

March 26, 2019

**Via e-mail**

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Re: Paraiso Springs Resort RDEIR  
SCH # 2005061016

Dear Members of the Planning Commission:

LandWatch asks that the Planning Commission not approve the Paraiso Springs Resort project (Project). The Project is too large for its remote site in a narrow box canyon, a site which is accessible only by a road that does not meet County or state fire regulations. It is too risky to situate hundreds of guests and employees in a very high fire severity zone without an adequate evacuation plan.

The EIR does not address the fire risk adequately or honestly. The EIR fails to acknowledge that situating the Project in this remote rural location will increase fire incidence. The EIR misrepresents the response time from the Mission-Soledad Fire Protection District station. The EIR claims that a Fire Protection Plan will mitigate fire risks, but it leaves the development of that plan until after the Project is approved. The EIR claims that the Project will not interfere with an evacuation plan, but this claim is based on the fact that there is no evacuation plan for the hundreds of Project employees, guests, and neighbors. The Planning Commission should reject the EIR as an inadequate disclosure and mitigation of fire risks. The Planning Commission should also reject the Project because it cannot make the required findings that the Project is consistent with fire regulations for access and evacuation roads.

If the County is to consider this Project any further, it should reduce its scope by removing the 13 hillside condominium buildings on lots 21 and 22. A smaller Project would reduce the fire risk, which the Planning Commission should find to be significant and unmitigated. All three of the alternatives actually evaluated in the EIR call for reducing the Project size by eliminating the hillside condominiums on lots 21 and 22. The RDEIR found that these alternatives were environmentally better because they would

avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides.

**A. The analysis and mitigation of wildfire risk is inadequate under CEQA.**

The Project site is in a very high fire severity zone in a box canyon at the end of Paraiso Springs Road. Paraiso Springs Road is a narrow dead-end road that does not meet the minimum standards for fire access and evacuation. Paraiso Springs Road, as the sole emergency access road, exceeds the applicable standards for the length of a dead-end access road. The Project is more than 15 minutes from the nearest fire station, which exceeds the County policy for fire access. The Project itself will increase the risk of wildfires by introducing more people and development to the wildlands.

Thus, the Project would put its hundreds of employees and guests at risk of wildfires without a safe evacuation route. It would also subject its neighbors to heightened risk of wildfires and would impair their safety by crowding the only available evacuation route.

As LandWatch objected in its January 15, 2019 comments, the EIR does not adequately assess and mitigate Project wildfire impacts. Furthermore, the Project as planned fails to comply with the Wildfire Protection Standards in State Responsibility Areas, as mandated by Public Resources Code section 4290 and by Monterey County Code Chapters 18.56 and 18.09. The County chose not to respond to these comments in the Final EIR.

Comments from CAL FIRE, the Mission-Soledad Fire Protection District, and neighbors also object to the inadequate analysis and mitigation of wildfire risks. As discussed below, the final EIR did not provide adequate responses.

Accordingly, LandWatch asked Bob Roper to evaluate the wildfire risks. Mr. Roper was the former Ventura County Fire Chief and Nevada State Forester, with 40 years of experience in the fire service. Mr. Roper's attached letter explains why the EIR has not adequately evaluated wildfire risks. These failures of analysis violate CEQA. (14 CCR, § 15126.2; 15130.)

First, the EIR fails to evaluate the increased risk of wildfires caused by locating more people and more development in a rural site. Mr. Roper explains that people start most fires, and more people means more fires.

Second, the EIR fails to acknowledge and discuss the increased risk to visitors and to Project neighbors caused by non-compliance with applicable regulations mandating the minimum width for fire access roads. (SRA Fire Safe Regulations, § 1273.01; Monterey County Code, § 18.56.060(3) and Chapter 18.09, Appendix O, §

O102.2.) Although the EIR states that the Project may widen “the majority” of Paraiso Springs Road in phases, over time, “as feasible,” there is nothing in the proposed mitigation that mandates provision of 20-foot minimum roadway access before the Project is occupied.

Under the proposed “phased” road widening plan, the road would not be widened until at least 2027, allowing the Project to operate for years without safe access and egress. The road would not be widened if the final phases of the Project were not constructed, allowing the Project to operate indefinitely without safe access and egress. The road would not be widened where widening is determined not to be feasible. The determination of feasibility would be left to unspecified parties, at some unspecified time, and with reference to unspecified reasons.

Third, the EIR fails to acknowledge and discuss the increased risk to visitors and to Project neighbors caused by the failure of the Project to comply with applicable regulations mandating a maximum length for a dead-end road access. (SRA Fire Safe Regulations, § 1273.09; Monterey County Code, § 18.56.060(11) and Chapter 18.09, Appendix O, § O102.3.) Mr. Roper explains that reliance on dead-end roads for evacuation resulted in lost lives in the 2018 Paradise fire and the 2017 Atlas Peak fire. The EIR states that there is no alternative road location, so it is not clear whether and how the Project could comply with the dead-end road access regulations intended to ensure safe evacuation.

Fourth, the EIR proposes to rely on shuttles for staff and some visitor access to the site. Neither mitigation nor the Project description require that there be sufficient shuttle capacity to evacuate all persons from the Project site immediately without return trips. The need for return trips on a narrow road congested with other emergency traffic that may be smoke-occluded or blocked by burning materials would result in unacceptable risks.

Ironically, despite the Project’s potential to congest the narrow dead-end road in emergencies, the RDEIR concludes that there would be no significant impact based on interference with an emergency response plan or emergency evacuation plan because “[a]ccording to the *Monterey County General Plan*, the Project site is not located along an emergency evacuation route and is not anticipated to physically interfere with an adopted emergency response plan or emergency evacuation route. The resort site is located at the end of a dead-end road.” (RDEIR, p. 3-215 (emphasis added).) It is clear that the Project would interfere with emergency response to fire emergencies in the Project vicinity and with emergency evacuation of Project neighbors. The fact that the County may not yet have adopted an emergency response plan for this area, even though it would clearly need one, cannot justify the facile conclusion that there is no significant impact. An agency may not apply a threshold of significance based on its General Plan policies so as to foreclose consideration of evidence that an impact is nonetheless significant in the context of the project at issue. (*East Sacramento Partnership for a Livable City vs. City of Sacramento* (2016) 5 Cal.App.5th 281, 300.)

Fifth, contrary to the EIR, the Project is more than 15 minutes from the nearest fire station, the Mission-Soledad Fire Protection District station in Soledad. CAL FIRE, the Mission-Soledad Fire Protection District, Mr. Roper, and LAFCO have all concluded that the response time would be excessive. Mr. Roper and LAFCO have pointed out that reliance on the Soledad station to respond to EMS and fire calls from the Project would compromise the ability of the Mission-Soledad Fire Protection District to serve its existing service area.

Under General Plan Policy 17.3.3, 15 minutes is the maximum permitted response time without on-site fire protection systems approved by the fire jurisdiction. The fire jurisdiction has not approved the on-site fire protection systems and has in fact asked for different arrangements than are proposed: an on-site fire station. The EIR's failure to identify this as an inconsistency with an applicable plan violates CEQA. (14 CCR, § 15125(d).)

