



CITY OF EUREKA

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August 27, 2010

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Humboldt County Community Development Services Department
3015 H Street
Eureka, CA 95501

**Re: Draft EIR, Ridgewood Village Development Project
GPA-06-03/ZR-06-15/PUD-06-02**

Dear Mr. Wheeler:

The City of Eureka (City) herewith presents its comments on the Draft Environmental Impact Report (DEIR) for the Ridgewood Village Development Project (Project), prepared by Humboldt County (County) pursuant to the California Environmental Act (CEQA), Public Resources Code section 21000, et seq.

The City thanks the County for this opportunity to comment on the DEIR. The Project, as a multi-phase subdivision that would include 1,442 residential units and 327,000 square feet of commercial space on approximately 385 acres of undeveloped land, will have substantial impacts on the City. The Project site, although under the jurisdiction of the County, lies within the City's sphere of influence, is adjacent to the City limits, and would cause significant "spill-over" effects to the City, to its environment, and to its public services and infrastructure. Therefore, the City has a strong and direct interest in ensuring proper evaluation and mitigation of the Project's environmental impacts. Moreover, the Project, which includes major amendments to the County's General Plan and other land use regulations, is of tremendous significance to the orderly process of development of land which is now in the immediate environs of, and in the future has potential for annexation into, the City.

CEQA, a law which emphatically provides for involvement of sister public agencies and the general public in assessment and mitigation of the impacts of development projects, affords the City a rightful "place at the table" in the County's consideration of this Project. Both because of the Project's potential impacts on the City, and because of the Project's ramifications for planned and orderly development of the borderlands between the City and the County, the City has consistently expressed a willingness to consult and work with the County regarding impact evaluation and mitigation for the Project. However, as reflected by the quality and content of the DEIR, the County has not done so to a sufficient degree. The City hopes and expects that the County, in response to these comments, will include the City in further evaluation of the Project's environmental impacts, and in structuring alternatives to and/or mitigation of those impacts in a manner that relieves the City of the burden of bearing the environmental and financial costs of addressing extra-jurisdictional impacts.

GENERAL COMMENTS

This letter contains a multitude of detailed comments on the DEIR, which the City hopes will encourage the County to revise the DEIR to give full, balanced and factually substantiated consideration to the impacts of the Project. But at the outset of this letter, the City presents the following summary of the broad concerns which underlie and connect the City's more detailed comments. The broad concerns of the City include:

- Orderly Planning: The Project includes proposed amendments to the County's General Plan and other land use regulations which, in the City's understanding, closely track changes to those same laws and regulations that are also proposed in connection with the County's nearly completed General Plan Update process. It appears to the City that the Project is more closely attuned to the proposed General Plan Update than it is to the County's current General Plan. The City is concerned -- and frankly puzzled -- by the County's decision to proceed with consideration of this Project, which is essentially part of the larger scheme of the General Plan Update, before the County has finished laying the groundwork of approving the Update as a whole. Further, the City is concerned that the DEIR examines the Project in artificial isolation from the General Plan Update process, for example failing to include other probable development under the Update in its evaluation of the Project's cumulative impacts, and failing to analyze land use regulatory changes proposed under the Project as an integral part of the overall General Plan Update.
- Alternatives: The City is greatly concerned -- in light of the many significant environmental impacts of the Project -- that the range of project alternatives considered in the DEIR is unreasonably constrained. The City feels strongly that the DEIR unreasonably excludes any alternative (including a No Project Alternative) under which development of the site would occur at less than the *maximum* build-out levels allowed under the County's current General Plan. The City further feels that the DEIR unreasonably excludes detailed examination of an off-site alternative potentially capable of achieving most of the County's objectives with a lower level of environmental impacts. Because every alternative considered in the DEIR would develop the Project site at a density near to that proposed under the Project, the City feels that the DEIR unreasonably fails to provide decision makers with a meaningful menu of alternatives to the Project. The City feels that additional alternatives should include, at a minimum: an alternative that reduces impacts to City streets, for example, an alternative that does not require a connection, other than for emergency purposes, between Ridgewood Hills Drive and Lundblade Drive; an alternative that would not adversely impact City public services including fire and law enforcement; an alternative that would not exceed the planned capacity of the Martin Slough Interceptor project; and, an alternative that would not adversely impact City recreational facilities.
- Quality of Analysis: As noted above, this letter contains a multitude of detailed comments on the DEIR's analysis. As these comments indicate, the City believes substantial revisions are required to render the DEIR compliant with CEQA, and the City hopes and expects that the County will closely involve the City in a process of revising, and if necessary, recirculating the document in response to the comments of the City and other agencies and the public. In that expectation, the City has refrained, in this letter, from identifying each and every instance of faulty analysis which City reviewers observed in the DEIR. Instead, in addition to the specific comments listed below, the City generally notes that the DEIR's impact analysis is woefully conclusory -- typically

determining significance of impacts without reference to clear thresholds or standards of significance, without clear and reasoned analysis, and on the basis of little or no substantial evidence. Further, the City notes that the DEIR generally fails to explain based on substantial evidence the document's conclusions regarding the relation of listed mitigation measures to the significant impacts of the Project, or the ability of those measures to avoid or reduce the Project's impacts to less-than-significant levels.

- Traffic Impacts: As discussed in detail both in the comments below and in comments in Attachment A to this letter (memoranda from the City's Engineering Department and Traffic Division), which is incorporated into this letter by reference, the City has profound concerns about the methodology by which the DEIR evaluates the significance of traffic and circulation impacts of the Project, and identifies and allocates responsibility for mitigation measures to reduce or avoid significant traffic and circulation impacts. In addition to requesting that the County closely involve the City in re-evaluating those matters in revisions to this DEIR, the City hereby expresses its willingness to negotiate with the County a Memorandum of Understanding that would provide the full funding to the City for the extra-jurisdictional infrastructure improvements and other measures needed to mitigate the Project's significant traffic and circulation impacts.
- Wastewater Conveyance: As further discussed in the comments below and in comments in Attachments A (memorandum dated August 26, 2010 from City Engineer Kurt Gierlich) and B (letter dated December 16, 2005 from City Environmental Planner Lisa D. Shikany) to this letter, which are incorporated into this letter by reference, the City has numerous concerns about the analysis of Project reliance on the proposed Martin Slough Interceptor (MSI) wastewater conveyance project and/or a Herrick Avenue alternative conveyance pipeline. Most particularly, the City is concerned that development of the Project site, at the densities proposed under the Project, may exceed the wastewater conveyance capacity which was conceptually allocated to the Project site in planning for the MSI, with the potential result that other future developments in the County that were intended to also be served by the MSI may be short-changed, thereby potentially requiring future yet-to-be identified wastewater conveyance system upgrades with potential environmental and City infrastructure impacts. The City is also concerned regarding the misconception that the Project holds an entitlement to wastewater services, and that the City has committed to accepting wastewater from the project.
- Fire and Police Services: As further discussed in the comments below and in comments in Attachment C to this letter (a memorandum from the City's Fire Marshal), which is incorporated into this letter by reference, the City has strong concerns about the DEIR's analysis of public services impacts and other impacts with implications for public services. The City is particularly concerned about the burdens upon City-provided public services, and public service infrastructure, equipment and staff, which the Project would impose. As with other areas in which the impacts of the Project would create extra-jurisdictional mitigation burdens, the City expresses willingness to negotiate an MOU that would cover the City's costs of mitigation to reduce or avoid impacts of the Project.

SPECIFIC COMMENTS

Summary:

Page S-2, section S.1.2.1: The DEIR, here and elsewhere (see, e.g., pages 1-4, 1-5, 2-22, 2-27), cites the City's 2004 Draft EIR for the MSI Project, in support of the County's interpretation of various CEQA Guidelines. This is inappropriate, as the County has an independent legal responsibility to ensure that it properly interprets and complies with CEQA.

Page S-3, section S.1.2.1: The City questions whether agency decisions about connection agreements for water and sewer services are discretionary approvals that will be based on the EIR. The City further notes that the DEIR fails to describe discretionary decisions by the City in which the City will be asked to rely on the DEIR as a responsible agency – for example, a potential decision by the City whether to allow the Golf Course lift station to be upgraded to accommodate the Project if the Project does not use the MSI.

