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October 28, 2019

Via e-mail

Monterey County Planning Commission
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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 Planning Commission has the discretion to deny the project for this reason alone.

Furthermore, the Planning Commission should refuse to consider the project unless and until the applicant resolves the outstanding legal question as to the Project's compliance with fire regulations for dead-end road access and roadway widths. As the Staff Report acknowledges, CalFire and the Attorney General believe that the project does not comply with these regulations and that an exception cannot be made. The Staff Report proposes a condition that would require the applicant to obtain an exception to the regulations or to obtain an easement to develop a secondary access road as a means of compliance. But, as the Staff Report admits, the applicant may not be able to obtain either an exception or an easement. Given this uncertainty, **the Planning Commission cannot make the mandatory findings that the project does in fact comply with fire regulations**.

The Planning Commission should refuse to certify the EIR because it is an inadequate disclosure and mitigation of fire risks. If the County is to consider this Project any further, it should reduce its scope by removing the steep-slope development 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 development 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.

Another consideration is the applicant's illegal demolition of structures and violation of County zoning and building codes. Code enforcement obligations are a separate and independent requirement from CEQA mitigation, and **the County may not approve any permits for the project without including a remedy for the code violation, which can include restoration or other relief.**

As LandWatch previously noted, the County has authority and responsibility to impose penalties and restoration requirements for code violations that is independent of its authority and responsibility to impose proper CEQA mitigation. In addition to imposing double fees under section 21.84.140, the County may not approve any further permits unless that permit includes a remedy for the violation.

LandWatch urges that Monterey County mitigate the unauthorized demolition of nine historic cottages removed from the Paraiso Hot Springs Resort in violation of Monterey County Code by:

1. Requiring the developer to downsize the project so that it is no larger than the historic use and avoids any development on the steep hillsides.
2. Assessing a sufficient penalty to send a clear message to this and future developers about how the County regards its historic resources and how it responds to illegal activities.

The proposed mitigation package is insufficient because it supports the complete razing of the historic Paraiso Hot Springs Resort and rewards the developer with a project that is grossly out of scale and character in comparison to what historically existed.

A. 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.

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.

The FEIR argues that the project might not be subject to, or might be granted an exception from, the state regulations and local ordinances mandating minimum access road width and maximum dead-end road access.[1] (FEIR, pp. 23-24.) **CalFire, the agency that promulgated these rules, disagrees.** (FEIR, pp. 594-601; see also Oct. 30, 2019 Staff Report, pp. 20-21.) **The California Attorney General also disagrees.** (FEIR, pp. 613-619.) The disagreement must be resolved **before** the Planning Commission acts to approve the project, because, as discussed below, the **Planning Commission cannot make mandatory findings as long as the subject of those findings remains uncertain**.

The current Staff Report proposes that the Planning Commission approve the project with a finding that

> The project will comply with the regulations by either meeting all applicable standards or, if not able to do so, applying for an exception process as provided in the SRA regulations.

(Draft Resolution, p. 71, Finding 12d.) However, applying for an exception does not ensure that the project will actually obtain an exception and comply with the regulations.

The Staff Report admits that the project may not meet all applicable standards and that an exception may not be granted. (Staff Report, pp. 20-21.) Thus, the Staff Report proposes a condition (#153) that would require the applicant to obtain an easement for a secondary access road if an exception is not granted. (Staff Report, p. 21.) However, the

[1] The suggestion that the dead-end road requirement applies only to roads within the project misreads the statute and the ordinance, which both specify the "maximum length of a dead-end road, <u>including all dead-end roads accessed from that dead-end road</u>." (MCC, § 18.56.060(11), emphasis added.) Paraiso Springs Road is a dead-end road that is accessed from the roads within the project, so it must be counted in the determination of the length of the dead-end road. Furthermore, ignoring the fact that the project would in fact be situated at the end of a 1.5 mile dead-end road would defeat the purpose of the regulation – which is to limit reliance on dead-end roads for evacuation.

Staff Report admits that obtaining the easement for a secondary access road may not be possible, and, if it were not possible, the project would not comply with the regulations. **Given the admitted uncertainty whether the project will ever comply with the regulations, the Planning Commission cannot make the mandatory finding that the project is in fact "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).)

Furthermore, the Staff Report notes the proposed condition # 153 requiring the applicant to try to obtain an easement for a secondary access road might, as a consequence of the Map Act section 66462.5, obligate the County to condemn an easement through neighboring property and then to build and maintain the secondary access road for the project if the applicant were unable to do so. In sum, the proposed condition # 153 would potentially make the County liable to provide the required secondary access road. It is hard to imagine that the applicant would negotiate in good faith with the neighbors knowing that its failure to obtain the easement would put the taxpayers on the hook for the road. Given the potential liability to the County, the Planning Commission should insist that the issue be resolved before the project is approved.

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

The Project site is in very high and high fire severity zones 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, does not meet 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 heighted risk of wildfires and would impair their safety by crowding the only available evacuation route, a substandard rural road, with hundreds of vehicles.

The June 2019 RDEIR and the Final EIR do not provide a legally adequate analysis of wildfire risks under CEQA.

