Camp) northeast down Schaffer Mill Road to SR 267, south on SR 267 to the entrance to Northstar, and then back northwest on Northstar Drive.[1] (See Exhibit 1 [aerial photo showing the circuitous route, which is approximately nine miles long for the homes served by the eastern-most segment of Schaffer Mill Road as compared to the approximately two-mile route via Mill Site Road and other public Northstar roads].) This would increase driving distances substantially – adding approximately five to fourteen miles to round trips (with an average increase of approximately ten miles) for each trip to the Village at Northstar from Martis Camp (depending on the location of the owner's home within Martis Camp).

In addition to the obvious inconvenience to Martis Camp owners, the proposed abandonment would cause additional and unnecessary noise generation, airborne pollutants, fuel consumption, greenhouse gas emissions, and traffic on already-congested highways and streets. (See Exhibit 1 [aerial photo showing the showing the circuitous route].) During some winter weekend peak traffic hours, federal limits for certain air quality contaminates are exceeded in the Martis Valley. Any exacerbation of these non-attainment conditions would be a significant environmental impact and would need to be studied in an Environmental Impact Report. As it stands, these obvious adverse environmental impacts -- in addition to the unnecessary inconvenience to Martis Camp owners and general public for the private benefit sought by the petitioners -- compel denial of the application.

However, if the County were to consider granting the abandonment request, this would be a "project" as that term is defined in CEQA. (Public Resources Code § 21065.) Discretionary projects cannot be approved or carried out by the County prior to CEQA study and analysis. (Public Resources Code § 21080.) None of the statutory or categorical exemptions pertains to the project proposed by the request for vacation. (CEQA Guidelines § 15061(b).) On the other hand, the County may (and should) deny the request without CEQA analysis. (Public Resources Code § 21080(b)(5) and CEQA Guidelines § 15270.)

[1] All approximate mileage calculations are based on Google Maps.

CURRENT AND ANTICIPATED FUTURE USES OF MILL SITE ROAD ARE WELL WITHIN ITS CAPACITY

In the petition, petitioners assert that Mill Site Road is "currently being impacted by over 1,000 vehicles from Martis Camp[,]" apparently implying that these vehicles regularly use Mill Site Road. (Section I(c), Petition.) Petitioners also inaccurately assert that Mill Site Road is being used "extensively by Martis Camp contractors and vendors as a construction entrance and exit." (Section II(h), Petition.)

The Association controls the access gate between Martis Camp and Mill Site Road. The gate is capable of being opened by transponders, which are only provided to Martis Camp owners, immediate family members and certain other authorized persons (e.g., developer and Association staff (twelve transponders) and Northstar ski personnel (eight transponders)). Non-owner contractors and vendors are not issued transponders, and Martis Camp owners are forbidden from loaning their transponders to their non-owner contractors. In one of the few known instance in which this rule was violated by an owner, the Association confiscated the transponder from the contractor. The allegations of heavy or continued use by contractors and vendors are inaccurate and without any evidentiary support.

It is true that approximately 1,000 transponders are currently in use by Martis Camp owners as many families are issued multiple transponders. These transponders provide access at the front entrance to Martis Camp; they also provide access through the east gate to/from Mill Site Road as desired by the owner. The Association monitors actual east gate usage (opening) by its owners/transponders, which data can be correlated to vehicle trips over Mill Site Road. Despite the number of transponders issued to Martis Camp owners (apparently the basis of petitioners' claim that 1,000 vehicles from Martis Camp currently "impact" Mill Site Road), actual usage of the east gate by Martis Camp owners has never exceeded 250 vehicle trips in any given day. For example, the heaviest documented winter usage day to date was on President's Day (229 trips); the heaviest usage on a summer travel day to date was on July 5th (201 trips). On an average non-peak day, the usage is under 150 trips per weekend day and well under 100 trips per mid-week day. Thus, petitioners' statement concerning current impacts to Mill Site Road from over 1,000 vehicles from Martis Camp is unsupported by the actual data of east gate usage.