Page S-3, section S.1.2.1: The DEIR should better define the “project-level entitlements” that are being sought “at the present time.” In particular, the DEIR should better define the contents and function of the proposed “Project Layout Plan” and the “Master Tentative Tract Map.” The Subdivision Map Act does not appear to authorize use of a “Master Tentative Map.” What additional subdivision maps will be required after approval of the “Master Tentative Map”?

Page S-3, section S.1.2.1: The County's DEIR purports to evaluate the environmental impacts of a number of “project-level entitlements.” In order to assess the adequacy of the DEIR's evaluation of these impacts, the details of those proposed entitlements should be made available to the City, other commenting agencies, and the general public. The City is specifically concerned that the Grading and Utilities Plan for Phase 1 of the Project contains insufficient detail to allow adequate evaluation of impacts – including what areas would be graded, the depth of proposed grading, retaining walls, etc.

Page S-4, section S.1.2.1: The City disagrees with the DEIR's characterization of 4-foot-wide sidewalks planned for the Project as being “wide” sidewalks.

Page S-4, section S.1.2.1: The DEIR here states that there will be a “prohibition of on-street parking.” That statement is inconsistent with much of the rest of the document (see, e.g., page 2-13), which describes a parking lane on all streets. An EIR is required to evaluate a definite and consistent project description.

Page S-5, section S.2.1: The DEIR assumes (for example, in its description of the No Project Alternative) that if the proposed Project were not approved, the Project site would be developed with 940 residential units under existing planning-level approvals. Because this assumption is the key to the DEIR's comparison of alternatives, the DEIR should be revised to explain better the derivation of that assumption, and the evidence relied upon by the County in reaching that assumption.

Page S-5, section S.2.1: The DEIR purports to evaluate the environmental impacts of the entire Project, including the proposed Development Agreement (DA). In order for commenting public agencies and the general public to assess the adequacy of the DEIR in evaluating the Project, the DEIR should provide all significant details regarding the contents of the proposed DA. The City hereby requests that the proposed

DA be made available for public review, with adequate time for preparation of comments, prior to any decision by the County on environmental review of the Project.

Page S-5, section S.2.1: The DEIR lists various entitlements, and states that the DEIR evaluates the impacts associated with entitlements "including, but not limited to" the listed entitlements. This is not enough under CEQA. The DEIR must disclose and evaluate the impacts of all proposed Project approvals.

Page S-5, section S.2.1: The text of the DEIR states that all future development of the Project would be subject to review and approval by the County, except for "the extended Ridgewood Hills Drive described above" and "some other infrastructure improvements outside of the Phase 1 footprint that are necessary for the completion of Phase 1." Contrary to this statement, the extension of Ridgewood Hills Drive is not "described above," and the DEIR should be corrected to provide the needed description. The DEIR should also be revised to specify what infrastructure improvements outside the Phase 1 footprint will be "necessary" for completion of Phase 1, and which agency or agencies would be responsible for approving those improvements.

Page S-5, section S.2.2: The City strongly disagrees with the DEIR's characterization of the No Project Alternative as including all 940 residential units which the County maintains are currently "permitted" on the Project site. The City is not aware of any such existing "permitting"-level approval. The DEIR states that there are currently "four existing assessor parcels" on the Project site. (DEIR, page 6-11.) Even assuming that these four assessor parcels correspond to four legal lots, under the County's existing zoning, the Project site could currently be developed, as a matter of right, with only 8 houses (4 primary and 4 secondary dwelling units). Thus, a maximum of 8 houses can be considered "permitted" under existing conditions. If the County is defining the No Project Alternative as the amount of development that would be "permitted" in the absence of approval of the proposed Project, the accurate characterization of the No Project alternative would be a No Build Alternative that would either leave the Project site in its existing state, or would contain a maximum of 8 dwelling units.

Page S-6, section S.2.3: The City disagrees with the DEIR's definition of the No Project Alternative and the Reduced Project Alternative. Neither the No Project Alternative nor the Reduced Project Alternative would authorize development of the Project site at less density than the maximum level allowed under the General Plan. The DEIR is required to evaluate a reasonable range of alternatives which might reduce or avoid the significant impacts of the proposed Project. In this instance, there is no legal obligation for the County to approve development of the Project site to the maximum density allowed under the existing General Plan, and therefore it is not reasonable for the DEIR to rule out the possibility of developing the Project site at a lesser density. Therefore, the range of alternatives considered in the DEIR – represented in part by a No Project Alternative and a Reduced Project Alternative that would allow maximum density under the General Plan – is not a reasonable range of alternatives under CEQA.

Pages S-4 through S-6, section S.2: The range of alternatives considered in the DEIR is further inadequate for failing to include an off-site alternative. The EIR is required to evaluate a reasonable range of alternatives to the proposed Project that could reduce or avoid the significant impacts of the proposed Project while fulfilling most, but not necessarily all, of the objectives of the proposed Project. The County's objectives for the Project do not appear to the City to be inextricable from development of this particular Project site. The DEIR should therefore be revised to either consider an off-site alternative, or to support the decision to exclude an off-site alternative from the range of alternatives considered.

Pages S-30, S-32, sections S.4.1, S.4.3: The DEIR states in section S.4.1 that effects found not significant include “substantial degradation of existing visual character.” However, in section S.4.3, the DEIR states that Phase 1 of the Project would have a significant and unavoidable impact on visual character, and that subsequent phases of the Project would have significant and unavoidable impacts on visual character and glare. These statements are inconsistent and must be revised.

Pages S-32, S-33, sections S.4.3, S.4.4: Section S.4.4 states that the Project would have a significant and unavoidable impact in the area of mobile PM10 emissions. That significant and unavoidable impact is not listed in Section 3.4.3 (“Significant Effects that Cannot be Avoided”). Section 3.4.3 must be revised to acknowledge the Project’s significant and unavoidable mobile PM10 impact.

Page S-35, section S.4.7: This section states that the No Project Alternative would not meet any of the Project objectives. The City finds this statement absurd, as there is no valid reason for the DEIR to conclude that the No Project Alternative would not meet the first 4 of the 5 County’s objectives for the Project listed on page 2-1 of the DEIR. The DEIR should be revised to correct its statement that the No Project alternative would not satisfy any Project objectives.

Chapter 2: Description of Proposed Project and Alternatives

Pages 2-1, 2-2, section 2.1: The inclusion of a lengthy list of the applicant’s objectives in proposing the Project is not appropriate, since these objectives correspond so closely to the Project as the applicant has proposed it that any alternative would – by definition – fail to meet them. CEQA does not allow an EIR to define project objectives to be so identical to a proposed project as to defeat the purposes for which CEQA requires analysis of alternatives.

Page 2-1, section 2.1: Among the County’s objectives for the Project are that development achieve a “smart growth” project. The DEIR does not define “smart growth,” which undercuts any conclusion that an alternative to the Project does not satisfy this objective. “Smart Growth” is the subject of professional standards and guidelines set by the Congress of New Urbanism and others. The DEIR should consider whether the proposed Project, and the alternatives considered in the DEIR, achieve these recognized standards of “smart growth.”

Page 2-1, section 2.1: One of the County’s objectives for the Project is to build the Herrick Avenue sewer connection. However, it appears from the remainder of the document that Project as proposed for approval would not further this objective, and that the Herrick Avenue sewer connection would only be constructed as an alternative to the Project as proposed (i.e., should the MSI not be built). The DEIR should be revised to reflect this.

Page 2-1, section 2.1: One of the applicant’s objectives is to provide neighborhood-serving commercial uses that will reduce traffic impacts. However, the amount of commercial development proposed under the Project – 327,000 square feet – is far beyond the amount of commercial development that could be characterized as “neighborhood commercial” in connection with this Project. The DEIR should evaluate whether the provision of the proposed amount of commercial development will mitigate, or intensify, the traffic impacts of the proposed Project.

Page 2-2, section 2.1: Another of the applicant's objectives is development "closely tied to the County's General Plan." Any conclusion that the proposed Project furthers this objective is contradicted by the significant amendments to the General Plan that are proposed for approval in connection with the proposed Project.