Sixth, as Mr. Roper explains, the proposed mitigation measure MM-3.7-6 is not adequate. The EIR concludes that wildfire hazards would be rendered less than significant by proposed mitigation measure MM 3.7-6:

The applicant shall finalize their proposed preliminary Fire Protection Plan, subject to review by the Mission Soledad Rural Fire Protection District and approval by the RMA Director. The approved plan shall be implemented, prior to issuance of an occupancy permit, and on an on-going basis as described in the plan.

(RDEIR, p. 3-216.) The 2005 preliminary Fire Protection Plan is not in the EIR. A 2005 memorandum captioned "preliminary Fire Protection Plan" available on the County's web site lacks any discussion of emergency access and evacuation, fuel management, or training. Mitigation measure MM-3.7-6 violates CEQA for three reasons:

- CEQA does not permit deferral of mitigation without an adequate explanation of the need for deferral. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 670.) The EIR provides absolutely no discussion or justification for deferring the completion of the final Fire Protection Plan, a plan that is critically needed to address concerns raised in comments.
- CEQA does not permit deferral of mitigation without performance specifications. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 94.) The EIR provides no performance specifications for the Final Fire Protection Plan, e.g., specifications for adequate access and evacuation roads, vegetation management, planting and irrigation, evacuation procedures, staff training, and guest alert systems. Indeed, the proposed mitigation measure MM-3.7-6 does not even identify the topics to be included in an eventual Fire Prevention Plan.

- CEQA does not permit deferral of mitigation without evidence that mitigation is feasible, even if the EIR does provide performance standards. (*Communities for a Better Env't, supra*, 184 Cal.App.4th at 94.) Here, compliance with maximum dead-end road requirements for safe access and evacuation is not feasible because the EIR acknowledges that there is no alternate location for a road. Compliance with roadway width requirements for safe access and evacuation is apparently not entirely feasible because the EIR calls for widening only where feasible. Mr. Roper has demonstrated that mitigation of fire risks is not feasible for these reasons, and the EIR provides no evidence to the contrary. Deferral is therefore improper.

We note also that the proposed conditions of approval do not provide any additional information about the proposed mitigation.

In light of the failure of the EIR to assess and disclose significant impacts related to wildfires and to provide an adequate discussion of mitigation, the EIR must be revised and recirculated. (14 CCR, § 15088.5, subd. (a).) Recirculation is required because new information, including comments by Mr. Roper and by the Attorney General's office, discloses that the Project would result in significant and substantially more severe wildfire impacts not acknowledged by the RDEIR; because the applicant may decline to an alternative that would reduce the size of the Project to reduce fire impacts; and because the draft EIR's discussion of wildfire risks and mitigation was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

**B. The applicant's last-minute submissions related to fire impact issues are inadequate as a matter of fact and as a matter of law.**

Comments on the RDEIR submitted by CAL FIRE, the Mission-Soledad Fire Protection District, LAFCO, and Project neighbors raised concerns about the inadequacy of the fire risk analysis and mitigation, including the inadequate provisions for emergency access and evacuation on the narrow, sole access road. The County did not respond to these comments adequately in the Final EIR. Instead, the County has buried two new technical analyses furnished by the applicant in Exhibit L to the staff report.

Exhibit L is misleadingly captioned "Hotel Asset Managers CHMW Correspondence," a caption that applies to the first letter in Exhibit L but does not inform the public that Exhibit L also contains two letters solicited by the applicant at the last minute to discuss wildfire issues. The two new letters are not referenced in the staff report itself or in the draft findings for the Project.

The new analyses include a March 8, 2019 letter from traffic engineer Keith Higgins and a March 15, 2019 letter from Michael Huff, identified as a "fire protection planner."

Higgins opines that the site could be evacuated “in about 15 minutes” if 269 cars left the site at the rate of one car every 3 seconds, driving at 30 miles per hour on a road that the final EIR admits is “in a mountainous area with steep terrain.” (FEIR, p. 2-99 to 2-100.) The roadway improvement plans in Appendix O of the RDEIR’s traffic report call for installing signs limiting speeds to 15 mph at several curves and to 20 mph or 25 mph at other locations. Higgins does not explain how a continuous string of vehicles with 3 second headways could average 30 mph if these vehicles all have to slow to 15 mph for curves and narrow sections. Common sense and everyday experience in traffic jams indicates that a continuous string of vehicles can only move as fast as the slowest vehicle.<sup>1</sup>

The FEIR admits that large portions of the roadway are less than 18 feet wide, some as narrow as 14’ 2”. The FEIR admits that the road will not be widened until later Project phases, and may not be widened at all if found not to be feasible. Higgins’ analysis unrealistically assumes calm and orderly evacuation on a standard two-lane road capable of sustaining 2,000 vehicles per hour.

Higgins assumes that the Project population is queued up and waiting to evacuate as soon as a fire is noticed. Higgins’ analysis does not take into account the time required to alert and assemble the guests and employees, which could be considerable, especially at night.

Higgins admits that 100 persons might be dependent on a shuttle for evacuation and states that the shuttle could accommodate 35 or 40 people. Although this indicates that three shuttle vehicles would be needed for immediate evacuation, Higgins does not state that the Project would in fact retain three shuttle busses on site at all times to accommodate all of the shuttle-dependent evacuees. Nor does Higgins account for the need for multiple shuttle trips.

Higgins’ analysis is not consistent with the analysis provided by Mr. Roper, which is based on real-world evidence that dead-end roads result in fatalities under real-world wildfire conditions. Nor does Higgins’ analysis take into account that drivers may be subject to panic and the road may be smoke-occluded and crowded by wide incoming emergency vehicles. Higgins’ analysis does not recognize, and is inconsistent with, the rationale behind the minimum road width and maximum dead-end road length regulations.

Huff cites Higgins to conclude that there would be adequate road capacity for evacuation in “17 minutes travel time,” unrealistically adding only 2 minutes to Higgins’ 15 minute estimate to account for the time needed to assemble the guests. Huff admits that the road improvements are “very important for meeting the intent of the applicable fire codes” and says that the road “must be widened to 18 feet or provided appropriate

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<sup>1</sup> See also How Traffic Actually Works, Jason Liszka, Oct. 1, 2013, available at <https://jliszka.github.io/2013/10/01/how-traffic-actually-works.html>. Liszka explains that traffic cannot move any faster than the bottleneck speed.

measures to facilitate safe traffic during an evacuation.” Huff claims incorrectly that the existing road is at least 16 feet wide, when in fact Appendix O of the RDEIR traffic report shows that portions of the road are as narrow as 14’ 2.” Huff does not explain how there could be a safe evacuation route the day the Project opens in light of the proposal that roads not be widened until later phases of the Project or not be widened at all where widening is not determined to be “feasible.” Huff suggests some other “appropriate measures to facilitate safe traffic during an evacuation” if the proposed widening does not occur. However, Huff does not identify any such measures.