1. Setting description untimely

The Final EIR belatedly revises the maps of the fire hazard area. The FEIR also discloses for the first time that the DEIR and RDEIR references to wildfire ordinance were incorrect, asserting that the ordinance applicable to wildfire hazards is actually

Ordinance number 3600. The EIR is inadequately because CEQA requires an accurate, consistent, and timely description of the environmental setting, including the applicable regulatory setting.

2. The EIR fails to acknowledge that the project affects the environment.

The EIR dismisses the possibility that the project will have a significant effect on the environment, repeatedly asserting that the effect of the environment on the project is not an issue under CEQA. For example, the FEIR implies that the project's effect on the environment is simply not at issue:

> The questions in CEQA Guidelines Appendix G are not required to be used in an environmental analysis. The County chose to use the new (2019) Appendix G Wildfire questions to analyze the potential impacts of the project on the environment in the 2019 Recirculated Draft EIR. The County determined that the older CEQA Checklist section IX(g) question relates to the <u>environment's potential impact on the project, not the project's impact on the environment</u> and that we adequately and fully analyzed the same topic by utilizing the new Appendix G questions in section XX (2019 CEQA Guidelines).

(FEIR, p. 24, emphasis added.) Similarly, the FEIR's responses to LandWatch's comments assert that the comment "does not raise environmental issues as the practices are contained within the RDEIR-studied development footprint and fuel modification zones." (FEIR, p. 554; see also FEIR, p. 555 [fire plans are "not required to ensure the effects of the Project on the environment remain less-than-significant"]; FEIR, p. 560 [evacuation plan is "not related to the project's potential environmental impacts"].) Responses to Cal-Fire comments argue that the compliance with regulations governing evacuation and access is not an environmental issue. (FEIR, p. 602.)

It appears that the EIR is assuming that (i) all of the wildfire impacts generated by the project will be experienced only within the project site and (ii) therefore these impacts are not cognizable under CEQA. Both assumptions are incorrect.

First, as set forth in previous comments and noted again below, the project will in fact cause impacts to the environment outside the project site. Second, regardless of the impact of the existing wildfire hazard on the project itself, the project's contribution to "exacerbating effects on existing environmental hazards" must be evaluated and mitigated. (*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal. 4th 369, 388.)

The project will cause impacts to the environment outside the project site because it will increase the risk of wildfire ignition by bringing more people to the site. Comments from wildfire expert Bob Roper, from the California Attorney General (citing extensive studies), and from CalFire point out that the project will increase the risk of ignition and that the EIR has failed to provide an adequate assessment of this impact. It

is not sufficient for the EIR to assert that the "County lacks evidence" of increased ignition risks (FEIR, p. 606), since comments have provided that evidence, and the EIR has failed to address it.

In addition, the project will cause impacts to the environment outside the project area by congesting the only evacuation route, which is the same route on which the off-site project neighbors depend. In sum, the project will cause off-site effects which may be significant. The EIR fails to acknowledge the increased evacuation 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.) Wildfire expert Bob Roper explained in his earlier comments that reliance on dead-end roads for evacuation resulted in lost lives in the 2018 Paradise fire and the 2017 Atlas Peak fire.

3. The EIR fails to provide an adequate evaluation of evacuation impacts, which are significant and unmitigated.

The RDEIR references an analysis of evacuation time, which is buried in an appendix to the RDEIR, to claim that "all project guests and employees could be evacuated from the site to the intersection of Paraiso Springs Road and Clark Road in just over 17 minutes, considering road capacity, distance, and speed variables and factoring in reductions associated with delays and congestion during an emergency situation." (RDEIR, p. 61, emphasis added.) The FEIR repeats this assertion. (FEIR, p. 619.)

The RDEIR fails to identify a threshold of significance for evacuation time. However, presumably, if the evacuation time is substantially greater than 17 minutes, that would represent a significant impact, especially as it may affect offsite project neighbors.

The FEIR discloses that the RDEIR's analysis is based on the assumption that the road would accommodate 950 vehicles per hour and that the evacuation speed would be 5 mph, a speed dictated in part by the fact that the roadway would not be widened to the 20-foot width required by fire regulations. (FEIR, pp. 619, 558.)

The fundamental flaw in the EIR's analysis is that only the first vehicle to evacuate could travel 1.5 miles to safety at 5 mph in 17 minutes. Each subsequent car would have to wait for the cars ahead of it to exit the site.

There would be 275 project vehicles and 10 neighbors' vehicles using the evacuation road. (FEIR, p. 556.) At the rate of 950 vehicles per hour, it would take 0.3 of an hour (285 vehicles/950 vph), or 18 minutes, for a line of vehicles to exit the project site, assuming that all 285 vehicles could be organized to do this in 18 minutes. After waiting at least 18 minutes to leave, the last car would then still need to drive for 17 minutes to get to safety. Thus, the total evacuation time for all vehicles leaving the site,

including the last car, would be at least 35 minutes (18 minutes waiting to exit plus 17 minutes driving).