Page 2-5, section 2.2.1: Please note that the Lundbar Hills subdivision was not approved by the Community Development Department as stated in the DEIR; rather, it was approved by the City Council.

Page 2-5, section 2.2.1: The DEIR's description of "surrounding" neighborhoods is misleading, and gives the false impression that this is an "infill" project when it clearly is not. Cutten does exist to the east, but there are no neighborhoods to the west and there is substantial undeveloped area between the proposed Project and Lundbar Hills to the north.

Page 2-6, section 2.2.2: The City disagrees with the DEIR's statement that "the maximum amount of development currently permitted at the project site is 940 single-family residential units." Although the General Plan may include planning for a certain amount of residential development of the Project site, no permitting for such development has yet occurred, and CEQA review would be required before any such permitting were approved. CEQA mandates that the DEIR describe the existing physical setting for a project (environmental baseline) as the environmental conditions that currently exist in fact, not as including hypothetical future development.

Page 2-7, section 2.2.2: The figure on this page shows "Phase 1A" of the Project. However, the City has not located any other references to Phase 1A in the DEIR. The DEIR's description of Project phasing should be revised to explain this term.

Page 2-9, section 2.3.1: The DEIR assumes that "commercial uses would be selected" to lessen traffic impacts. The DEIR further asserts that the DA will prohibit "big box" commercial development. In order for the DEIR's analysis of impacts based upon these assumptions to be valid, the DEIR must explain how these assumed limitations on commercial development would be enforced by the County by the proposed Project approvals.

Page 2-13, section 2.3.1.1: The DEIR explains that the proposed Project includes a .75-acre park in which a .70-acre detention basin would be located. It is not accurate to describe this Project feature as a "park" since it would be largely inundated during much of the year. Furthermore, the DEIR must evaluate whether the proposed detention facility would develop wetlands characteristics which would require mitigation measures to avoid significant impacts from the Project.

Page 2-14, section 2.3.1.1: The DEIR describes the applicant's intention to use all excess cut earth on site. The City is of the opinion that this intention may not be realistic. The estimated 98,354 cubic yards of cut earth required by Phase 1 equates to 6.7 acres of cut/fill, 9 feet deep. The City is concerned that the existing grading plan for the Project does not demonstrate that such an immense amount of cut material can practicably be used on site. The DEIR must either provide evidence to support the assumption that the applicant will be able to use this amount of cut earth on site, or evaluate the impacts of exporting excess amounts off site.

Page 2-16, section 2.3.1.1: This paragraph identifies “preferred conveyance alternative” as connection to the approved but not yet developed MSI, with the Herrick Avenue sewer connection being the contingency alternative. As noted elsewhere in these comments, this statement is inconsistent with the County’s Project objectives, which include construction of the Herrick Avenue sewer connection.

Page 2-16, section 2.3.1.1: The DEIR acknowledges that the Herrick Avenue sewer connection contingency alternative would require a Coastal Development Permit, and specifies construction of that sewer connection as a Project objective, but does not consistently treat a CDP for the Herrick Avenue sewer connection as a required – or potentially required -- Project approval. Furthermore, the DEIR does not evaluate the environmental impacts of constructing the Herrick Avenue sewer connection contingency alternative. This section of the DEIR identifies possible use of boring for construction of the Herrick Avenue sewer connection, but does not provide details essential to adequate environmental analysis such as the location of potential boring and whether such boring would occur in the Coastal Zone.

Page 2-21, section 2.3.1.2: The Project includes a General Plan amendment to amend the existing requirement for a 5-acre multi-use park. The park uses under the proposed Project include one 2.5-acre park, along with pocket parks doubling as detention basins. Since pocket parks forced to double as detention basins would often or always be useless as parks, this Project feature would effectively halve the parkland requirement under existing General Plan provisions. The DEIR must discuss how this proposed General Plan amendment is consistent either with the General Plan or with “smart growth” principles.

Page 2-21, section 2.3.1.2: This section says that timber harvesting operations would continue within the majority of the open space lands designated GO. Under the proposed Project, would timber harvesting be allowed on open space lands donated to a non-profit conservation organization?

Page 2-24, section 2.3.3.1: This section says that Phase 5 development would be served by extending a new wastewater pipeline from the eastern ridge to the existing manhole at the Home Drive/Walnut Drive intersection. That manhole is served by the O Street lift station. If the MSI is not built, the Project plan discussed in this section would not be viable, as the O Street lift station is already at capacity.

Page 2-25, section 2.3.5: This section states that storm water runoff is “expected” to pass through detention facilities for each phase, and that low impact development approaches to storm water control that focus on minimizing the effects of development on the natural hydrology, “may” be incorporated. The DEIR should be revised to make both of these possibilities requirements of Project approval.

Page 2-27, section 2.3.6: The DEIR does not provide detailed description of required landscaping, and should be revised to provide more information on that subject, necessary to evaluate visual and other impacts. This section states that “existing wind-safe trees” in a 30-foot buffer area along Ridgewood Drive are proposed for preservation. The DEIR should evaluate whether this is a realistic plan, or whether removal of surrounding trees would render those trees no longer “wind safe.”

Pages 2-27, 2-28, section 2.3.7.2: Please clarify: Is underground parking in subsequent phases proposed to be 550 spaces *plus* 600 spaces, or a number *between* 550 and 600 spaces? Is parking to be provided for employees in the MU zone, and if not, why not?

Page 2-32, 2-33, section 2.3.11: The list of discretionary approvals indicates that a Coastal Development Permit and other approvals may be required for the Herrick Avenue wastewater conveyance alternative. The DEIR does not discuss whether these approvals would be under the responsible agency jurisdiction of the City. The DEIR should be revised to clarify this point.

Page 2-35: The City disagrees with the DEIR's statement that the City has an obligation under Government Code section 65589.7 to provide the Project, or any specific development within the County's jurisdiction, with water or wastewater service.

Page 2-36, section 2.4: See prior comments regarding the No Project Alternative. Analysis of a No Project Alternative which includes construction of 940 residential units does not permit evaluation of an alternative under which development of the site would be less than the maximum allowed under the General Plan. In the absence of vested entitlements for 940 units, the County is not legally required to permit development to the maximum level under the General Plan, and development at a less-than-maximum level would likely avoid or reduce significant impacts of the proposed Project. Therefore, the lack of a No Project alternative under which development would be less than the maximum allowed under the General Plan renders the range of alternatives evaluated in the EIR inadequate.

Page 2-37, section 2.4.1.2: See prior comment. The conclusion that a No Build Alternative is infeasible is not supported by the discussion in this section. In the absence of vested entitlements to develop the Project site, the General Plan does not bind the County to permit development of the Project site, and certainly does not bind the County to permit development of the Project site at the maximum density allowed under the General Plan. The DEIR must provide a reasoned explanation, supported by evidence, that a No Build Alternative is infeasible under CEQA. Furthermore, the DEIR must analyze the feasibility of an alternative that would develop the Project site at less than the maximum density allowed under the General Plan.

Page 2-39, section 2.4.3: The description of the Reduced Density Alternative states that it would not include affordable housing and would not include donation of open space. Why are these positive aspects of the proposed Project left out of the Reduced Density Alternative? Without support for the conclusion that the Reduced Density Alternative must by definition lack affordable housing and/or donation of open space, it is questionable whether the DEIR is providing a meaningful comparison of the proposed Project and a possible alternative that could feasibly reduce or avoid the significant impacts of the Project.

Page 2-41, section 2.5.1: The DEIR's cumulative impact analysis relies upon a "plan" approach for accounting for cumulative impacts. The plan employed for this purpose is the existing Eureka Community Plan. The DEIR's reliance on the ECP for this purpose is invalid, insofar as the DEIR appears to accept, without further analysis, the significance determinations in the 1993 ECP EIR for all non-Project development. CEQA case law holds that a "plan" (or "summary of projections") approach to identifying cumulative impacts is inadequate if the "plan" relied upon is outdated or inaccurate. (See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1217; *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421.) Therefore, the DEIR, in order to rely upon the cumulative impact significance determinations in the ECP EIR, must establish that those determinations – reached in a document that was prepared 17 years ago – are not outdated or inaccurate. The DEIR must evaluate whether changed circumstances or new information since 1993 now indicates that cumulative development under the ECP would have new or substantially more severe significant impacts, compared to

those identified in the 1993 ECP EIR. Only after the DEIR has thus updated the cumulative impact significance determinations in the 1993 ECP EIR may it rely upon those determinations in concluding whether the Project would make a cumulatively considerable contribution to a significant cumulative impact.