Huff admits that the intent of the regulation limiting the length of dead-end roads is based on the very conditions that exist on the first mile of Paraiso Springs Road: available fuels mixed with scattered homes and buildings. Huff claims that the Project “intends to comply with PRC 4290 if applicable, achieving the same practical effect through the various recommendations /measures discussed herein.” Huff does not explain how an alternative evacuation route can be provided so that the Project would practically comply with the intent in the regulations that the public not be stranded at the end of a long dead-end road that prevents evacuation. Again, although Huff states that “appropriate measures” are required “to facilitate safe traffic during an evacuation,” he does not identify any alternative to providing code-compliant evacuation roads that could facilitate safe evacuation.

Huff discusses emergency response time, and proposes some on-site EMS capability. However, Huff does not demonstrate that the Project would or could comply with the County’s minimum 15 minute response time standard for fire emergencies.

Huff makes 16 recommendations related to fire safety. None of these recommendations were included in the EIR as proposed mitigation and none are identified as conditions of approval.

Huff concludes that the Fire Authority could make findings that the Project somehow provides the same practical effect for the dead-end road length/lack of secondary access. However, no exception can be made to the road width and dead-end length regulations unless an alternative approach has the Same Practical Effect. i.e., is equally efficacious to meet the stated intent, and unless the exception is approved by the Director of the Board of Forestry and Fire Protection after written application. That application must include substantial evidence that there are no other site or design alternatives for the specific parcel of land. (Monterey County Code, § 18.56.050.) Such findings have not been made by the Fire Authority and have not been approved by the Director of the Board of Forestry and Fire Protection. Such findings could not even be *considered* at this point because there is no Fire Protection Plan or specific proposal for an alternative to the sole evacuation route. As a practical matter, there is no apparent alternative approach that would meet the intent of ensuring that people are not reliant on a single long dead-end road for evacuation.

Finally, neither Huff's nor Higgins' analyses are included in the EIR. The public has had no opportunity to evaluate, comment, and receive a response to comments on this last minute material. This violates CEQA. If the Planning Commission intends to consider or rely on either of the last-minute letters from Huff or Higgins solicited by the applicant, the County must recirculate the EIR.

An agency must recirculate an EIR if new information shows that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (14 CCR, § 15088.5(a)(4).) The purpose of recirculation is to provide the public the same opportunity to evaluate the new information and the validity of the EIR's conclusions as it had for information in the draft EIR. (*Sutter Sensible Planning v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 822; *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1132; *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 131, 133-134.)

Recirculation of a draft EIR for public comment and response is required where the record shows that a potentially significant impact, or the efficacy of mitigation, was not evaluated in the draft EIR. (*Vineyard, supra*, 40 Cal.4th at 447-448 [potential impact to salmon]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120 [water supply mitigation not described].)

Reliance on new technical analysis not included in the draft EIR, such as the new reports offered here by the applicant, requires recirculation. (*Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal. App. 4th 91, 108 [new hydrology report].) Information and analysis required by CEQA must be in the EIR itself. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442 ["To the extent the County, in certifying the FEIR as complete, relied on information not actually incorporated or described and referenced in the FEIR, it failed to proceed in the manner provided in CEQA.]; *San Joaquin Raptor/Wildlife Rescue Ctr. v. Cty. of Stanislaus* (1994) 27 Cal.App.4th 713, 727 [post-EIR testimony cannot make up for an inadequate EIR because "[w]hatever is required to be considered in an EIR must be in the report itself. Oral reports cannot supply what is lacking."]; *Communities for a Better Env't v. City of Richmond* (2010) 184 Cal. App. 4th 70, 88 [rejecting post-EIR testimony to cure a deficient EIR]; *Sierra Club v. Tahoe Regional Planning Agency* (2013) 916 F.Supp.2d 1098, 1139 [adequacy of mitigation measures must be reviewed solely on the basis of information in the EIR because "[a]dditional documentation in the record, however, does not make up for the lack of analysis in the EIR."].)

**C. The Planning Commission cannot make findings required to approve the Project under the County Code, the Planning and Zone law, and the Subdivision Map Act.**

Independent of CEQA, under the Planning and Zoning law and the Subdivision Map Act, the Planning Commission must disapprove the Project, including the proposed



subdivision map, because it would fail to comply with the state regulations and local ordinances mandating minimum access road width and maximum dead-end road access. (Government Code, § 66473.)

Because the Project does not comply with either the State or the County regulations for minimum road width and maximum dead-end road access in a very high fire severity zone, the County cannot make the findings required by Monterey County Code, § 18.56.040(C) (“Based on incorporated SRA Fire Conditions, all discretionary permits must include a finding that the project as conditioned, will ensure standardized basic emergency access and fire protection pursuant to Section 4290 of the Public Resources Code”).

The Planning Commission cannot make the specifically required findings under the Subdivision Map Act that the proposed subdivision is “consistent with regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code or consistent with local ordinances certified by the State Board of Forestry and Fire Protection as meeting or exceeding the state regulations.” (Government Code, § 66474.02, subd. (a)(1).) **The Project is simply not consistent with these regulations.**

Mr. Huff’s opinion that the Fire Authority *might* eventually make findings that the Project provides the Same Practical Effect for the dead-end road length/lack of secondary access is not sufficient. Any exception must actually be approved by the Director of the Board of Forestry and Fire Protection after written application, which must include substantial evidence that there are no other site or design alternatives for the specific parcel of land. (Monterey County Code, § 18.56.050.) Until there is an application and approval, the Planning Commission cannot find the Project consistent with the regulations. Indeed, the draft resolution indicates that additional conditions of approval “may be needed to clarify how that code would apply to the project, such as when alternative methods of compliance may be used as allowed by the code.” (Staff Report, Exhibit C, p. 35.)

Finally, in light of the Project’s inconsistency with General Plan Policy 17.3.3 mandating a 15 minute response time, the Planning Commission cannot act to approve the Project entitlements, including a subdivision map, because it cannot make credible findings that the Project is consistent with the General Plan. (Government Code, § 66473.5.) Where response time exceeds 15 minutes, the fire jurisdiction must approve on-site fire protection systems. The fire jurisdiction has not approved proposed systems and has in fact asked for an on-site fire station. In light of this inconsistency and the Project’s impact on fire safety, the Planning Commission must find that the Project is inconsistent with the General Plan, that the site is not suitable for the type and density of development, and that the Project is likely to cause serious public health problems. (Government Code, § 66474.)

**D. Steep slope development is not permissible for the Project.**

Policy 3.2.4 (CSV) from the 1982 Monterey County General Plan Central Salinas Area Plan limits building sites based on slope. Policy 3.2.3 does not permit any building sites on “portions of parcels with a cross-slope of 30 percent or greater.” The RDEIR fails to discuss or assess consistency with this policy. The FEIR argues that it applies only to residential buildings. The proposed condominium units are clearly residential buildings. Since the policy bans building sites on slopes over 30 percent, the condominium units proposed on such slopes should not be included.