The petitioners also inaccurately describe Mill Site Road as "designed and approved to a narrow (22') and steep (10%) standard appropriate to serve the 18 Retreat homesites." (Section I(b), Petition.) Apparently ignoring the fact that Mill Site Road was approved as a public road providing access to all members of the public, the petitioners assert that it would be dangerous for Martis Camp owners to travel on the road. (Section 1(b), Petition.)

Placer County has already dispelled the incorrect notion that Mill Site Road cannot accommodate current or future vehicle trips from Martis Camp. In a December 12, 2011, letter,

Placer County noted that Mill Site Road was actually constructed wider than a 22 foot road, and that there were numerous 22 foot roads in Placer County, including another 22 foot road that safely functions at traffic loads of approximately 3,550 daily trips. (See Exhibit 2 [copy of December 12, 2011, letter].) According to the County officials, as built, Mill Site Road has "a total of 26 feet of overall pavement width" and is "capable of accommodating Average Daily Traffic capacity of 6,800 vehicle trips." (See Exhibit 2.)

Petitioners' claims of safety are not supported by the evidence, and are completely undermined by the actual traffic load capacity of Mill Site Road. Mill Site Road was approved as a public road, and the petitioners knew this when they purchased their lots. Mill Site Road is safe as designed to accommodate far more traffic than Martis Camp currently produces or could ever produce. At build out, each family within Martis Camp could take up to ten vehicle trips per day over Mill Site Road before implicating the average daily traffic capacity of Mill Site Road, which is far greater than anticipated future usage. Therefore, Mill Site Road is safe for use by the public, including by Martis Camp owners, both now and in the future.

MILL SITE ROAD IS A PUBLIC ROAD UNDER THE MARTIS VALLEY COMMUNITY PLAN AND APPLICABLE APPROVALS

Petitioners also misinterpret the Martis Valley Community Plan (MVCP) and approvals for the Retreat and Martis Camp as precluding the use of Mill Site Road by Martis Camp owners. This is precisely what the MVCP and respective approvals contemplated, and how the system has functioned safely and efficiently for several years now. If Martis Camp owners were precluded from using a public road, such as Mill Site Road, then this should have been in the Martis Camp conditions of approval. No such condition was imposed. Abandonment of a public road is not an authorized procedure to address petitioners' concerns with use of a public road by a particular subset of the public.

This history of the MVCP is more thoroughly discussed in the comments of DMB/Highlands Group, which are incorporated herein. Briefly, Mill Site Road has always been approved and designed as a public road for public use. As a public road, Mill Site Road belongs "to the people of the state, and every citizen of the state has a right to the use thereof, subject to legislative control." (*Ex Parte Daniels* (1920) 183 Cal. 636, 639.) There is nothing in the MVCP or the respective approvals that prevent the use of Mill Site Road by Martis Camp owners.

PLACER COUNTY CANNOT ABANDON MILL SITE ROAD BUT ALLOW CONTINUED USE BY PETITIONERS BECAUSE THIS WOULD BE AN UNLAWFUL PARTIAL CLOSURE

Streets and Highways Code section 8324 allows a Board of Supervisors to completely close a public roadway and then vacate the public road right of way *only* if it finds, based on substantial evidence received at a public hearing, that public use of the roadway "is unnecessary

for present or prospective public use." Use of Mill Site Road is necessary now and in the future, including for public transit vehicles, emergency vehicles, Martis Camp owners and *petitioners themselves*.

The courts have added a requirement that the closure or vacation must be supported by a finding that the vacation of the roadway is "in the public interest." (*People v. City of Los Angeles* (1923) 62 Cal.App. 781, 786, cited and applied in *Heist v. County of Colusa* (1984) 163 Cal.App.3d 841,849.) In this matter, closure of Mill Site Road would be *detrimental* to the public interest as it would cause adverse traffic, air quality and related environmental impacts, and inconvenience a significant portion of the public to provide limited benefit to the 18 petitioners who now request a partial abandonment so only they can use the road.