Page 2-42, section 2.5.1.2: The DEIR's cumulative impact analysis is furthermore inadequate and must be revised because it excludes foreseeable future development under the currently pending General Plan Update. CEQA requires that a cumulative impacts analysis include all past, present and probable future projects that might contribute, along with the proposed Project, to significant cumulative impacts. The DEIR's cumulative impact analysis, by limiting itself to impacts of the Project in combination with impacts of development under the existing ECP, is therefore inadequate insofar as it excludes additional probable development identified in the pending General Plan Update. Development under the General Plan Update must be considered probable future development, since the General Plan Update already exists in publicly distributed draft form, and since County has already announced its intention to issue an EIR for the GPU.

Page 2-42, footnote 1: This footnote states that the projected population growth for the entire ECP planning area is 1,204 people through 2030. The proposed Project would develop 1,422 residential units by full build-out in 2030. Therefore, the proposed Project would place vastly more dwellings in one single development than are needed to accommodate the population growth anticipated in the ECP for the entire planning area. The DEIR must explain how this Project, which would contribute development so far in excess of that needed to house the population projected under existing planning documents, can be considered in any way consistent with the those existing planning documents.

Page 2-46, section 2.5.2.6: The DEIR's discussion of its method of evaluating cumulative Utilities and Services impacts describes a process based not on factual evidence, but on unsubstantiated presumptions. The DEIR states that it can assume a lack of cumulative impacts based on the mere expectation that HCSD, on reviewing Project plans, will approve service to the Project. The DEIR cannot substantiate such presumptions without a factual basis for assuming that HCSD review and approvals will be successful. Without such a factual basis, the DEIR's analysis of cumulative Utilities and Services impacts is baseless fiction.

Page 2-47, section 2.5.2.6: See prior comment. If the DEIR is unable to "presum[e] to make judgments for the special governments or the corporations established to make decisions about the relevant services," then the DEIR also cannot base its conclusions about cumulative Utilities and Services impacts on a presumption that those entities will grant required approvals to the Project.

Chapter 3: Geology, Stability and Failure Hazards

Page 3-1, section 3.1.1: Do all access easements needed for the Project exist? The City is informed that the end of Home Drive is privately owned, and that the applicant would need to acquire an easement over private land. The DEIR should be revised to explain this situation.

Page 3-5, section 3.3.1: Should reference to mitigation measures 4.4.1 and 4.4.2 be revised to refer instead to mitigation measures 3.4.1 and 3.4.2? The reference in this section to the 1997 Uniform Building Code should be updated to reflect current regulatory standards.

Page 3-6, section 3.3.1: Please provide factual support for the conclusion that the slopes on the Project site are generally stable. The DEIR must be revised to discuss whether, and how, the extensive grading proposed for the Project will affect slope stability.

Page 3-6, section 3.3.1: The DEIR's conclusion that erosion impacts will be reduced to a less-than-significant level by mitigation in the form of a grading and drainage plan is unsupported. The Project will involve a tremendous amount of grading (98,354 cubic yards), but the DEIR does not discuss in any detail where grading and filling will be located, how much grading would occur in each Project phase, or the types of mitigation that would be required in the grading and drainage plan to reduce or avoid significant impacts. The DEIR's analysis of this subject is conclusory and unsupported by factual evidence, and must be revised.

Chapter 4: Hydrology and Drainage

Page 4-1, section 4.1: The background and setting discussion contains a misstatement – that water pollution in the form of sedimentation was identified as a major concern in Chapter 3. It was not.

Page 4-12, paragraph below Table 4-3: This paragraph includes inconsistent information. For example the 2-year 24-hour rainfall event will increase peak flow by 62% and increase runoff volume by 54%. The 10-year 24-hour rainfall event increases by 50% and 42% respectively. The 10-year storm should be higher not lower. These are substantial increases with apparently 0.06-foot change in surface elevation (page 4-10) through the upstream face of Fairway Drive Culvert. This seems implausible through this constriction.

Page 4-8, section 4.1.2: This section discusses effects of the proposed Project, and is therefore misplaced in the portion of this chapter that discusses background and setting.

Pages 4-6, 4-7, 4-8, section 4.1.1.4.: Low Impact Development (LID) is mentioned as a preferred alternative to address post-development runoff increase, but is dismissed because County Public Works advised that “. . . LID may not be used as credit to reduce the sizing of detention facilities. This is because LID features may not be maintained by the land owners and the County does not have an adequate enforcement/inspections program to ensure long term compliance.” The City would suggest that the County reconsider their position in this regard, especially in light of the requirements of the New General Construction Permit. The enforcement/inspection issue could be addressed by requiring maintenance agreements for LID best management practices, similar to maintenance agreement utilized for oil and water separators.

Page 4-10, section 4.1.2.2: This section discloses that the Project would result in an increase of drainage flows of 60 cfs. The City requires a drainage study when a project would result in an increase of more than 1 cfs. The City urges the County to impose such a requirement on this Project, in light of its substantial increase to drainage flows. In addition, the City notes that flooding problems already occur on the nearby golf course and downstream agricultural properties during winter months. Any incremental increase in storm water runoff into the Martin Slough system should therefore be considered a cumulatively considerable contribution to a significant cumulative impact.

Pages 4-11, 4-12, section 4.1.3: The DEIR contains a misstatement, in claiming that the RCAA study referenced in the first paragraph of page 4-12 is “not complete.” In fact, the study has been completed for

several years. There is agreement among the City and other involved resource agencies to pursue the specific option of replacing existing tide gates at the downstream end of Martin Slough, adding some off-channel ponds, and widening the channel, with the end result being to allow floodwaters on the golf course and on downstream agricultural land to subside more quickly. Yet the DEIR completely dismisses the study as not identifying viable drainage improvements, and concludes it is therefore not appropriate for the County or landowners to install drainage improvements in lower Martin Slough. The DEIR should be revised to accurately reflect this situation.

Page 4-13, section 4.1.3: The DEIR states that County staff identified "a number of drainage-related concerns." The DEIR needs to list and explain those concerns.

Page 4-14, section 4.1.3.1: The City does not agree that the threshold of concern for storm water/drainage issues is limited to a one-foot increase in water surface elevation at the Fairview Drive culvert. The City considers a 1 cfs increase in surface runoff to be a significant impact requiring analysis and mitigation to prevent any increase in cfs. The DEIR must be revised to accurately state the City's position.

Page 4-14, section 4.3.1: The analysis of this impact (alteration of existing drainage patterns that could result in substantial erosion) is wholly lacking in analytical discussion, comparison to a discernable standard of significance, or an evidentiary basis. Furthermore, although the DEIR concludes that recommended mitigation would reduce the "individually limited, but cumulatively considerable" impacts of the Project, the DEIR contains no analysis or evidence to support this conclusion. The DEIR's discussion of this impact is therefore wholly inadequate under CEQA.

Page 4-17, section 4.3.4: See prior comments on the discussion of the DEIR's method of describing cumulative impacts in Chapter 2. The Project's cumulative hydrology and drainage impacts must be discussed in the context, not only of development already allowable under the ECP, but also additional probable development that would be allowable under the General Plan Update. The artificial exclusion of probable future development under the GPU renders the DEIR's cumulative impacts analysis inadequate.

Page 4-18, section 4.4.1: Post-construction water quantity measures do not meet the requirements of the State's New General Construction Permit, which would appear applicable to this Project. The permit requires the use of on-site detention and treatment through rain gardens, bioretention facilities, permeable pavements, open downspouts or cisterns, green roofs, etc. Detention ponds, alone, do not meet the post-construction requirements of the new General Construction Permit.