In addition, 1982 General Plan Policy 26.1.10 bars development on slopes of 30 percent or greater unless the County can make one of two findings based on substantial evidence. To grant an exception, the County would have to find either that

- “[t]here is no alternative which would allow development to occur on slopes of less than 30 percent;” or
- the “proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans.”

(RDEIR, p. 3-9.) The RDEIR acknowledges that unless these findings could be made, the portion of the Project on slopes of 30 percent or steeper would not be permitted. (RDEIR, p. 3-264.)

The County clearly could not make the first finding under General Plan Policy 26.1.10 because there are alternatives to development on steep slopes: the RDEIR identified Alternatives 2, 3, and 4 that would not require development on slopes of 30 percent or greater. (RDEIR, pp. 5-11 to 5-37.)

The express benefits of these alternatives is that they would avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides. (RDEIR, pp. 5-11, 5-13, 5-19, 5-20, 5-29.) These benefits implicate a number of important policies of the 1982 General Plan, which is the General Plan applicable to the Project assessment. In light of these resource-protecting benefits associated with the alternatives to steep slope development, the County could not find that steep slope development better achieves the resource protection objectives and policies contained in the Monterey County General Plan.

The staff report acknowledges that there is no justification for steep slope development in lot 23 west of the hotel and recommends eliminating it. The same rationale should apply to lots 21 and 22.

The staff report's claim (page 17) that the hillside condos in lots 21 and 22 somehow differ from the hillside condos in lot 23 because they are clustered and will therefore be closer to infrastructure and fire evacuation and have fewer biological impacts is a makeweight argument. The proposed condos on lot 23 recommended for elimination were also clustered. Infrastructure is being provided by the developer for the entire Project, so there is no County resource policy served related to development infrastructure. The fire analysis does not acknowledge any difference in hazards to lots 22 and 21 versus lot 23. Nor does the biological resource analysis acknowledge any difference in impacts. The main difference in the three cluster of condos is that there would be visual impacts from condos in lots 21 and 22 versus lot 23. (See RDEIR, Appendix C, p. 7 [visual impact alternative removes "condominiums from the hillside along the northern edge of the site"].) Indeed, the reduction of visual impacts was precisely why the RDEIR recommended elimination of the hillside condos in lots 22 and 21 in all three of the reduced development alternatives. (RDEIR, pp. 5-11, 5-19, 5-29.) The staff recommendation simply ignores the EIR's analysis.

#### **E. The EIR's analysis and mitigation of visual impacts is inadequate.**

As LandWatch and lighting expert James Benya explained in RDEIR comments, the RDEIR fails to provide an adequate description of the Project or the environmental setting with respect to impacts from lighting. In response, the Final EIR purports to provide this information. However, the belated provision of this information violates CEQA because it must be provided in the *draft* EIR to permit public comment and response on the analysis on which the agency relies. (*Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1052 [declining to review amended analysis not circulated for public review and comment because the failure to recirculate it was error]; *Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal. App. 4th 91, 108 [requiring recirculation where the agency amended its analysis to rely on new technical reports]; *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 131, 133-134 [requiring recirculation where the draft EIR omitted setting information].)

The RDEIR failed to assess the impact of interior lighting from hillside condominiums. This lighting impact would not be screened from view from public viewing areas in the Valley because, as the EIR acknowledges, the windows in these hillside units would not be screened by vegetation. If the hillside units are designed to provide views, then their lighting will be visible at night. The FEIR offers a new technical report by Michael Baker International that purports to address the nighttime impact from interior lighting of hillside condominiums. The report dismisses nighttime lighting impacts from hillside condominium that are visible from the Valley, arguing that that this impact will be avoided because occupants will always close the curtains for privacy at night. (Michael Baker International, memo to Planning Department, February 13, 2019, page 8.) The report also argues inconsistently that the guests will eventually turn off the lights and go to bed, which would not matter if they were in fact closing the curtains for privacy as suggested. Nothing in the Project description, and no proposed

mitigation, requires that curtains be drawn at night or even assures that light-blocking curtains be provided. It is simply unreasonable to assume that resort visitors in the hillside condominiums will be so concerned with privacy that they will always draw the curtains before turning on lights at night. Indeed, no one without a telescope would be able to see them in the hillside units, because these units are located above the rest of the Project site.

The EIR must acknowledge that the interior lighting in the hillside condominiums, which will be visible from the Valley, would be a significant new impact in this otherwise pristine western range. The obvious and essential mitigation is not to develop on the steep the hillsides.

The Final EIR does not provide adequate responses to LandWatch's comments regarding either daytime or nighttime visual impacts. It is clear that situating 13 two-story condominium buildings in lots 21 and 22 on a steep hillside clearly visible from the Valley and from local roads would be a substantial visual intrusion.

The RDEIR relies on screening from vegetation to conclude that visual impacts would not be significant, but it also admits that these condominium units will at best be partially screened, because the Project wants to ensure that the guests have views.

The screening is supposed to be attained by planting the native oak seedlings required for biological resource impacts, but, as LandWatch documented in RDEIR comments, these will not mature to the height of the condominiums for 30 or more years. The FEIR responds that the "fact that the vegetation will not be fully grown in the early years of the resort is not a county standard requirement." (FEIR, p. 2-74.) Perhaps the County does not require this, but CEQA requires that the proposed mitigation be effective when the Project commences or that the EIR disclose that there will be significant impact. (*POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4<sup>th</sup> 681, 740 ["mitigation itself cannot be deferred past the start of the project activity that causes the adverse environmental impact"].)

The defensible space requirements to mitigate wildfire impacts will also prevent any effective screening. As CAL FIRE explained, vegetation within 100 feet of the structures must have both vertical and horizontal separation. LandWatch pointed out that CAL FIRE regulations for development on slopes from 20 to 40 percent require spacing tree canopies at least 20 feet apart, which would require spacing oak trees, with their 35 foot canopies, at least 55 feet apart. In effect, there could be at most one oak tree for each condominium unit. The FEIR does not acknowledge this problem. Instead, it claims that shrubs may be used in addition to trees. (FEIR, p. 2-74.) Even if shrubs could screen a two-story building, this claim is inconsistent with the proposed planting plan, which shows only trees are to be planted for screening lots 21 and 22. (RDEIR, Figure 2.12.)

The FEIR claims that vegetation adjacent to structures will not be cleared for fuel management areas. (FEIR, p. 2-74.) This claim is inconsistent with the RDEIR. The

RDEIR shows complete removal of all of the oak woodlands on the southern side of the hill on which the lot 21 and 22 condominiums are located as part of the “defensible space vegetation loss.” (Compare RDEIR, Figures 3.3-1 [existing vegetation] to 3.3-3 [defensible space vegetation loss].)

In sum, the need to protect the hillside condominiums from fire is inconsistent with the claim that these two-story buildings will be effectively screened or broken up.

