

# Sierra Club Lake Group

15995 Lucy Circle Lower Lake, CA 95457

January 22, 2009

Richard Coel  
Community Development Department  
Planning Division  
255 N. Forbes Street  
Lakeport, CA 95453

RE: Valley Oaks Draft Environmental Impact Report

Dear Mr. Coel:

The Sierra Club Lake Group appreciates this opportunity to comment on the Valley Oaks Draft Environmental Impact Report (DEIR), and requests that our remarks be included in the formal record, and be addressed in the preparation of the final EIR. Although several issues regarding this project concern us (details below) we nonetheless are broadly supportive of many of its features: the site is within the Coyote Valley Community Growth Boundaries, suitable infrastructure has been identified, mixed uses and alternative transportation within the site support smart growth principles, and the physical constraints of the property have been sensitively addressed.

Before discussing substantive issues, we would like to mention a nomenclature problem occurring throughout the DEIR that introduces an entirely unnecessary source of confusion. If approved, this subdivision would be located within a community that the Lake County General Plan has decided to call "Coyote Valley." Although the DEIR does occasionally use this terminology, it far more frequently refers to the region as "Hidden Valley Lake"—a designation that we believe should be reserved for the existing gated subdivision bearing that name. To cite one particularly egregious example, Impact 4.11.1 in the Population and Housing chapter states that the project would induce population growth in the "Hidden Valley Lake community." Obviously the "Coyote Valley community" is what is meant, since the effect of Valley Oaks on population growth in Hidden Valley Lake proper would be, if anything, negative.

Our remaining remarks follow the order of presentation in the DEIR.

## *Section 4.1, Aesthetics*

The project would degrade the existing visual character of site (Impact 4.1.2) in a way that would be significant and unavoidable even after the inclusion of landscape screening. We agree with this assessment, but suggest that it could be reduced by inclusion of a berm in the 50-foot landscaped setback provided along Highway 29, and perhaps reduced further by varying the width of this narrow landscaped strip. The aesthetic impacts of the project's commercial component will furthermore be noticeably affected by the heights of the buildings, something that has not yet been specified.

Restrictions on building heights would be an appropriate addition to the mitigations provided.

We do not agree with the conclusion that the project's contribution to nighttime lighting (Impact 4.1.3) is less than significant even though concurring that this effect would not be incompatible with existing uses. Especially considered cumulatively, and with the very substantial commercial component of the project taken into account, this development will inevitably and permanently increase the level of nighttime lighting in the vicinity, an impact that we believe to be significant and unavoidable.

#### *Section 4.2, Agricultural Resources*

It is unfortunate that Valley Oaks would convert 138 acres of farmland containing Class I and Class II soils to non-agricultural uses (Impact 4.2.1). Although the Lake Group opposes any loss of agricultural lands and would ordinarily object to the General Plan amendment necessary to facilitate this project, the parcel's inclusion within the Coyote Valley CGB and the urban uses that now surround the site lead us to support the conclusion of county planning staff that despite its current zoning it is no longer suitable for productive agriculture and that the designation may appropriately be changed.

#### *Section 4.3, Air Quality*

Certain categories of individuals including children and the elderly are identified as "sensitive receptors" (p 4.3-8): why then are both the senior housing component and the residential care facility located adjacent to Highway 29, where air quality would reasonably be expected to be the worst? See below for similar considerations related to noise.

Praiseworthy mitigations would reduce significant and unavoidable contributions to long-term increases in emissions impairing air quality (MM 4.3.3). We suggest an additional requirement that residential customers be encouraged to consider the purchase of a rooftop solar voltaic system by providing this option as a standard upgrade on all houses.

#### *Section 4.3.5, Climate Change*

We commend the consultants for including a separate section on climate change, rather than merely addressing the subject in a cursory manner as a subset under the Air Quality category, and for providing an explicit numerical blueprint to the emissions that would result. The conclusion that the "cumulative increase of greenhouse gasses including CO<sub>2</sub>" would be cumulatively considerable (Impact 4.3.9) seems inevitable, but we suggest that it behooves this and other developers to devise meaningful mitigations, because the state of California has already determined GHG emissions to be a danger to public health and safety, which would make the finding of overriding considerations necessary for project approval untenable.

#### *Section 4.4, Biological Resources*

The possibility of both bald and golden eagles occurring on the project site is recognized (p 4.4-15) "particularly for visiting bald eagles," but potential occurrences of the white-tailed kite are ruled out. This conclusion seems questionable even with no suitable nesting areas nearby, because the terrain on much of the site is very similar to known foraging territory at Anderson Marsh. We therefore suggest consultation with

local birding experts such as the Redbud Audubon Society, or a supplementary focused survey to reassess kite occurrences on the site.

It is proposed that the newly aligned Coyote Creek channel “would be planted with native landscaping” (p 4.4 45). We support this proposal, but suggest that the objective—creation of a natural-looking area that provides good wildlife habitat—would be better served by specifying the use of species and subspecies native not merely to California, but to similar riparian areas *in Lake County*.

