

Rural Quality Coalition
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February 6, 2008

Tod Herman
Nevada County Planning Department
Rood Administrative Center
950 Maidu Lane
Nevada City, CA 95959

**Re: Pendagio Estates Subdivision,
EIR Notice of Preparation**

89 housing units on 447 acre site of Indian Springs Vineyard
12600 Indian Springs Rd., Penn Valley

Dear Tod:

Thank you for the opportunity to comment on this project.

We are concerned that the application for this project was accepted as complete since it does not meet the clustered option requirements of General Plan Policy 1.18 and is also not consistent with General Plan Policies 16.5 and 16.9. In addition, the water supply proposal is not clear. Also, a community sewage treatment system which will be county maintained and operated is proposed which is counter to county policy. **As a result, we urge the Planning Department to reconsider acceptance of the application.**

If the project proceeds, we recommend that a full EIR covering all CEQA subjects be prepared for this project. Because of its size and complexity, no issues should be focused out.

Specifically, we would like to see the following issues addressed:

Land use/ agricultural impacts

In 1995, Nevada County adopted its General Plan which included a number of agricultural land protection policies. The county also certified an environmental impact report (EIR) which determined that buildout of the County under the new General Plan would have unavoidable impacts on agriculture. However, the EIR also concluded that some of the General Plan's policies and measures recommended in the EIR would mitigate impacts to a degree. As a result, the County is required to implement these measures. These policies are 1.18, 16.1,

16.4 through 16.9, and 16.13. Implementation of Policy 1.17 calling for Site Development Standards was also an important mitigating assumption in the EIR. It was assumed that these policies would be implemented to achieve the maximum possible mitigation. If they are not implemented, consistent with the findings of the General Plan EIR, significant impacts will result.

As a result, project consistency with applicable General Plan land use, open space, and agricultural policies must be discussed in depth. In particular, the project's inconsistency with the following policies should be discussed:

Policy 1.18. This policy requires submittal of a clustering option within all Rural land use designations. If such an option has been submitted, we have not seen it. If the proposed tentative map is expected to fulfill the requirements of a clustered option, it does not.

Clearly, the intent of this policy is to protect sensitive lands in a meaningful way. In this case, the entire site is sensitive (oak woodland, riparian areas, wetland, steep slopes, and agricultural land) as defined in **Policy 1.17**. As a result, Policy 1.18 requires that development be situated on the least sensitive habitat or resource area. All of the resource areas on the site are of equal sensitivity: the natural areas are all diminishing habitat types and agricultural lands in Nevada County are extremely limited to the point that loss of further agricultural land in Nevada County was identified in the General Plan EIR as a significant impact. Thus, the only logical clustered option would have to minimize disturbance of the site through tight clustering or via minimization of number and separation of residences to the point that the natural resources and agricultural lands are not significantly impacted.

The proposal does not do this. Rather, it scatters home sites across the property in a way that maximizes impacts on the agricultural resources. Policy 1.18 allows use of building envelopes as one clustering method, but only if this method is ***“consistent with the protection of the natural resources and environmental characteristics of the site”***. That is not the case on this site. Scattering of building envelopes is one of the least effective tools for agricultural protection. This allowance of building envelopes as a tool in the clustering policy was intended to be used in situations such as wooded areas or steep slopes where limiting disturbance area is an effective mitigation. It was not intended to be used as agricultural impact mitigation. This conclusion is further backed by the wording in **Agricultural Policy 16.9: *“Clustering of new residential development shall be encouraged and utilized in accordance with Policy 1.18 to reduce potential conflicts between agricultural operations. Such clustering shall provide for a natural or man-made buffer between the residential development and adjacent agricultural uses”*** and **Agricultural Policy 16.5: *“All new residential land use divisions adjacent to important agricultural lands shall require a setback of not less than 100 feet to***

minimize potential land use conflicts..” Clearly, this “scattered building envelope within a sea of agriculture” approach does not meet the conflicting land use separation goals recognized as necessary for agricultural protection in Policies 16.5 and 16.9. It should be noted that these policies were not intended to only reduce conflicts between new residential projects and neighboring properties under separate ownership; they were also intended to recognize agricultural resources to be protected within large parcels where more than one use could be expected.

To implement these policies, **Section L-II 4.3.4** of the Land Use and Development Code further requires a Management Plan that ***“avoids or minimizes impacts to the important agricultural area”*** and that it ***“provide for the development of the project on the portion of the site determined to have the least impact on the long-term management of the agricultural resource.”*** Though a management plan has been prepared, the first line of defense envisioned in Policies 1.18, 16.5, and 16.9 as well as this section of the Land Use and Development Code was true clustering and maximum separation of agriculture from residential which has not been achieved.