Page 4-18, section 4.4.1: CEQA does not allow deferral of the design of mitigation measures, without an enforceable commitment by the agency at the time of project approval that future mitigation measures will achieve definite standards of mitigation. This section of the DEIR must be revised to provide the standard of mitigation which any required "additional drainage facilities" will be required to meet.

Page 4-18, section 4.4.2: The DEIR states that "[a]ll storm water runoff shall be directed to the existing storm drainage system." This statement is confusing, since the Project site is undeveloped, without any "existing storm drainage system." The DEIR should be revised to explain this statement.

Chapter 5: Water Quality, Erosion, and Sedimentation

Page 5-5, section 5.1.2: The DEIR notes that water quality impacts associated with the MSI were discussed in the EIR for that project, and the DEIR “generally does not repeat the analyses included in that document.” However, this Project proposes drainage infrastructure not included in the MSI, both on site and off site, and alternatively proposes the Herrick Avenue contingency conveyance pipeline. The DEIR must therefore discuss the water quality impacts of these infrastructure improvements under the Project.

Pages 5-7, 5-8, section 5.1.3: The two paragraphs at the bottom of page 5-7 and the top of page 5-8 constitute the DEIR’s entire analysis of the Project’s potential water quality impacts. These paragraphs contain no quantification of the potential water quality impacts for Phase 1 or any other phase, and no quantified analysis of the ability of proposed mitigation measures to reduce those potentially significant water quality impacts to a less than significant level. This is not an adequate analysis for a 1,442-unit development project that proposes more than 98,000 cubic yards of grading, substantial areas of impermeable surface that incorporates very little LID, and drains into an 303(d) water body that runs through the City and that is listed as impaired due to sediment. The DEIR’s significance conclusions about the water quality impacts are entirely lacking any basis in substantial evidence. This analysis is inadequate under CEQA.

Page 5-8, section 5.1.3: As noted in this section, routine inspection and maintenance and cleaning of catch basins is very important. Catch basins for the Project could build up sediment and perhaps contaminants. This suggests that such catch basins may not be appropriate for location in Project areas designated for recreational use. The DEIR should discuss any potential health or hazard impacts in this area.

Page 5-16, section 5.3.5: Please see prior comments regarding the DEIR’s cumulative impact analysis; this discussion must be revised to include the impacts of probable future development under the General Plan Update.

Page 5-18, section 5.4.2: Mitigation measure 5.4.7, which addresses the erosion impacts of roadways traversing slopes greater than 30 percent, refers vaguely to required compliance with “County requirements.” This mitigation measure needs to specify which standards these roadways will be required to comply with. Furthermore, the DEIR cannot simply conclude that impacts will be mitigated by compliance with unspecified “requirements.” It must support with substantial evidence a conclusion that compliance with specific regulatory requirements will reduce potentially significant impacts to a less than significant level.

Chapter 6: Air Quality

Page 6-18, section 6.3.1.1: The discussion in this section speculates that emissions of greenhouse gases from vehicles of residents of the Project site may not increase overall greenhouse gas emissions, since it is “not possible to know at this time” whether residents of the Project would have longer or shorter commutes compared to the commutes from their “existing homes.” Unless there is evidence that the “existing homes” of future residents will remain vacant after those residents relocate to the Project, this is not a valid limitation on the amount of greenhouse gas emissions associated with the Project. To avoid underestimating impacts, the DEIR’s greenhouse gas inventory should include all emissions associated with the Project.

Chapter 9: Land Use

Page 9-2, section 9.1.1: This section inaccurately describes the golf course as “surrounding” the Project site to the north. There is significant undeveloped area to the north and west of the Project site.

Page 9-7, section 9.1.3: See prior comments regarding the DEIR’s characterization of 940 units as being “currently permitted at the site.” This statement is inaccurate, since absent approval of the Proposed project, the City estimates that a maximum of 8 residential units could be constructed on the Project site as a matter of right.

Page 9-7, section 9.1.3: The citation for the DEIR’s characterization of the number of watercourses on the Project site (“Figure 2-3; Mike Atkins”) is unclear – what is the factual basis for this characterization?

Page 9-8, section 9.1.3: The DEIR acknowledges that the County has been preparing a comprehensive General Plan Update – which the DEIR states is anticipated for adoption in late 2010 or early 2011. The proposed Project, if approved, would be approved roughly contemporaneously. The general outlines of the General Plan Update – and even many particular details of that document – must therefore be relatively settled at this time. In fact, the DEIR states that, even if the Project is not approved, the General Plan Update “would change the existing General Plan land use designations of the Project site.” Incredibly, however, the DEIR evaluates the General Plan consistency of the proposed Project only in relation to the existing General Plan, and lacks discussion of consistency with a General Plan Update which the DEIR expects to be adopted in the immediate future. CEQA requires an EIR to disclose, discuss, and evaluate the significance of all reasonably foreseeable environmental impacts. In these circumstances, the DEIR is obligated to disclose and discuss consistency of the Project with the foreseeable General Plan Update.

Page 9-8, section 9.1.3: The DEIR states that “. . . it should be noted that the General Plan Alternatives A and B were developed to accommodate the Ridgewood Village project.” This statement raises the suspicion that approval of the Project as proposed is a foregone conclusion, for which the General Plan Update will serve as a post-hoc rationalization. How else could the DEIR conclude that this project is consistent with the ECP when the Project proposes to amend the ECP and zoning to allow an additional 500 dwelling units, removal of the Home Drive extension through the Project site, non-standard land use approaches, and high-density commercial development in a rural area of the County? At the outset of the County’s consideration of this Project, the City commented that environmental consideration of this Project should follow, rather than precede, the General Plan Update process which so clearly involves fundamental planning decisions to accommodate the Project. Approving the Project in advance of these planning level decisions, with ad hoc amendments to the General Plan, is placing the cart before the horse, and is the antithesis of “smart growth” and responsible land use planning.

Page 9-10, section 9.1.3: The discussion of the City of Eureka General Plan notes that the City discourages large commercial development in outlying areas as detracting customers from – and potentially contributing to physical blight in – existing commercial areas. The discussion further refers to policy 1.L.6, under which “[t]he City shall support the retention and upgrading of small neighborhood retail centers serving the immediate residential neighborhoods and provide for such uses in new residential development. These centers should be located and designed to serve neighborhood pedestrians and should not occupy more than one quarter of the block on which they are located.” The City fails to see how this policy is consistent with or supports large concentrations of new commercial development in outlying

areas, including the 327,000 square feet of commercial development proposed under this Project. In fact, the commercial component of this Project, located outside the City but near to the City limits, appears actively subversive of the City's General Plan policies.

Page 9-10, section 9.2.1: The DEIR states that the Initial Study concluded that impacts of the Project to existing parks or recreational facilities could cause substantial physical deterioration. The DEIR, while conceding that construction of recreational facilities under the Project could contribute to adverse physical effects, goes on to state that "these adverse effects would be 'captured' through the analysis of the project as a whole and would not require separate analysis in the EIR." The City fails to see the logic of this statement, and disagrees with it. The Project, which would add 1,442 new dwelling units for which it would provide only a 2.5-acre park and a few pocket parks whose recreational value is severely undercut by the fact that they would double as detention basins and would be flooded for much of the year. It seems reasonable that, given the paucity of residential facilities provided for Project residents under the Project, that the Project would contribute to physical deterioration of existing recreational facilities through overuse. The DEIR should be revised to specifically focus on evaluation of the potential for significant impacts to existing recreational facilities.

Page 9-11, section 9.2.1: The Project does not comply with City standards that require a certain amount of the area of a residential lot to be less than 20% slope. The DEIR disclaims any obligation to respond to comments pointing out this failure to comply with City standards, on the ground that the Project proposes development within the County. However, the Project site is within the City's sphere of influence, which means that it is reasonably foreseeable that the Project will be annexed to the City in the future. The Project is also inconsistent with the City's existing zoning standards, as well as the City's pre-zoning of the Project site. The DEIR should evaluate the significance of land use impacts created by inconsistencies with zoning standards that would be applicable upon foreseeable annexation of the Project site by the City.