However, the FEIR misrepresents the total evacuation time as 17 minutes to get the "final vehicle" to safety:

> The 17 minutes travel time includes all vehicles leaving the site, with the 17 minute period finishing when the final vehicle travels to the area at Clark Road. It does not state that any given vehicle would take 15 minutes, which is approximately three miles per hour. As stated in the Dudek information, speed for the vehicles would be over 12 miles per hour to move 1900 vehicles per hour within a single lane (2019 RDEIR, Appendix 2, pages 140 and 141).

(FEIR, p. 591.) The FEIR also inconsistently represents the vehicle rate at 1900 vehicles per hour and as 950 vehicles per hour and the evacuation speed as 12 mph and as 5 mph. (Compare FEIR, pp. 591 [12 mph, 1900 vph], 619 [5 mph, 950 vph].)

Furthermore, it is unlikely that all 285 vehicles could be organized to exit the site within 18 minutes amidst the panic and smoke that might attend a wildfire. Additional time would be required to search out all guests and to stage an orderly evacuation. For example, the RDEIR indicates that some guests who arrived in the shuttles might have to be evacuated in other vehicles. To ensure evacuation capacity for all guests and personnel, it would be critical to match shuttle guests with other vehicles.

The EIR is inadequate as an informational document because it fails to identify or apply a threshold of significance for evacuation impacts and because its analysis is inconsistent and incomplete. Furthermore, the fact that the actual evacuation time would be at least twice as long as the EIR discloses implies that the impact would remain significant.

4. The EIR improperly deferred the Fire Protection Plan.

Mitigation in the RDEIR calls for the eventual preparation of a "Fire Protection Plan" (MM 3.7-6a); a "Construction Fire Prevention Plan" (MM 3.7-7b); and an "Operations Fire Prevention Plan" (MM 3.7-7d). The RDEIR presents what it calls the "Fire Protection Plan" in Appendix 2. And the RDEIR presents what it calls the "Wildland Fire Evacuation Plan" in Appendix 2, Attachment 1. Comments objected that the Fire Protection Plan and the Wildland Fire Evacuation Plan in the RDEIR Appendix were clearly not the final plans and requested the opportunity to review and comment on the actual plans. Thus, the Attorney General, LandWatch, and CalFire each objected that the RDEIR improperly defers the formulation of mitigation through the Fire Protection Plan.

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 RDEIR 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.

The FEIR now provides a "Construction Fire Prevention Plan" and an "Operational Fire Prevention Plan" in Appendix 6. The presentation these plans in the final EIR is improper because it denies the public the opportunity for comment and response on information that should have been presented in the draft EIR. Recirculation of the new material for public comment and responses is required. (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]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120 [mitigation].)

The Operational Fire Prevention Plan is not adequate. For example, while the Construction Fire Prevention Plan includes some procedures for evacuation of employees during the construction phase of the project, there is no discussion of evacuation in the approved Operational Fire Prevention Plan. Unlike the "Fire Prevention Plan" in the RDEIR, which attached a "Wildland Fire Evacuation Plan," the attachments to the Operational Fire Prevention Plan do not include an evacuation plan.

Furthermore, it is clear that neither of the fire plans in FEIR Appendix 6 are actually complete, because the revised Mitigation Measures 3.7-6a and 3.7-7b require additional measures and further review and approval by the RMA Director.

The County must complete the relevant fire plans and include them in a revised EIR circulated for public review and comment. The serial presentation of incomplete and inadequate fire plans with no justification for deferral of this critical mitigation violates CEQA.

C. The Project cannot be approved because it is inconsistent with the General Plan requirement for a 15-minute response time.

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 an exception for the access

and dead-end road regulations. 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 and villas are clearly residential buildings. Since the policy bans building sites on slopes over 30 percent, the condominium units and villas 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 April 3, 2019 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 April 3, 2019 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 First 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. (First RDEIR, pp. 5-11, 5-19, 5-29.) The staff recommendation simply ignores the EIR's analysis.

E. If any version of the Project is eventually approved, it should be smaller and should not include hillside development.

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 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 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 first RDEIR are infeasible and only the new alternative 5 evaluated in the second RDEIR is feasible. If that were really the case, then the EIR would be 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 other alternatives evaluated in the EIR are economically infeasible is unsupported by the evidence. The infeasibility findings rest only on the qualitative statements in the letter from hotel consultant Thomas Morone, CHMWarnick, dated February 20, 2019. Nothing in that letter justifies a finding that the project would be viable with the reduction of units under Alternative #5 but not with the very slightly larger reduction of units in Alternative #3. 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.

Nothing in the evidence cited by the findings supports the conclusion that difference between Alternatives #5 and #3 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 such a conclusion.

There is no evidence that Alternative 3 would fail to meet the same objectives that Alternative #5 meets. And even if Alternative 3 did result slightly 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.4th 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.4th 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.5th 413, 433 (2017) [prejudicial

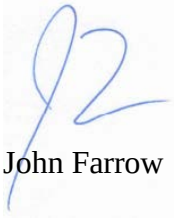
error from failing to analyze alternative which could significantly reduce total vehicle miles traveled].)

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.



John Farrow

JHF:hs
cc: Michael DeLapa