In *Citizens for Improved Sorrento Access, Inc., v. City of San Diego,* (2004) 118 Cal.App. 4th 808, 816 (*Sorrento*), the court determined that to be "necessary" for present or prospective public use, the road must be "essential" or "requisite." The court held that a local governing body has the discretion determine that a roadway is unnecessary where other equally or more efficient routes are available, even when a significant number of users would continue to use the roadway were it not to be closed. (*Id.* at 817-18.)

As an initial matter, petitioners themselves need to use the roadway. It is essential to access their lots. Therefore, this precludes a finding that Mill Site Road is unnecessary for public use and distinguishable from *Sorrento* where no member of the public was allowed to continue using the road – it was to be completely abandoned by the public body.

Further, the facts in this matter do not reasonably compare to the *Sorrento* case. Here, there are no such equally convenient and available routes of access between Martis Camp and Northstar as was the case in *Sorrento*. To the contrary, the only alternative round-trip vehicular route to the Village at Northstar would be, for some Martis Camp owners, approximately fourteen miles longer than the Mill Site Road route. There is no alterative access for petitioners themselves, which by definition means the road is necessary for use. The *Sorrento* court confirmed that, "there is a strong public policy to protect the public's interest in continued use of its streets, and the *public has strong rights in continued use of its existing public streets*." (118 Cal.App.4th at 817 [emphasis added].) Therefore, Martis Camp owners have a strong public interest in the continued use of Mill Site Road, consistent with their use for the past several years.

The *Sorrento* court went on to analyze *City of Lafayette v County of Contra Costa* (1979) 91 Cal.App.3d 749, 754 (*Lafayette*), summarizing the court's holding that: "a city could not partially close a public street for the exclusive use of nearby residents because there is no legislative authority for a city to restrict the right to use public streets for some people and not for others." (*Sorrento, supra,* 118 Cal.App.4th at 817 citing *Lafayette, supra,* 91 Cal.App.3d at 754.) The *Lafayette* court went on to explain that the governing body's discretion to completely close a street "does not allow [the governing body] to close a street, or part of it, to the state's

citizens generally, but not, as in the case at bench, to its own residents or other 'exempted drivers.'" (*Sorrento, supra,* 118 Cal.App.4th at 817-18 citing *Lafayette, supra,* 91 Cal.App.3d at 754.)

The *Sorrento* court also noted that the California Supreme Court "approved *Lafayette's* reasoning and held the City of Berkeley had no authority to place traffic barriers on city streets permitting only local residents to use the streets." (*Sorrento, supra,* 118 Cal. App.4th at 818 citing *Rumford v. City of Berkeley* (1982) 31 Cal.3d 545, 551-52.) And finally, the *Sorrento* court noted that in *Citizens Against Gated Enclaves v. Whitley Heights Civic Assn.* (1994) 23 Cal.App.4th 812, 814-16 & 821 (*Whitley Heights*), the court held that the City of Los Angeles had no authority to allow traffic gates to partially block public streets because the traffic gates "essentially converted the public streets into private roads and therefore was invalid because the city had not made a finding that the streets 'were no longer needed for vehicular traffic.'" (*Sorrento, supra,* 118 Cal.App.4th at 818 quoting from *Whitley Heights;* 23 Cal.App.4th at 821.) According to *Whitley Heights*, the governing body "'cannot . . . *wave the magic wand* and declare a public street not to be a public street' without 'a finding that the property in question is unnecessary for present or future uses as a street.'" (*Sorrento, supra,* 118 Cal.App.4th at 818 quoting from *Whitley Heights;* 23 Cal.App.4th at 821 [emphasis added].)

The analysis of the above-referenced line of authority, as analyzed and discussed in *Sorrento*, makes it clear that when a roadway or a right of way has been, or is to be, replaced by other, equally efficient roadways, the roadway may be *fully closed* and the public right of way vacated upon a finding by the governing body that the old roadway is no longer essential to the traffic and circulation needs of the public and is not likely to be necessary for such purposes in the future. This is the sort of action that the governing body in *Sorrento* actually took (to completely abandon the road), and which the court said was a proper exercise of discretion.