Page 9-11, section 9.2.1: The City notes that CAL FIRE would only approve the Timber Conversion Plan proposed under this Project if no alternative site not zoned for timber use is available for the Project. The DEIR declines to discuss this issue, on the grounds that it is "outside the scope of this EIR," apparently because the County is not the agency that would approve the Timber Conversion Plan. The DEIR's position on this point is unsupported by fact or law. CEQA requires an EIR to evaluate all foreseeable actions under a Project, which here must include the proposed Timber Conversion Plan, since "project" is defined under CEQA as all approvals, by all agencies with approval power over a project. (See CEQA Guidelines section 15378.) The DEIR must be revised to evaluate the significance of environmental impacts related to the proposed Timber Conversion Plan. Furthermore, CAL FIRE's standards, which require it to know whether there is an alternative site not zoned for timber use, points out the need for the DEIR to be revised to consider an off-site alternative.

Page 9-13, section 9.2.2: The DEIR's statement, that the Project's proposed commercial uses "would simply be another one of these neighborhood commercial centers" is contrary to fact. The 327,000 square feet of commercial uses proposed under the Project, including 52,000 square feet of grocery/drug store use, cannot be characterized as "neighborhood commercial." Rather, so great a concentration of sizeable commercial uses can only be considered a destination commercial development.

Pages 9-14, 9-15, section 9.3.1: Please see comment above regarding CAL FIRE standards for approval of the proposed Timber Conversion Plan. The DEIR's listing of CAL FIRE's land use approvals as among

the land use entitlements being sought for the Project requires that the DEIR be revised to evaluate the land use impacts associated with the Timber Conversion Plan. The list of land use approvals required should also be expanded to include any land use approvals that might be required by the City or by the Coastal Commission.

Pages 9-15, section 9.3.1: The DEIR's conclusion that the Project, which includes a substantial General Plan Amendment, is not in conflict with the existing General Plan/ECP, is incorrect on its face. If there were no inconsistency, the General Plan Amendment would not be required for the Project.

Page 9-16, section 9.3.1: The DEIR is incorrect in describing land uses surrounding the Project site on two sides as "urban"; they are suburban, at most. Further, the DEIR is incorrect in claiming that the Project site's current zoning of RL (rural low density) and R-1 (single-family residential, 6,000 square foot minimum parcel size) renders it "ripe" for urban development. The current density cap for the northerly 320 acres is 700 DU – just over 1 unit per 2 acres – which is certainly not an "urban" zoning designation.

Page 9-16, section 9.3.1: The Project's park proposals are inconsistent with ECP policy 4420(3) which requires that "the terrain for each 5 acre park shall consist of relatively flat, stable land usable for softball/soccer fields and basketball courts," and that "a small portion of the land may be wooded and sloped to allow for passive recreation uses." This Project proposes 5 acres of parkland, split up into three pocket parks for Phase 1 (totaling 1.76 acres) and another 3.24 acres of parkland, including a 2.5-acre park at the northwest corner of the property, in later Phases. The pocket parks do not count toward satisfying the ECP policy, since one pocket park averages 20% slope; two pocket parks contain areas exceeding 30% slope; and the remaining pocket park would be almost completely occupied by a detention basin that would not be useable for recreation during much of the year. Further, the detention basin, even when dry, does not appear adequate in size to be used as a sports field.

Page 9-16, section 9.2.1: As noted in comments above, the Initial Study identified potentially significant Project impacts to existing recreational facilities. However, the DEIR inexplicably fails to evaluate this identified potential for significant impacts. The discussion on this page concentrates on conflicts with existing general plan land use and parks/recreation goals, but ignores the impacts to existing recreational facilities which the Initial Study found were potentially significant. The DEIR must be revised to discuss these impacts, and determine their significance.

Page 9-19, Impact 9-5: The DEIR's discussion of impacts related to inconsistency with existing ECP land use designation or zoning is nonsensical. The DEIR concedes that the Project would be inconsistent with these existing regulations, but then finds no inconsistency based on past implications that the existing regulations might someday be amended. This tortured analysis cannot support a conclusion that the Project, which proposes to amend existing planning and zoning regulations, is consistent with those regulations it proposes to amend.

Page 9-20, Impact 9-7: It is unclear what sort of potential impact is being addressed by this discussion.

Pages 9-21, 9-22, Impact 9.8: This discussion finds a significant blight-inducing impact (prior to mitigation) from commercial development under the Project's later phases. To reach that conclusion, the analysis assumes a "worst-case population growth rate of .2231%." In order to make reasonable an assumed "worst-case" growth rate of .2231%, the DEIR must provide a reasoned explanation of where the .2231%

figure comes from. This discussion, instead, relies upon a conclusory declaration that there "is support" for that assumption, along with support for a wide range of other growth-rate assumptions, in the County's Building Communities Report.

Page 9-22, Impact 9.8: The City disagrees with the DEIR's characterization of the Marina Center project as being "stalled at the Coastal Commission." The Marina Center project is a related and foreseeable future project whose impacts must be considered along with those of the Project in this EIR.

Page 9-23, Impact 9.8: In the paragraph immediately following Table 9-1, the DEIR uses an "alternative" assumption regarding future growth rate (.95%). As with the "worst-case" growth rate assumption of .2231%, the DEIR must explain the derivation of the .95% growth rate forecast. The DEIR's use of multiple possible growth rate assumptions renders its analysis of this impact confusing and inconclusive.

Page 9-27, section 9.3.4.1: The analysis of cumulative land use impacts relies on the significance conclusions contained in the 1993 EIR for the ECP. Please see prior comment regarding CEQA case law holding that a cumulative impact analysis may not rely on a "summary of projections" that is outdated or inaccurate. Furthermore, why does the DEIR assess the Project's contribution to impacts of ECP development by comparing the Project to development throughout the entire County, rather than within the ECP area?

Page 9-27, section 9.4: The conclusion of the DEIR regarding the mitigation of land use impacts is inadequately explained and supported. The DEIR identifies a significant blight impact from commercial development under later phases of the Project, but concludes that this (and other land use impacts) will be less than significant after mitigation. The DEIR does not, however, provide any explanation of this conclusion. The only mitigation measure in the DEIR that could possibly be viewed as directed at avoiding/reducing blight impacts is Measure 9-4 (prohibiting "big box" stores.) However, it is impossible to see how that measure, alone, could possibly reduce the blight impact to less than significant, since the DEIR's significance determination prior to mitigation did not rely upon or even mention the presence of "big box" stores as a potential Project element. This analysis is entirely unsatisfactory under CEQA.

Chapter 10: Traffic, Circulation and Parking

Attachment A to this letter is a memorandum, dated August 26, 2010, from Kurt Gierlich, City Engineer, which contains additional comments on Chapters 10 and 11 of the DEIR. To that memorandum is attached a further memorandum, dated August 12, 2010, from Dan Moody of the City's Traffic Operations Division, containing additional comments on Chapter 10. In both these memoranda, which are incorporated into the City's comments by reference, City staff express their substantial concerns with the model employed in the DEIR to analyze traffic impacts and to allocate payment for mitigation to reduce or avoid significant impacts.

Page 10-1, section 10.1.1: As discussed in the Attachment A to this letter, the City does not concur with the DEIR's methodology used to determine traffic impacts or mitigation fees. As is further discussed in Attachment A, much of the traffic infrastructure required to serve the Project would be within the City's jurisdiction, and the City desires to enter into an MOU for funding infrastructure improvements within the City's jurisdiction as required to accommodate each Project phase. The City is not agreeable to bearing the cost of mitigation improvements which this Project requires within the City's jurisdiction.

Page 10-8, section 10.1.2: The City notes that the DEIR is mistaken in identifying Walnut Drive as lying within the City.

Page 10-30, section 10.3.1: The DEIR's description of Phase 9 of the Project – that Phase 9 “does not result in an increase in development, but rather is a holding area for physical development that is subsequently found not to physically fit within the areas provided for the first eight phases” – is not understandable. The DEIR should be revised to clarify this explanation.

