

Appeal AB24-02: Redbud Audubon Society comments for UP 20-86 Highland Farm

21 October 2024

UP 20-96 Highland Farm

Dear Board of Supervisors,

This application has major errors and omissions, and implementation of the project as presented would be in violation of numerous State and Federal laws. We believe the project must be rejected on multiple grounds, as set forth below.

- The original reconnaissance-level BA performed by Pinecrest Environmental dated December 9, 2020, clearly shows in Figure 3 that there are potential wetlands in and around the proposed cultivation areas. The AES report dated February 11, 2022, also describes jurisdictional wetlands distributed throughout the site. Despite this, a protocol-level wetland delineation was never performed. A protocol-level wetland delineation must be performed to verify the precise extent of wetlands onsite subject to U.S. Army Corps of Engineers (ACOE) and/or Regional Water Quality Control Board (RWQCB) jurisdiction, and not doing so would be in violation of the Federal Clean Water Act (CWA) and/or the California Environmental Quality Act (CEQA). The fact that no protocol-level wetland delineation was ever performed is a major omission.

- The original BA by Pinecrest states that two special-status chaparral plant species were identified onsite: Scrub oak (*Quercus dumosa*; CNPS List 1B.1) and Konocti manzanita (*Arctostaphylos manzanita* ssp. *elegans*; CNPS List 1B.3). The AES Montrose identified *Quercus dumosa* (pg. 88 of the BA but apparently did not recognize the significance of this tree and made the incorrect statement that no special-status species were observed on-site. Note the report states that 0.4 acre of chaparral will have to be removed during the course of the project implementation (p.15) but the applicant restricted the scope of the bio surveys and they, neither Pinecrest Environmental or AES Montrose, did not study the portion of the roadway requiring improvements going through the leather oak chaparral (over a mile of road). The county estimates over 108,000 cubic yards of disturbance for road improvements on the private parcels and 6,500 cubic yards of disturbance of the county parcels. A minimum of three (3) appropriately timed protocol-level rare plant surveys must be conducted specifically in the chaparral habitats onsite to identify the location and extent of the populations of the two special-status chaparral species, quantify the number of individuals of special-status species to be removed, and propose specific mitigation measures to be implemented for the loss of special-status species and their habitat. Without considering these special-status plant species onsite the project would be in violation of the California Environmental Quality Act (CEQA). The incorrect statement that no special-

status plant species occur onsite despite plans to eliminate almost a half-acre of chaparral is a major omission.

- The Pinecrest BA clearly states that there is habitat for Foothill yellow-legged frog (FYLF), a special-status species, in the watercourses and potential wetlands onsite. Despite this, and despite the proposed construction of numerous culvert crossings onsite, there is no mention of potential impacts to FYLF breeding, estivation, or migration, and no proposed mitigation measures to offset loss of FYLF habitat and take of FYLF individuals in the AES report. A revised BA that meets currently accepted CEQA standards must be performed that addresses potential impacts to FYLF. Implementing this project without consideration of impacts to FYLF and their habitat would be a violation of the California Environmental Quality Act (CEQA) and the California Fish & Game Code and is a major omission.

- The Summit Engineering water report states that drawdown of local groundwater of up to 15 feet may occur due to project implementation (p.8). This level of groundwater depletion has a high risk of dewatering and eliminating the current jurisdictional wetlands onsite that are immediately adjacent to the cultivation areas and groundwater pumps, leading to a loss of wetland habitat subject to Army Corps of Engineers (ACOE) and/or Regional Water Quality Control Board (RWQCB) jurisdiction. The water report must be revised to take into account potential impacts to adjacent jurisdictional wetlands. Without mitigation for the potential loss of wetland habitat due to groundwater depletion, this project would be in violation of the California Environmental Quality Act, the California Water Code, the Regional Water Quality Control Board Cannabis General Order, as well as the Federal Clean Water Act. The lack of consideration of the impact of water table drawdown on wetlands subject to ACOE and/or RWQCB jurisdiction is a major omission.

- As shown in the Summit Engineering grading plans, numerous watercourse crossings are proposed to be built or reconstructed, the road leading to the site is proposed to be graded and widened, and cultivation areas that are known chemical and sediment sources are proposed to be located immediately adjacent to jurisdictional wetlands and watercourses. Despite this, there is no Stormwater Pollution & Prevention Plan (SWPPP) provided that would specify how the applicant proposes to keep sediment and contaminants out of these watercourses and wetlands and prevent them from entering Highland Reservoir. A Stormwater Pollution & Prevention Plan (SWPPP) or similar plan must be prepared for a project with this many potential impacts to water quality. Implementing a project without any such plan would be in violation of the Federal Clean Water Act and/or the California Water Code and is a major omission.

- No mention is made in the AES report of potential impacts and recommended mitigation measures to prevent take of birds and wildlife and their habitat due to lighting

or noise, and not considering these factors would be a violation of the California Environmental Quality Act (CEQA). Noise and light impacts on wildlife must be included in any CEQA-level review. The lack of consideration of light and noise impacts, essential tenets of all CEQA-level reviews, is a major omission.

- The Pinecrest memo dated May 3, 2021, states that cultivation should be limited to the south parcel and that wetlands in the north parcels should be restored and feral pig control measures adopted. These recommendations were ignored and not discussed in the AES report nor in any of the supporting documents.

Conclusion: Considering numerous errors and major factual omissions including potential violations of State and Federal law, we believe the application should be denied. The existence of these many major errors and omissions also suggests deliberate obfuscation of the actual environmental impacts of the project from the County and the public. At a minimum, to conform with State and Federal law, (1) a new Biological Assessment that meets current CEQA standards must be performed, (2) a protocol-level wetland delineation that meets current Army Corps of Engineers standards must be performed, (3) protocol-level rare plant surveys focused on chaparral areas that meet current California Department of Fish & Wildlife standards must be performed, (4) the water availability report must be revised to discuss the potential impacts to adjacent seasonal wetlands, and (5) a SWPPP must be prepared that describes potential discharge of sediment and pollutants to the watercourses and wetlands that are distributed throughout the site and measures to eliminate the possibility of such discharges from occurring.

Thank you,

Donna Mackiewicz, President

Redbud Audubon Society, Inc,

Member: Lake County 2050 General Plan Advisory Committee Environment

Local Area Plan Advisory Committee