However, when, as here, the proposal is that a public road be restricted so as to remain available to one class of users (here petitioners) and denied to the balance of the public, the statutorily-required findings for abandonment found at Streets and Highway Code section 8324 *cannot* be made because, by the admission of the petitioners themselves, Mill Site Road is necessary to accommodate their own access needs and they wish to enhance their enjoyment of the roadway by excluding the balance of the public from the roadway. This is essentially a partial closure of a public road. Therefore, under the law delineated in *Lafayette* (1979), affirmed by the California Supreme Court in *Rumford* (1982), and further explained and applied in *Whitley Heights* (1994), all of which were fully reviewed and analyzed in 2004 by the *Sorrento* court, petitioners cannot satisfy the well-established statutory and case law bases for abandonment of a public road. Therefore, the County must deny the abandonment petition in its entirety.

THE ABANDONMENT OF MILL SITE ROAD WOULD DEPRIVE THE MARTIS CAMP ASSOCIATION AND ITS OWNERS OF THEIR PROPERTY RIGHTS

From the time Schaffer Mill Road was first connected to Mill Site Road, the Association and its owners began using Mill Site Road regularly and as needed to reach the Village at Northstar and, presumably, other destinations. This is consistent with Mill Site Road's status as a public road – "The streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof, subject to legislative control." (*Ex parte Daniels* (1920) 183 Cal. 636, 639.)

In addition, the well-known principle of abutter's rights has long been held to be a fundamental private property right in favor of those whose real property touches on a public roadway. Each of the Association's owners has easement rights to use the private roads within Martis Camp. One of these private roads abuts upon, and connects with, Mill Site Road, a public road. Therefore, the Association's members have a fundamental private property right to enter and exit Mill Site Road at that point of connection. That property right may not be taken away without payment of just compensation. (See Art. 1, § 19, Cal. Constitution; Fifth and Fourteenth Amendments to the U.S. Constitution.)

CONCLUSION

This is an issue of great concern to the Association and its members. For the last several years, they have used Mill Site Road consistently with the MVCP, Martis Camp's approvals, and Mill Site Road's status as a public road, and they desire to continue to do so.

Placer County cannot make the required findings to abandon Mill Site Road because it is necessary for use by the general public, including petitioners themselves, and this public road serves the public interest. Further, petitioners seek a partial closure of Mill Site Road to allow them to continue to use it but to deny use to other members of the public, which is a partial closure and has been expressly disallowed by the court decisions summarized in *Sorrento*.

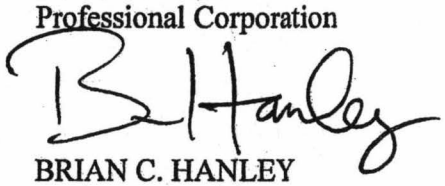
Maintaining Mill Site Road as a public road for use by the public, including the Association and its members, is also efficient and in the best interest of the public as a reduction of various environmental impacts to the surrounding community, including traffic, noise, greenhouse gas/global warming, and air pollution.

Further, despite overwhelming evidence that Mill Site Road can safely accommodate 6,800 vehicle trips per day, petitioners desire to upset the status quo to benefit themselves at the expense of the general public. Actual use by Martis Camp owners is more than twenty-five times *less* than the road's capacity even on peak usage days. This is not about safety, but the desires of a few private property owners to gain additional privacy at the expense of the general public.

Therefore, for all the reasons set forth above, contained elsewhere in the record, and set forth by the Association during further public comment, the Association hereby opposes the abandonment of Mill Site Road by Placer County. The Association urges Placer County to deny the abandonment petition as to Mill Site Road in its entirety.[2]

Thank you for the opportunity to submit these preliminary comments in opposition to the application. I look forward to submitting additional comments during the public process, and responding to any questions or inquiries that you might have of me or the Association.

Very truly yours,
PORTER SIMON
Professional Corporation



BRIAN C. HANLEY
hanley@portersimon.com

Enclosures (Exhibits 1-2)

Cc: Client

[2] For purposes of these initial comments, the Association does not oppose the abandonment of Cross-Cut Court, though it reserves all of its rights in that regard.