#### *Section 4.5, Cultural Resources.*

Potential damage to undiscovered cultural resources (Impact 4.5.1) is mitigated by stopping work if artifacts come to light and bringing in a qualified archeologist to assess their significance and determine appropriate mitigation. “Any artifacts uncovered shall be recorded and removed to a location to be determined by the archaeologist” — an appropriate disposition if the artifact is an isolate, but in the remote eventuality that a significant contiguous site is discovered much more extensive study, and perhaps revision of project plans to avoid or to cap the location, would be needed to avoid significant impact.

#### *Section 4.8, Hydrology*

Even if the failure of the Coyote Creek dam is “beyond the realm of reasonable foreseeability” (Impact 4.8.8), asking the Office of Emergency Services to review the project with attention to any necessary evacuation plans seems prudent. We however question the desirability of delaying this review to a later date, and suggest that it be conducted immediately, and presented as a part of the final EIR.

Most of the proposed changes to the existing drainage patten seem beneficial, but why is “a storm drain having capacity to convey the 10-year discharge” (p 4.8-19) considered adequate to handle local runoff from Hidden Valley Lake? Ten years is a very frequent interval, and climatic changes consequential to global warming are predicted to increase the intensity and frequency of flood events. We suggest that increasing the capacity of this drain to a 100-year standard could be a small investment with a big payoff, and that MM 4.8.7 should be revised accordingly. Furthermore, the requirement that “finished floor elevations for proposed residences” must be above the 100-year flood level should be extended to the commercial spaces.

#### *Section 4.9, Land Use*

The Lake Group’s most serious reservations regarding this project center on the proposed commercial component. While we agree that the Coyote Valley area and South County generally would benefit from increased retail space, entertainment opportunities, and professional services, both the scale and the location of the commercial areas associated with Valley Oaks arouse our concern.

Our dismay at the sheer volume of proposed commercial expansion is discussed in the economic impacts section below, but the location of the commercial area on the Site Plan (Fig 3.0-3) seems plainly non-compliant with explicit land use direction for this parcel. The final bullet point in Middletown Area Plan Policy 5.1j states very plainly that commercial development shall begin at Highway 29 and move east “to be contiguous with the school and shopping area of Coyote Valley, thus creating a commercial town center.” The design as presented does not comply with either the letter or the spirit of

this policy, since the commercial areas are neither contiguous with the school nor would they help to create a cohesive village center to anchor the surrounding residential area. Despite the existence of a ribbon of landscaping along the highway, the project's commercial appeal seems to be aimed more at passing motorists than at local residents, which is contrary to expressed local preferences for development on this site. Analysis of Impact 4.9.2 (inconsistency with existing planning documents) is considered less than significant despite variance from this direction "the County has determined that the project follows the general intent of [Policy 5.1j], which is to create a commercial area accessible to both area residents and visitors." We believe that the responsibility for making this determination on behalf of the county ultimately belongs to the Board of Supervisors, and that prejudging the point now is inappropriate. We also wonder how accessibility to visitors enter the evaluation, since they are not mentioned in either the original or the revised policy.

Consistency with Policy LU-4.5 on commercial center guidelines \*("the market area should serve the community and surrounding areas") requires additional information for an effective evaluation. Intent alone is not sufficient without a supplementary assessment of commercial services *already* being provided. To the extent that the service needs of the "community" are already being met, expansion of "market area" is not necessarily beneficial.

#### *Section 4.10, Noise*

Most of the noise on the project site would be generated by Highway 29 traffic (which would more than double), but the site plan locates the senior housing and residential care facility immediately adjacent to the highway. Even with the addition of a sound wall, this would be the noisiest part of the whole property, and we question the appropriateness of this placement for uses which are identified as sensitive receptors by both General Plan Policy N 1.2 and Middletown Area Plan Policy 4.6.1. Proposed mitigations (MM 4.10.2a) require "acoustical assessment" prior to construction, with the possible implementation of noise attenuation measures to achieve compliance with county standards, but we believe that this assessment should be undertaken now, in order to be included in the final EIR and subject to public review.

Impact 4.10.5 concludes that the cumulative effects of the project, along with other reasonably foreseeable development in the area, would result in cumulatively considerable, significant and unavoidable increases to traffic noise impacts, with no mitigations available, but this impact is not listed in long-term implications of the project provided in Chapter 7.0.

#### *Section 4.11.1, Population, Housing, Employment, Economics*

This analysis is based on outdated growth rates (p 4.11-1) that we believe to be wildly unreliable guides to future trends. After sewer upgrades Middletown's growth is predicted to go up to between 5.75 and 6.6 percent annually, with the growth rate of "Hidden Valley Lake" (presumably referring to Coyote Valley) expected to reach 6.6 percent. Since Lake County's own planning for the area is based on a maximum 3 percent growth rate that itself probably exceeds anything that can reasonably be expected under current conditions (with foreclosures rampant, nearly 5000 homes for sale county-wide, and an anemic current growth rate of less than half of one percent annually), all the subsequent conclusions contained in this section are of dubious validity.