Page 10-32, section 10.3.2.2: The DEIR states that “[i]ntersection corner radii appear to be adequate but are not specified on the proposed tentative map. They are desired to be 25 feet.” The DEIR has no basis for concluding the radii to be adequate absent sufficient detail in Project-level approvals. The DEIR must further be revised to explain the meaning of, and basis for, the determination of “adequacy.” For example, the DEIR must identify the purpose for which it determines the adequacy of the radii (Ordinary traffic? Emergency apparatus?).

Page 10-71, section 10.5.1: See prior comments, and the memoranda dated August 26, 2010, and August 12, 2010, attached to this letter, regarding the City's concerns about the methodology used to determine traffic impacts, needed mitigation, and the means by which needed mitigation will be funded, including an MOU for provision of mitigation funding to the City sufficient to cover the entire cost of mitigation within the City's jurisdiction.

Chapter 11: Utilities and Public Services

Page 11-9, section 11.3.1: As noted above in the City's comments on Chapter 2, the City disagrees with the DEIR's statement that the City has an obligation under Government Code section 65589.7 to provide the Project, or any specific development within the County's jurisdiction, with water or wastewater service.

Page 11-9, section 11.3.1: The DEIR states that water storage infrastructure, planned but not yet constructed by HCSD, will provide sufficient capacity to serve the Project. This observation is tantamount to a concession that sufficient water storage infrastructure to serve the Project does not yet exist. The DEIR must establish, based on evidence, that the planned HCSD water supply infrastructure will, in fact, be constructed and will be available to the Project. Further, the DEIR states that the planned HCSD improvements are “not specific to this project.” This raises the issue whether Project use of the planned HCSD water storage infrastructure, given the increased density as compared to the current ECP, may displace other intended users. The DEIR must be revised to evaluate the impacts of the Project's use of planned water supply infrastructure on HCSD's ability to serve other intended users. The DEIR must also evaluate the environmental impacts of additional improvements to water supply infrastructure which may result from the Project's displacement of intended users. The DEIR must also discuss how the Project will contribute its fair share to the costs of providing additional water supply infrastructure.

Page 11-10, section 11.3.1: The DEIR states that “the environmental effects associated with development of these improvements have already been incorporated into the analyses in this EIR.” The City was not able to locate in the DEIR any such analysis of the environmental effects associated with development of water supply infrastructure to serve the Project.

Page 11-11, section 11.3.1.1: The DEIR states that a water supply assessment evaluated the adequacy of existing and future HCSD water supplies to meet the demand created by Phase 1 and the remaining phases of the Project in combination with cumulative development of the Project. See prior comments on the DEIR's cumulative impact analysis: the DEIR must discuss water supply capacity and impacts of serving not only the Project and cumulative development under the ECP, but also additional probable development under the County's General Plan Update.

Page 11-12, section 11.3.1.1: The City, in consultation with HCSD, designed the Martin Slough Interceptor to accommodate growth currently approved, meaning growth identified in the County's existing general plan. The system was not specifically designed to accommodate the increased flows that would be expected from the proposed Project, and furthermore was not designed to accommodate additional density increases being considered in the County's GPU. The City has for many years been communicating its concerns about limits to the planned capacity of the MSI, and about orderly allocation of that capacity among potential development projects. (See Attachment B to this letter, a letter dated December 16, 2005, from Lisa D. Shikany, City Environmental Planner, to Tom Hofweber, County Supervising Planner.) If this Project utilizes MSI without increasing the capacity of the system, there is a potential that the MSI would not have remaining capacity to serve other users in the area that were anticipated to be served by MSI, particularly since the applicant has increased the Project's density significantly over what MSI anticipated it would be. The DEIR needs to evaluate the impacts that would result if capacity in the system (once it is built) were reserved for this Project: Would additional sewer improvements not previously anticipated be required, and if so, what would be the environmental consequences? The DEIR also must evaluate the alternative situation if the Project does not participate in MSI: Would HCSD financial contributions to the MSI be reduced? Would reduced HCSD funding for MSI lessen its chance of being constructed, and if so, what would be the environmental consequences?

Page 11-14, section 11.3.1: The DEIR does not provide any analysis or substantial evidence to support the conclusion that "[c]ollection facilities to be built as part of a Herrick alternative (or connection to a future Martin Slough pipeline) would not cause any significant effect on the environment." Such analysis, supported by substantial evidence, is plainly required by CEQA. The DEIR must be revised accordingly.

Page 11-15, section 11.3.1: The DEIR's discussion of new or expanded fire protection and law enforcement facilities needed to maintain adequate levels of service discusses only the potential of the Project to increase staffing needs. The discussion omits any discussion of whether the Project would create a need for additional equipment or infrastructure, and of any consequent impacts on the environment. The DEIR must be revised to discuss this subject and evaluate the significance of any environmental impacts. Furthermore, this discussion identifies a need, due to the Project, for 0.4 additional firefighters and 0.9-1.2 additional law enforcement officers, and states that these staffing increases would be paid for by increased property taxes. The City questions the DEIR's quantification of additional fire and law enforcement staff needed to serve the Project, since they appear to be based solely on the number of new Project residents, and do not take into account increased response times or other considerations. As an example, a fire station is staffed with three firefighters a day, which requires an increase in department staffing of nine firefighters. But even if the DEIR's quantification of additional staffing were correct, the DEIR fails to provide analysis or discussion to support its conclusion that Project property tax revenue would be adequate to provide the additional fire and law enforcement staffing. The DEIR needs to be revised to

contain that analysis, and moreover needs to evaluate whether Project property tax revenue would also be sufficient to cover other public service demands created by the Project.

Page 11-15, section 11.3.1: Furthermore, the DEIR's discussion also fails to address whether the Project would create a need for additional City-provided fire protection or law enforcement infrastructure or services. The DEIR acknowledges that Auto Aid and Mutual Aid agreements exist between the City and the County, but fails to acknowledge, for example, that the only ladder truck in the greater Eureka area is owned by the City, and that the City's ladder truck is the only one capable of providing fire protection to the multi-story buildings proposed for the Project. The DEIR needs to be revised to evaluate the demands the Project would place on the City's fire protection and law enforcement services, and how the Project will fund any staffing or improvements needed to meet those demands.

Pages 11-15, 11-20; sections 11.3.1.1, 11.3.1.2: The DEIR states that H1FPD is "currently pursuing a new fire impact fee on all new development within the District," and concludes that this fee, along with property taxes, would be sufficient to offset service provision impacts associated with the Project. The DEIR proposes to require the applicant to pay this yet-to-be-established fee, which we understand within H1FPD could be determined to be inapplicable to low income housing, as a condition of approval on the final map or under the DA. The adequacy of such a requirement is impossible to assess without a mitigation measure that requires payment of the fee and provides specific guidance as to how the fee revenues will be allocated to provide adequate mitigation for Project impacts. The DEIR should be revised to contain this discussion.

Page 11-19, section 11.3.1.2: As previously noted in the City's comments, the MSI was not designed to accommodate the increased densities proposed under the Project together with increased densities that would be allowed within the area to be served by the MSI under the pending General Plan Update. This raises the possibility that the Project, in combination with other foreseeable development, could cause the capacity of the MSI to be exceeded, and thereby require additional wastewater conveyance improvements that have not heretofore been identified as needed to serve the densities under the existing (or updated) General Plan. The DEIR must be revised to evaluate the indirect effect of use by the Project of MSI capacity that was originally intended for other users within the MSI project area.

Page 11-22, section 11.3.2: The DEIR states that, unlike the Project, no fire station site would be dedicated under the No Project Alternative. The DEIR contains no justification for this conclusion. Why would the County not require dedication of a fire station site in connection with its approval of development of the Project site with the 940 DU which the DEIR assumes would be approved under the No Project Alternative? Why wouldn't property taxes and/or a fire impact fee be imposed on development under the No Project Alternative in the same manner that the DEIR states they would be imposed on development under the Project?