**F. If any version of the Project is eventually approved, it should be smaller and should not include hillside condominiums.**

One of an EIR’s “major functions...is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” (*Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 400 (1988).) Alternatives should feasibly attain most, but need not meet all, of the project objectives. (*Mira Mar Mobile Cmty. v. City of Oceanside* (2004) 119 Cal.App.4th 477, 489 (2004).)

As noted, the EIR acknowledges a number of environmental benefits from the two alternatives that would reduce the size of the proposed Project. Alternatives 2, 3, and 4 would avoid encroachment on steep slopes, remove development at higher and more visible locations, reduce vegetation removal, reduce light and glare, reduce water supply and water quality impacts, reduce grading on steeper slopes, and lower the potential for erosion hazards and landslides. (RDEIR, pp. 5-11, 5-13, 5-19, 5-20, 5-29.) Thus, the EIR acknowledges that Alternative 4 is the environmentally superior alternative.

Comments by Mr. Roper regarding fire hazards indicate that the Project would cause significant and unmitigated impacts in the form of wildfire risks and by impeding the sole evacuation route. Mr. Roper indicates that the magnitude of this impact is related to the size of the Project. The more persons introduced into a rural setting, the greater the risk that persons will cause fires. And Mr. Roper explains that the more persons at the Project site, the greater the congestion of the emergency evacuation and access route. In light of the increased fire risk from additional igniters, the infeasibility of providing a second access and evacuation route, and the infeasibility and untimeliness of the proposed widening of the available route to meet minimum standards, the County should reduce the scope of the Project.

Reduction of the size of the Project should include elimination of the proposed condominium development on the steep hillsides for a number of reasons. As noted, this development is inconsistent with General Plan Policy 26.1.10 and Policy 3.2.4 (CSV). This development will result in visual impacts due to the visible glare, visual trespass, and sky glow contribution from the interior light sources from hillside development.

The proposed findings claim that all of the alternatives evaluated in the RDEIR are infeasible. If that were really the case, then the EIR is inadequate because it fails to

evaluate a reasonable range of alternatives. What is the point of an alternatives analysis that includes only infeasible alternatives?

Furthermore, any finding that all of the alternatives evaluated in the EIR are economically infeasible is unsupported by the evidence. The findings do not reject the alternative proposed by staff as infeasible even though it would eliminate seven 2-unit condominium buildings and potentially reduce the unit count by 14 units. Alternative # 3, evaluated in the RDEIR would have reduced the unit count from 180 to 168 by relocating the hillside condominiums to the villas site, a reduction of only 12 units, yet the findings reject this alternative as economically infeasible based on the letter from hotel consultant Thomas Morone, CHMWarnick, dated February 20, 2019. (RDEIR, p. 5-19 [Alternative 3]; see Staff Report, Exhibit 12, pp. 55, 57-58.) It is absurd to claim that a 12 unit reduction in time-share condominium units is economically infeasible but a 14 unit reduction in time-share condominium units is not.

The staff alternative would permit the applicant to reduce his unit loss to as few as 7 units by replacing one-unit villas with two-unit condominium. Under this scenario, the staff alternative would result in a reduction of as few as 7 units compared to the reduction of 12 units under the RDEIR's Alternative 3, a maximum difference of 5 units. Nothing in the evidence cited by the findings supports the conclusion that these 5 units represent the difference between an economically viable and an economically non-viable project. The hotel consultant's letter is a purely qualitative discussion with no cost or revenue data that would support a conclusion that a 173-unit project is viable but a 168-unit project is not.

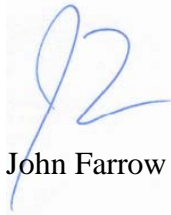
There is no evidence that Alternative 3 would fail to meet the same objectives that the staff alternative meets. And even if Alternative 3 did result in 5 fewer units, courts have rejected the notion that an EIR can lawfully reject an otherwise feasible alternative of reduced scope or size simply for impeding or failing to attain or one or more agency-identified project objectives. (See, e.g., *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4<sup>th</sup> 1277, 1304 [limited-water alternative "could not be eliminated from consideration solely because it would impede to some extent the attainment of the project's objectives"]; *Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4<sup>th</sup> 1059, 1087-88 (2010) [reduced development project alternative could not be avoided based on not fully satisfying two of twelve asserted objectives, as it is "virtually a given" that alternatives will not attain all objectives]; *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts*, 17 Cal.App.5<sup>th</sup> 413, 433 (2017) [prejudicial error from failing to analyze alternative which could significantly reduce total vehicle miles traveled].)

**G. Conclusion**

Based on the issues identified in these comments and comments by LandWatch, neighbors, and public agencies, LandWatch asks that the Planning Commission decline to certify the EIR or to approve the Project.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in blue ink, appearing to read 'JF', is written over a light blue rectangular background.

John Farrow

JHF:hs  
Attachment

March 26, 2019

Page 16

**Attachment: letter from Bob Roper, Roper Consulting,  
to John Farrow, March 22, 2019**



Subject: Paraiso Springs Resort Project

Date: March 22, 2019

To: M.R. Wolfe & Associates, P.C.  
Attn: Mr. John Farrow  
555 Sutter Street, Suite 405  
San Francisco, CA 94102

(Via email: jfarrow@mrwolfeassociates.com)

Dear Mr. Farrow,

At your request, I have reviewed the fire safety issues related to the proposed Paraiso Springs Resort project.

I have reviewed the Revised Draft EIR and Final EIR with particular attention to the description of the project, the discussions of wildfire hazards, fire protection, and traffic. I have also reviewed comments submitted regarding fire hazards, including the January 15, 2019 letter by yourself (LandWatch's representative), the February 6, 2019 letter from CAL FIRE's San Benito-Monterey Unit, the April 4, 2018 letter from the City of Soledad, the April 23, 2018 letter from LAFCO, and the March 20, 2019 letter from the California Attorney General's office.

I have been in the fire service for 40-years serving as the Ventura County CA Fire Chief, from 1998 to 2012, and as the Nevada State Forester, from 2015 to 2016. I was part of the team that developed California's response to major emergencies, which included wildland fire policy development at the local, State and Federal level. I also helped create the National Wildland Fire Cohesive Strategy. While serving in "all-hazard" emergency response role, I focused on the wildland fire topic.

In summary, it is my conclusion that the applicant-proposed mitigation measures MM-3.7-6 for wildfire risks are not sufficient because the EIR does not provide critical information. The mitigation measure calls for completion of the applicant's proposed preliminary Fire Protection Plan, subject to review by the Mission-Soledad Rural Fire Protection and approval by the Resources Management Agency Director for implementation before occupancy. However, critical details of a comprehensive Fire Protection Plan are not provided in the EIR, including plans for emergency evacuation and access. An adequate Fire Protection Plan for the proposed project is not clearly feasible due to serious constraints on access and evacuation of the large new population - hundreds of persons - to be situated in a box canyon with limited access. Evacuation of the project's population on the narrow dead-end road that provides the only access to the project site would likely interfere with both inbound access for fire personnel and equipment and with the evacuation of project neighbors, who depend on the same road.