Although the economic analysis provided in Section 4.11.5 is limited to “significant adverse physical deterioration of properties or structures, or urban decay, due to economic impacts on existing businesses” (p 4.11-10) even this limited acknowledgement that economic decisions can have environmental consequences is very welcome. We nonetheless question several minor points of analysis. Impacts to existing businesses at Cobb seem to be overemphasized, since it’s hard to imagine Coyote Valley residents going to Cobb for routine shopping under any circumstances, and impacts on the city of Clearlake underestimated, since retail facilities there are indeed frequently patronized by South County customers, and their diversion to new facilities proposed at Valley Oaks would adversely affect Clearlake merchants.

We also question the consistency of the analysis (for example, Lower Lake is sometimes included in the project service radius, and sometimes not included), but as stated above, our primary disagreement with the conclusions in this section originates in the faulty assumptions upon which they are based. Impact 4.11.3 states that urban blight would result “only if the Valley Oaks commercial center greatly exceeded a supportable market-based project” and —based on the 6.6 percent annual growth rate mentioned above—concludes that this dismal picture would be most improbable. But if the improbability actually resides in the growth rate, as we contend, the dismal picture of “abnormally high business vacancies, abandoned buildings, boarded doors and windows, parked trucks and long-term unauthorized use of properties and parking lots, extensive or offensive graffiti painted on buildings, dumping of refuse or overturned dumpsters on properties, dead trees and shrubbery, and uncontrolled weed growth or homeless encampments” could easily represent an accurate future portrait of Middletown. Especially since Middletown’s Main Street provides the southern gateway to all of Lake County, such an eventuality would have catastrophic effects with far more than purely local impact. We therefore request that the this section be reevaluated using a less improbable growth scenario, with a 3 percent annual rate suggested as an absolute maximum, and the results be rewritten accordingly.

#### *Section 4.12, Public Services*

We are greatly troubled to learn that the realignment of Hartmann Road could lead to inadequate emergency vehicle access (Impact 4.12.1.2), with evacuation times seriously increased for everyone who uses that egress route. This would affect some Hidden Valley Lake residents as well as Hidden Valley Ranchos, the existing commercial area, Coyote Valley school, and visitors to the Hidden Valley Lake golf course, and according to the South Lake County Fire Protection District could easily result in the a downgrade to the risk assessment applying to the surrounding communities. Routine, non-emergency access to these existing homes and other facilities would also be impeded. Obviously this potentially significant impact to health and safety has to be addressed before the project can go forward. The mitigation provided (MM 4.12.1.2: before final map approval “the applicant shall work with SLCFPD on the design of the project’s emergency access circulation system to comply with established standards and ensure acceptable response times”) delays the revision too long, and moves it outside the system of public review established by CEQA. We therefore request that this consultation begin immediately, and that plans acceptable to SLCFPD be presented in the final EIR. Aside from potential changes to the existing Hartmann Road /Highway 29 intersection, revised plans could include a rerouting of the project’s internal streets, ideally accompanied by a re-siting of a portion of the proposed commercial areato increase compliance with explicit Area Plan policies. Whatever the specifics, we would

object to certification of the FEIR until this matter has been resolved to the satisfaction of SLCFPD.

*Section 4.12.4, Parks and Recreation*

Although we applaud the abundant pedestrian and bicycle pathways provided in the Valley Oaks project design, we nonetheless question the project's consistency with General Plan Policy OSC-6.13, which calls for an "integrated multi-purpose trail system" and even more with Policy OSC-6.16's mandate to "create trail linkages and loops with other public facilities." Without connectivity between the on site trail network and trails or other recreational facilities off site, concluding that project design is consistent with these policies because trails "lead to the other parks on the project site" and to the commercial space is not germane.

*Section 4.13, Transportation and Circulation*

This section cannot be considered complete without making an attempt to evaluate impacts on the section of Highway 29 over Mt St Helena, which is currently approaching the limit of safe carrying capacity during commute hours, and may indeed have exceeded that capacity. We request that cumulative impacts of *any* substantial development proposal in the South County address this pressing issue.

The conclusion that impacts on emergency access would be less than significant (Impact 4.13.2) because two EVA points would supplement the main entrance is glaringly inconsistent with the opposite conclusion in Section 4.12, as discussed above. Again, we request that this essential point be addressed immediately, and the consequences of the closure of the existing intersection and realignment of Hartmann Road be reevaluated after consultation with SLCFPD, CalTrans, and other interested parties.

*Section 4.14, Utilities*

We disagree with the conclusion that buildout of existing lots in the Hidden Valley Lake service area "is expected to occur by 2013" (p 4.14 10) because the 6 percent growth rate on which it relies is wildly optimistic rather than "conservative."

The statement that "DSL is not currently provided in Lake County" (p 4.14 23 ) is incorrect, although it may be true of Coyote Valley.

Yours sincerely,



Victoria Brandon

Chair, Sierra Club Lake Group