Page 11-26, section 11.3.4: The DEIR explains that H1FPD states that the Project along with other cumulative development would substantially increase the demand for fire protection services. The DEIR proposes to mitigate this impact by requiring dedication of a public service parcel at the entrance to the Project. However, the DEIR fails to provide adequate mitigation to cover the cost of construction of needed fire protection facilities or acquisition of needed equipment. The proposed H1FPD fire impact fee is not yet approved; therefore, to support the DEIR's determination that fire services impacts will be effectively mitigated, the DEIR needs to be revised to contain information about how the fee would be assessed on

this and other cumulative projects, and evaluate whether revenues would be adequate to cover the fire services needs created by the Project and other cumulative projects.

Page 11-26, section 11.3.4: The DEIR indicates that cumulative development along with the Project would create a need for a new sheriff's station and that "construction of the new [Sheriff's] station would create environmental effects." The DEIR fails to provide any evaluation of such impacts, however, on the grounds that the Sheriff's department has "not identified the location or planned construction date of the station." It is the responsibility of the County, in preparing the DEIR, to obtain information adequate to show that significant public services impacts to which the Project would make a cumulatively considerable contribution will be adequately mitigated, and that needed mitigation will not itself produce significant environmental impacts. Therefore, without information from the Sheriff's department sufficient to support such necessary evaluation, the DEIR is incomplete and inadequate.

As noted in the comments regarding Chapter 10, above, Attachment A to this letter contains additional City comments regarding Chapter 11.

Additionally, Attachment C to this letter is a memorandum, dated June 12, 2010, from City Fire Marshal Rusty Goodlive to Sidnie Olson, City Director of Community Development, which is incorporated into the City's comment letter by reference. This memorandum contains further City comments on the adequacy of the DEIR's evaluation of impacts to fire protection services, including comments on the fire protection services implications of the DEIR's description of the Project, and its consideration of fire department access, water supply, wildland urban interface, regional emergency response capabilities, and other public safety issues.

Chapter 12: Aesthetics

Page 12-4, section 12.1.1: The DEIR observes that undeveloped forest land is the only visible feature of the Project site from the vantage points studied. The DEIR should be revised to evaluate the aesthetic impact on views from these vantage points of permanent timber removal under the Project. The City commented on this and other aesthetic issues in its comments on the NOP, but the concerns expressed in those comments do not appear to have been addressed in the DEIR. On page 12-5, the DEIR refers to other portions of the DEIR which purportedly contain responses to the City's NOP comments on aesthetic issues, but the City did not identify any such responses in its review of the DEIR.

Page 12-10, section 12.3.1.1: The DEIR states that the Project site is not visible from Highway 101, the Elk River Valley, Elk River Road or Humboldt Bay, but Figure 12-2 shows that it is visible from all these locations.

Page 12-11, section 12.3.1.1: The DEIR notes that aesthetic impacts are increased, "especially due to the lack of a proposed landscape plan (e.g., minimal landscaping assumed)." The DEIR should explain why there is no landscape plan. Mitigation measure 12-1 indicates that the Planning Commission "may require" landscaping. Mitigation under CEQA must be definite and enforceable. The DEIR should be revised to require adequate landscaping. The DEIR should further explain why the Project is proposed to be inconsistent with a number of aesthetic-related requirements of the Humboldt County Code, thus exacerbating the significant aesthetic impacts of the Project. In light of the adverse aesthetic effects of

non-compliance with County regulations, why does the DEIR not contain mitigation to require Project compliance with those regulations?

Page 12-12, section 12.3.1.1: The DEIR does not disclose a lighting plan for the Project or discuss Project compliance with regulatory lighting standards, yet the DEIR concludes that a less than significant lighting impact is “anticipated.” CEQA requires that impacts be evaluated by reference to a standard of significance and that the determination whether impacts would exceed or violate such a standard must be supported by substantial evidence. This discussion does not comply with those requirements of CEQA.

Chapter 14: Population, Housing and Employment

Page 14-7, section 14.3.1: This section states that “[a]ffordability would be guaranteed for 30 years by the proposed Development Agreement,” and refers to Chapter 2 “for further description.” Chapter 2 does not appear to contain any further description of the DA provisions on this subject.

Pages 14-6, 14-7, section 14.3.1.1: The description of Impact 14-1 states that Project population growth would be less than 1% of the ECP planning area’s 2013 population, but the DEIR’s analysis of that impact states that Phase 1 population would be 4.9% of the ECP planning area’s 2011 population. How does the DEIR reconcile this apparent inconsistency?

Page 14-8, section 14.3.1.1: The DEIR states that the Project would reduce pressure to covert agricultural, timber and open space land in other outlying areas to urban uses. The City disagrees with this analysis – why does the DEIR presume that development which would not occur if the Project were not approved would be displaced to outlying areas, rather than to infill development areas?

Page 14-9, section 14.3.1.1: Do easements exist across the Barnum/Lundblade property for the new gravity sewer line to be constructed in Lundblade Drive to serve the Project?

Page 14-10, section 14.3.1.1: The City disagrees with the DEIR’s characterization of this Project as creating a “walkable,” “smart growth” community (see Project objectives, page 2-1), in light of the statements in this section that Phase 1 residences would be located several miles from bus stops, and as far as six-tenths of a mile from future on-site commercial uses. The City further feels that the proposed mitigation – to educate seniors and the poor regarding ride-sharing, dial-a-ride subsidy, increased mass transit and other transportation options, would do little to achieve these Project objectives.

Page 14-13, section 14.3.1.2: Lundblade Drive is in the jurisdiction of the City, so that any improvements to that street (if permitted by the City) would be required to conform to City, not County, standards.

Page 14-13, section 14.3.1.2: The DEIR is incorrect in stating that subsequent phases of the Project “would not include extension of roads . . . that would remove obstacles to development of, or indirectly induce substantial population growth.” Construction of Ridgewood Hills Drive and its connection to Lundblade Drive (if permitted by the City) would be an extension of a road that would, in fact, remove obstacles to development and induce population growth.

Chapter 15: Hazards

Pages 15-10, 15-13, sections 15.3.1.1, 15.3.1.2: Although the DEIR recognizes that several Recognized Environmental Conditions occur on the Phase 1 portion of the Project site, and that they contain hazardous materials which would result in a significant impact unless mitigated, the DEIR provides no disclosure of what the hazardous materials are or what remediation would be required to avoid the impacts. Proposed mitigation generally calls for testing to investigate hazardous materials at the time of development; however there has apparently been no soils testing as part of preparation of the DEIR. The factual basis for this impact analysis therefore appears to be inadequate – particularly in light of the site's past use for lumber mill operations, which commonly involved dioxin. The DEIR should be revised to disclose the results of soils testing adequate to characterize the hazards impacts of the Project.

Chapter 16: Noise

Page 16-2, section 16.3.1.2: This section discusses noise impacts of an amplified announcement system associated with a ball field. Nowhere else in the DEIR is a ball field discussed as part of the Project, let alone an amplified announcement system. The DEIR must be revised to ensure that its description of the Project is consistent, stable and finite.

Chapter 17: Other CEQA Considerations

Page 17-1, section 17.4: This section states that there would be no significant impacts to agricultural resources. The DEIR should address whether the Project's impacts to timber resources constitute impacts to agricultural resources.

Conclusion:

The City submits the comments in this letter and incorporated attachments in the expectation that an adequate response by the County will require substantial revision to, and subsequent recirculation of, the DEIR. As stated at the outset of this letter, the City hopes and anticipates that the County will consult closely with the City on such revisions to environmental review of the Project, whose impacts would affect both agencies. The City also reiterates its willingness to negotiate an MOU to ensure that extra-jurisdictional mitigation of the significant impacts of the Project would be effectuated, and that the cost of such mitigation would not be borne by the City.

Very truly yours,



David W. Tyson, City Manager

Enclosures: Attachment A - Memorandum dated August 26, 2010 from Kurt Gierlich, City Engineer, with attachments
Attachment B - Letter dated December 16, 2005 from Lisa D. Shikany, City Environmental Planner
Attachment C – Memorandum dated June 21, 2010 from Rusty Goodlive, City Fire Marshall

Cc: Eureka Mayor and City Council
Mike Knight, Assistant City Manager
Sidnie L. Olson, City Director of Community Development
Kurt Gierlich, City Engineer
Eric Smith, City Fire Chief
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