It is troubling that the EIR does not present the proposed Fire Protection Plan for review before the EIR and project are considered for approval. The July 15, 2015 memorandum by CH2M Hill captioned "Preliminary Fire Protection Plan," addresses only water supply, sprinklers, hydrants, and internal circulation. It lacks any consideration of other critical elements of a Fire Protection Plan, such as evacuation and access, Temporary Refuge Areas (TRA), vegetation management, and training.

It is also troubling that the EIR proposes only the phased widening of the limited access road, and then only as feasible, which could compromise life safety once the project opens to guests and employees.

I understand that mitigation measures proposed in an EIR must be feasible. If the proposed mitigation measures to be included in a Fire Protection Plan (FPP) cannot be agreed to, then the project should be delayed until the public and the decision makers can be assured through a complete Fire Protection Plan that concerns are adequately addressed.

I also note that the Final EIR (FEIR) does not respond to the specific concerns raised in LandWatch's January 15, 2019 letter regarding site access and evacuation and compliance with wildfire protection standards. These concerns should be addressed before the EIR and project are approved because it is not clear that adequate access and evacuation are actually possible.

#### **SITE and RISK CONCERNS:**

The project is located in a narrow box canyon in a very high fire severity zone. The project site has burned in the past, and those fires have destroyed on-site structures. It is not a matter of IF a fire will occur; it's a matter of WHEN the next wildfire occurs.

**INCREASED FIRE RISK:** The EIR does not consider or discuss the fact that increasing development at the site will increase the risk of wildfire. Most wildfires are caused by people. As the Attorney General's letter and the research literature cited in that letter point out, "*additional development in rural areas, including recreational development, introduces more people into natural settings and thereby increases the risk of wildfires.*"

**RESPONSE:** The RDEIR states at page 3-270 that the closest fire station, the Mission-Soledad Rural Fire Protection District station is 15-minutes away. The FEIR also identifies a CAL FIRE station at the Soledad Correctional Facility (22-minute response time) in addition to the primary responder.

The EIR identifies 15 minutes as the maximum permitted response time under County Policy 17.3.3 without on-site fire protection systems approved by the fire jurisdiction. Hence, further review indicates an 18-minute response time from the closest fire station. (See attached maps). This 18-minute response time is based upon the fixed fire station location.

In its April 4, 2018 comments, the City of Soledad stated that the access time to the site is closer to 20 minutes than 15 minutes, based on commercial map data. The City of Soledad concludes: "*This will have significant impacts on the ability of the City to deliver services to its own residents given the significant distance from the fire station. These impacts simply cannot be ignored.*" CAL FIRE states in its February 6, 2019 letter that the "*distance from fire stations creates an excessive response time for effective structure fire suppression purposes.*"

There are additional factors that would delay response time. If the fire engine is distal to the fire station, the response time greatly increases. If the narrow Paraiso Springs Road were crowded with outbound evacuees, it is unlikely that a 15-18 minute response time could be maintained for the 9-mile route from Soledad to the project site. The stated 15-18 minute response time would

also be compromised if the Mission-Soledad Rural fire engine is committed on another call requiring an outside agency to respond.

This situation is further exacerbated during times of high wildfire activity in the State as CAL FIRE often moves their resources out of the area, as noted in their February 6, 2019 letter: *“The need for fire resources during peak fire season may limit response capability during moving of resources....”* Mission-Soledad FPD has no control over CAL FIRE resources, so reliance on neighboring fire resources should not be part of the planning conditions.

Based on its concerns regarding response time, the Mission-Soledad FPD asked that the project include a new on-site fire station in its August 29, 2013 letter. In its April 23, 2018 letter LAFCO stated that the EIR’s *“conclusion that no new facilities are needed in relation to this project appears to be inconsistent with the views expressed by the fire district in 2013 and in more recent (March 2018) informal consultation involving fire district representatives.”* Based on response time concerns, I concur that an on-site fire station, specified and approved by the fire jurisdiction, is required.

**EMS:** The RDEIR assumes at page 3-307 that the Mission-Soledad firefighters will address all of the project’s Emergency Medical Services (EMS) demands. This project is projected to bring in several hundred guests daily plus employees. EMS calls account for roughly 80% of the Mission-Soledad’s FPD service calls, so it should be quite apparent to expect associated 911 requests at the site.

**IMPACTS TO SOLEDAD:** Without an on-site EMS plan and an on-site fire station, 911 service calls on site will further drain the City’s ability to provide for its own citizens. The EIR does not recognize this impact.

**FUNDING FOR FIRE SERVICES:** One must understand how fire services are funded so decisions about future fire services are understood. The project will be required to pay “Fire Impact Fees” to the Mission-Soledad FPD. These fees are “one-time” fees intended to offset capital improvement costs for new services. This project will generate some limited property tax dollars for on-going revenue to the County, but the majority of on-going funding will be Transit Occupancy Taxes (TOT) paid by guests ending up in the County Treasury. There must be some type of pass-thru agreement between the County and the Mission-Soledad FPD to provide on-going new funding to support augmented staffing levels and/or a new fire station due to projected service demand increases. In its April 23, 2018 letter, LAFCO requested that the funding requirements for fire protection such as payment of impact fees or dedication of land for a new fire station be quantified and imposed as binding mitigation measures. A committed plan for an on-site fire station is required, together with a requirement that the project fund its fair share.

**ALTERNATIVE EGRESS AND ACCESS ROUTE AND DEAD-END ROAD LENGTH LIMITATION:** The project would present an unacceptable risk because it does not provide two routes for access and evacuation and because it is located on a dead-end road that is longer than permitted by applicable wildfire protection standards. As LandWatch’s January 15, 2019 letter points out, and as the RDEIR acknowledges at page 3-215, the project is located at the end of a dead-end road. The only access to the project site is via Paraiso Springs Road. Exhibit 13 to the traffic report in Appendix K of the RDEIR divides Paraiso Springs Road from the project site to the first public road intersection (at Clark Road) into segments A through E. The sum of these segments on Exhibit 13 is 7,490 feet, or 1.4 miles.

In order to ensure safe access and evacuation, state and local codes regulate the maximum length of dead-end road access. For example, the maximum length of dead-end road access is regulated

by both section 1273.09 of the SRA Fire Safe Regulations and by Monterey County ordinances at sections 18.56.060(11) and Chapter 18.09, Appendix O, section O102.3. The maximum permitted length for dead-end road access where parcels are less than one-acre is only 800 feet. The Vesting Tentative Map in RDEIR Appendix B and Table 2.1 of the project description identify many parcels proposed for the project that would be less than one acre. For example, the project would include 17 time share villas on lots 3-19, totaling 4.38 acres, which means that the parcels will be about a quarter of an acre. Even if the parcels were all 20 acres or larger, the regulations provide that the maximum length of a dead-end road is only one mile.