Alternatives

Since these policies are not implemented by the project, significant land use and agricultural impacts can be expected that cannot be mitigated without a major redesign. Thus, the EIR should discuss three alternatives in detail:

- 1. 15 building envelopes outside vineyard.** Reduction of project to allow for approximately 15 small building envelopes on small lots at the northern interface between the oak woodland and vineyard. Under this alternative, the vineyard would be maintained as a separate unsplitable parcel to be kept in agriculture in perpetuity, which would allow the opportunity for it to be sold at agricultural land values solely as an agricultural operation. This alternative has the potential to eliminate impacts to agriculture with minimal impacts to the oak woodland area.
- 2. 15-20 acre cluster of 30 homes.** Location of a 15-20 acre building area to create a low rise cottage style clustered project of approximately 30 units. Again, under this alternative, the vineyard would be maintained as a separate unsplitable parcel to be kept in agriculture in perpetuity, which would allow the opportunity for it to be sold at agricultural land values solely as an agricultural operation. This alternative would minimize area to be disturbed and reduce residential interface with agricultural operations.
- 3. 40 acre minimum parcel sizes.** Under this alternative, the project would be revised to recognize the difficulty of mitigating agricultural impacts when a large residential subdivision is scattered across the site. 40 acre

minimum parcels would still support economically viable vineyards. Site planning would need to situate lot lines so that irrigation mains are not crossed by lot lines, roads, or driveways, so that each parcel could have a “stand alone” irrigation system tie into the centralized mains.

It is expected that these alternatives will also serve to avoid or lessen other impacts which will be identified in the EIR.

We also recommend that budget be retained to ensure that the consultants can respond substantively in the Final EIR to any alternatives that might be suggested in the public comments on the draft EIR. Often, the draft EIR can inform excellent alternative suggestions from the public.

Other agricultural impacts

Impacts to agriculture must be discussed in the context of the land use and agricultural policies discussed previously, but also relative to the specifics of the proposal by a subconsultant with expertise in agricultural business.

The project has been discussed in detail by the Nevada County Agricultural Advisory Board and their minutes on this project should be consulted for their recognized expertise in Nevada County agriculture. A number of issues were raised relative to this project which should be addressed including:

- Potential for long term financial viability of this type of agricultural business. Need for a business plan.
- Safety of constructing homes and roads over existing high pressure irrigation mains under the site.
- Actual viability of agricultural operations in such close proximity to homes including the reality of the need for noisy early and late operations 7 days a week, the reality of the difficulty of controlling pesticide drift, etc.

In addition, please address the precedent setting nature of this type of “recreational agriculture” and potential impacts to land values and the overall agricultural economy in Nevada County.

Please address impacts after the first 6 years when the vineyard lessee is not longer financially responsible. The agricultural protection policies of the general plan are intended to protect agriculture in perpetuity. Clearly, if the vineyard is not viable after 6 years, the site will not be attractive to another agricultural investor with houses scattered throughout and the opportunity to preserve a concentrated working agricultural area will have been lost.

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Traffic and traffic safety impacts on area rural roads

Level of service is a concern, but traffic safety on area rural roads must also be discussed in detail.

Air quality impacts

The size of the project and its suburban configuration would result in a higher trip generation per lot than that of larger parcels sized for agricultural use. This will contribute to a land use and commuting pattern with greenhouse emissions and other vehicle emission constituents which can be at least partially mitigated by reducing the size of the project and changing its use characteristics to a project more typical of agricultural areas. Air quality concerns have heightened and new State policy on carbon emissions has been adopted since the preparation of the General Plan and Zoning Ordinance EIRs; resulting in a new need to evaluate these potential impacts.

Grading

A preliminary grading and drainage plan should be submitted for analysis. Without these plans, it is not possible to accurately determine visual, oak tree, erosion, and drainage impacts in the EIR

Toxic waste impacts

A Phase I EA to 1849 and on site testing if indicated should be prepared to ensure that toxic mining residue and agricultural toxins in the soil are not located on the site.

Sewage treatment impacts

A satellite community treatment plant as proposed for the project will require incorporation into County Sanitation District #1. In recent years, the county has not been approving these types of systems due to lack of success and high costs of maintenance. We do not believe that it is appropriate for the application to be accepted with this type of treatment proposal since the county is not accepting them. The proposal should be revised at this time in favor of individual septic systems.

However, if the application proceeds, a full evaluation of the sewage treatment proposal impacts and financial feasibility must be conducted by a third party expert. If individual septic systems or a shared system are used, impacts on the vineyard must be discussed.

Water Supply

The project description is not clear on the issue of water supply. An alternative should be selected before the EIR is prepared.

It should be noted that General Plan Policy 16.10 prohibits extension of potable water lines to agricultural marketing facilities (such as tasting rooms) which would eliminate the NID alternative.

A full analysis of water supply potential is needed. Increased use of well water on the site in order to provide for continuation of vineyard uses, a winery and tasting room, and 89 homes could deplete area groundwater and affect neighboring wells. A pump testing program designed by a qualified groundwater hydrologist must be conducted as part of the EIR.

Fiscal Impacts

A full fiscal impact analysis of all public service and facility providers should be prepared to ensure that levels of service will not be impacted by the project.

Project Description

The project description should be revised so that it is concise and clear as to actual project details, without developer editorial content or vague proposals such as: “it is anticipated that the size of the property and the additional controls that will be instituted will continue to make these two uses compatible.” (NOP page 8) and: “ a minimized grading approach is being taken.... If it is necessary to modify the natural contours of the site, it will be limited to the extent necessary...” (NOP page 10), etc.

Thank you for the opportunity to comment.

Sincerely,

Laurie Oberholtzer
Land Use Projects Director
Rural Quality Coalition