CAL FIRE's San Benito-Monterey Unit asked whether the project would provide alternative egress for civilians. Apparently in response, the Final EIR states that there will be an internal road that loops from the back of the project along the northern part and then rejoins the main road inside the project. Provision of an internal loop road within the project does not address the lack of a second evacuation route from the project site. Despite the internal loop, hundreds of persons would remain dependent on a single dead-end road to evacuate the project site in the event of a wildfire. Under the cited dead-end road regulations, the maximum dead-end road length applies to the project site as a whole "regardless of the numbers of parcels served." The more parcels served by a dead-end road, and the more persons that must rely on it for evacuation, the more difficult an orderly evacuation becomes.

In the event of a wildfire, reliance on a single dead-end road for evacuation can lead to civilian deaths, as it did in the 2018 Camp Fire in Paradise, CA. (See "Here's how Paradise ignored warnings and became a deathtrap," Los Angeles Times, March 20, 2019, [www.latimes.com/local/california/la-me-camp-fire-deathtrap-2018](http://www.latimes.com/local/california/la-me-camp-fire-deathtrap-2018)). Limited egress from a canyon via a dead-end road also led to civilian deaths in the 2017 Atlas Peak fire, because "anything coming up the canyon leaves no place to run." (See Fire Issues, Soda Canyon Road.org, updated December 12, 2017, <http://sodacanyonroad.org/forum.php?t=285>).

By having only a single response route, any obstacle can interfere with response. The "Flight or Flight" emotional response during evacuations coupled with smoke occluded visibility greatly increases the odds of a vehicle accident that could totally block the primary access road.

To provide safe access from an external fire station and safe evacuation from the project, another external road is needed. Even if the project were to include an on-site fire station, an adequate second route would still be needed for evacuation, particularly if the project is to permit hundreds of persons on site at once. However, provision of another road is not apparently feasible because the project is situated in a box canyon and the Final EIR acknowledges at page 2-126 that no alternative road location exists. This issue should be addressed in a Fire Protection Plan that clearly provides some feasible alternate evacuation route before the EIR and project are approved. Without an alternative access and evacuation route, wildfire impacts would not be mitigated for the project site; and wildfire impacts to neighbors would be aggravated, because the neighbors' access to the only evacuation route would be compromised by the evacuation of hundreds of persons from the project site.

**PROVISION OF ACCESS ROAD OF ADEQUATE WIDTH:** State and local codes also regulate the minimum width of fire access roads. Section 1273.01 of the SRA Fire Safe Regulations requires that access roads provide two ten-foot traffic lanes, not including shoulders and striping, in order to support emergency vehicle access and civilian egress. Monterey County ordinances at sections 18.56.060(3) and Chapter 18.09, Appendix O, section O102.2 requires two nine-foot lanes.

Exhibit 13 to the traffic report in Appendix K of the RDEIR indicates that segments B, C, D, and E of Paraiso Springs Road all contain sections of roadway that are less than 18 feet wide, some as

narrow as 14 feet. Only segment A, the final 690 feet before Clark Road, is entirely wider than 18 feet. The EIR proposes that parts of Paraiso Springs Road be widened, but there is no commitment that the entire road will be widened to meet at least the Monterey Code standard of eighteen feet. For example, the RDEIR's traffic report states at pages 24-25 that the "majority" of the road will be widened to 18 to 20 feet and that segments will be widened to 18 or 20 feet "where feasible." At page 24, the traffic report acknowledges that only "conceptual designs" for these road improvements have been prepared. These conceptual designs, provided in its Appendix O, call for adding pavement "where feasible." Nothing in the EIR or the proposed mitigation requires that the road actually meet the minimum 18-foot width requirement of the Monterey Code, much less the 20-foot width requirement of the State regulations.

Furthermore, there is no mention of constructing any sizeable "turnouts" to provide Temporary Refuge Areas (TRA) for drivers when evacuating. The Final EIR acknowledges at page 2-97 that there is no parking available on the road. Oftentimes, when evacuees are driving, their visibility is obscured by smoke condition sometimes causing accidents. Turnouts for passing and as a TRA should be required to improve safety on this marginal access road.

The EIR does not explain why widening all of the road may not be feasible. In light of the doubtful feasibility of widening the road to meet minimum standards, the issues should be resolved before the EIR and project are approved. It should be noted that this proposed project shares traffic flow with neighboring parcels and normal business functions. Any conditions placed on this project do not automatically get imposed on other users of the access road. Without an adequate road width for evacuation and fire equipment access, wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

**TIMELY ROADWAY WIDENING:** The RDEIR proposes at page 2-19 that the roadway be widened in four phases over time as the project is developed. The planned project phasing discussed at RDEIR page 2-56 states that the phased development "*is expected to be completed in 2027.*" This would permit project occupancy without an adequate fire access road until 2027, assuming that the expected phasing plan is actually implemented as expected. If for any reason the later project phases are not constructed, an adequate access and evacuation road might never be provided. The Fire Protection Plan should require widening the road to the minimum standard before any occupancy. Again, without timely widening of the road to meet minimum standards, EMS/wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

**ADEQUATE SHUTTLE CAPACITY:** As LandWatch noted, most of the project's service population and many of its guests would be dependent on shuttles for evacuation from the project site. The project should be required to provide sufficient shuttle capacity to evacuate all persons without the need for shuttle return trips, which would result in delay and would further congest the narrow Paraiso Springs Road. There can be no assurance that shuttles would or could make return trips for stranded employees if the only access road were smoke-occluded, blocked by burning materials, or congested by other evacuees and incoming fire equipment. Without adequate shuttle capacity to evacuate all persons without return trips, wildfire impacts to the project site and to neighbors cannot be said to have been mitigated.

In the City of Soledad's April 4, 2018 letter, they cite concerns about the reality of such shuttle service: "*We believe the assertion that such a large percentage of employees will either walk, be dropped off or carpool to the site is generous...*" The shuttles are intended to ensure that the project meets a condition of approval that the annual average of daily trips not exceed 406 daily trips. However, the project might meet that annual average even while accommodating many more drive-in guests on a peak summer or autumn weekend during fire season. This shuttle proposal sounds good, but with the public's bias for car transportation, the potential for peak

period crowding, and the reliance on an unspecified number of shuttles, there is no assurance of safe site evacuation during an emergency.

**ALERT, NOTIFICATIONS and EVACUATIONS:** Evacuation of employees and guests presents challenges. Employees can be trained in certain procedures as part of a plan. This process requires on-going training and exercises so it becomes a normal action and not a recall thought. The bigger problems are guests and guests with special needs. Guests may not be familiar with local evacuation protocols, nor local media contact information and they are probably not registered with local emergency alert systems. It must be recognized that the human “Flight or Fight” emotions manifest themselves during these adverse times. This became quite apparent during the 2018 Camp Fire in Paradise, CA. The community recognized they had an evacuation problem and designed and practiced an orderly evacuation plan. But, when the fire exceeded the plans design, the roads soon became congested with negative effects. Dead-end roads exacerbated the evacuation problem. (See “Here's how Paradise ignored warnings and became a deathtrap,” Los Angeles Times, March 20, 2019.) A Fire Protection Plan detailing employee training, alert, and notification systems should be required before the EIR and project are approved.

**TEMPORARY REFUGE AREAS (TRA):** The current project is designed on a marginalized access road. The internal circular traffic flow within the end of the project does not resolve potential life safety issues. There are many unknown situations and reactions by staff and guests in the advent of a wildfire. If shuttles do not have enough capacity and/or people do not follow established planning expectations, panic may ensue. In addition to two evacuation routes and adequate access road width, the project should provide Temporary Refuge Areas.

CAL FIRE also supports provision of TRAs for this project as cited in their February 6, 2019 letter (item 1.f.). The Fire Protection Plan (FPP) should specify appropriately sized TRAs where people can assemble and survive a fire without the presence of fire responders. Given the crowded site plan, TRAs sufficient for the foreseeable peak on-site population should be designated before the EIR and project are approved.

**VEGETATION MANAGEMENT and MAINTENANCE:** The FEIR states that native vegetation will not be altered except for specific building construction needs. The absence of a comprehensive FPP does not address the State’s Public Resource Code (PRC) 4291 mandated 100-foot defensible minimum space requirement and any needed fuel modification zones. CAL FIRE states that the “requirement of 100 feet from structures should be considered a minimum standard.” The 100-foot minimum defensible space zone may need to be expanded based upon fuel and slope elevation degree. As CAL FIRE’s comments explain, steep terrain contributes to fire intensity and spread and requires both horizontal and vertical separation of fuels. Thus, CAL FIRE’s defensible space guidelines require spacing tree canopies farther apart on steeply sloped areas. A fire behavior model should be required as part of the FPP and validated with fire history records. The results of this review will dictate the need for fuel modification zones or collateral functions and will determine the planting plan.

The planting plan set out in Figure 2.12 of the RDEIR does not appear to have been based on a defensible space analysis or on the “Firewise and Waterwise” landscaping considerations referenced in CAL FIRE’s February 6, 2019 letter. CAL FIRE cites the need for PRC 4290 compliance by tree thinning, removal, use of fire resistive plants and irrigated landscapes. Based upon the slope elevations and native fuel types, landscaping and maintenance will be paramount for the project’s safety. When referencing “irrigated” landscapes on new projects for fire protection, one must be cautious, as the recent Governor’s direction to reduce water use during drought situations may adversely affect the ability to irrigate landscapes, thereby causing landscape to become a fuel source.

As CAL FIRE points out, vegetation management for ingress/egress routes is also critical. The EIR provides no discussion of off-site vegetation management for the sole access route. It is not clear that vegetation management for Paraiso Springs Road would be required of the project or is feasible.

Even though the building construction will meet modern building codes, maintenance of facilities, access roads and fuels must be done annually. Maintenance as a function must be part of the design/approval tenets so if the planning conditions are not maintained, the County may revoke the Conditional Use Permit and/or project approval.

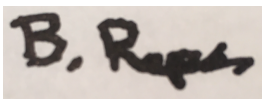
**CONCLUSION:** A Fire Prevention Plan, including all required provisions of the PRC 4290, should be in place before the EIR and project are approved. As discussed, meeting the requirements for adequate access and evacuation and provision of TRAs is not mandated by the proposed mitigation measure and may not be feasible. Growth within these wildland fire prone areas must be addressed as a holistic, systematic approach. Each component listed above must be addressed in its entirety; failure to do so may compromise public safety and first responder success. The primary responsibility public officials have is life safety, therefore egress issues as they pertain to evacuations are the #1 priority.

It must be recognized that most civilian deaths worldwide are the result of late and/or associated evacuation issues. When evacuation issues present themselves, first responders may subject themselves to extra ordinary life rescue efforts, thus compromising their safety.

CAL FIRE's February 6, 2019 comments expressed concern regarding the lack of information in the EIR regarding FPP components, including vegetation management on-site and for ingress/egress; planting, tree replacement, and irrigation plans; TRAs; and response time. Despite CAL FIRE's concerns and requests for information, the Final EIR postponed the preparation of a Fire Protection Plan. A complete Fire Protection Plan should be done upfront before project approval is given. CAL Fire has given many key points that must be addressed in their entirety.

The challenge before us is how to allow safe and responsible growth in these wildland fire prone areas, but it takes a good planning and public/private partnerships for success.

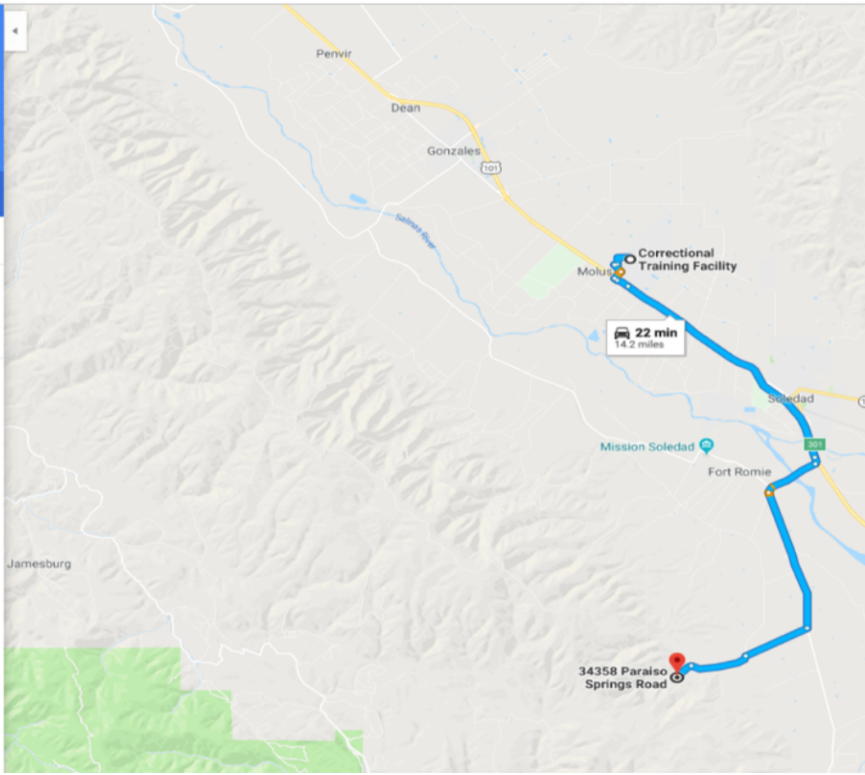
Sincerely,

A handwritten signature in black ink on a light-colored background, reading "B. Roper".

Bob Roper, Owner

Roper Consulting

Correctional Training Facility, US-101, S  
 34358 Paraiso Springs Rd, Soledad, CA  
 Add destination  
 Leave now - OPTIONS  
 Send directions to your phone  
 via US-101 S and Arroyo Seco Rd 22 min  
 Fastest route 14.2 miles  
 DETAILS



525 Monterey St, Soledad, CA 93960  
 34358 Paraiso Springs Rd, Soledad, CA  
 Add destination  
 Leave now - OPTIONS  
 Send directions to your phone  
 via Arroyo Seco Rd 18 min  
 Fastest route 9.4 miles  
 DETAILS

