



COUNTY OF LAKE  
Community Development Department  
PLANNING DIVISION  
Courthouse - 255 N. Forbes Street  
Lakeport, California 95453  
Phone (707) 263-2221 FAX (707) 263-2225

RECEIVED

OCT 31 2019

LAKE COUNTY COMMUNITY  
DEVELOPMENT DEPT

Planning Division Application  
(Please type or print)

Project name: Valley Oaks Grocery Outlet  
Assessors Parcel #: 014 - 260 - 51

014 - 260 - 36  
014 - 260 - 26

APPLICANT:

NAME: Lake County Local  
MAILING ADDRESS: 633 W. 5th Street, 28th  
CITY: Los Angeles  
STATE: CA ZIP: 90071  
PRIMARY PHONE: 310 729-7266  
SECONDARY PHONE: ( )  
EMAIL: tfinney@falawyers.com

PROPERTY OWNER (IF NOT APPLICANT):

NAME: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_  
STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
PRIMARY PHONE: ( ) \_\_\_\_\_  
SECONDARY PHONE: ( ) \_\_\_\_\_  
EMAIL: \_\_\_\_\_

PROJECT LOCATION

ADDRESS: 18196 Hartmann Road  
PRESENT USE OF LAND: Hidden Valley Lake  
vacant

DESCRIPTION OF PROJECT:

Construct an approximately 18,000  
square foot retail store for  
Grocery Outlet

SURROUNDING LAND USES:

North: residential, rural  
South: residential, rural, commercial  
East: residential, commercial  
West: rural, residential, commercial

PARCEL SIZE(S):

Existing: 47 acres 17 acres  
Proposed: \_\_\_\_\_

Existing/Proposed Water Supply: \_\_\_\_\_  
Existing/Proposed Sewage Disposal: \_\_\_\_\_  
Fire Protection District: \_\_\_\_\_  
School District: \_\_\_\_\_

INITIAL FEES:

AB 19-07 \$1,065.00

Sub Total: \$1,065.00

Technology recovery 2% Cost \$21.30

General Plan Maintenance Fee \$50.00

Total: \$1,136.30

Zoning: 0-#-SC-FW/PDR-#-SC  
PDC-#

General Plan: A / PF

Receipt # 52170

Initial: VF / SHR

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COUNTY OF LAKE  
BOARD OF SUPERVISORS

6. I agree to pay the actual cost of any public notices for the project as required by State Law and the Lake County Zoning Ordinance.

7. I may, in writing, request a further breakdown or itemization of invoices, but such a request does not alter my obligation to pay any invoices in accordance with the terms of this agreement.

8. I agree to pay all costs related to permit condition compliance as specified in any conditions of approval for my permit/entitlement including compliance monitoring.

9. I agree not to alter the physical condition of the property during the processing of this application by removing trees, demolishing structures, altering streams, and/or grading or filling. I understand that such alteration of the property may result in the imposition of criminal, civil or administrative fines or penalties, or delay or denial of the project.

10. Applicant shall defend, indemnify and hold harmless the County and its agents, including consultants, officers and employees from any claim, action or proceeding against the County or its agents, including consultants, officers or employees to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, including any claim for private attorney general fees claimed by or awarded to any party against the County, and shall also include the County's costs incurred in preparing the administrative record which are not paid by the petitioner. The County shall promptly notify the applicant of any claim, action or proceeding. Notwithstanding the foregoing, the County shall control the defense of any such claim, action or proceeding unless the settlement is approved by the applicant and that the applicant may act in its own stead as the real party in interest in any such claim, action or proceeding.

11. I have checked the current Hazardous Waste and Substances Sites List pursuant to Government Code Section 65962.5(f). [www.envirostor.dtsc.ca.gov/public/](http://www.envirostor.dtsc.ca.gov/public/) The proposed project site **is** ☐ or **is not** ☐ included on the most recent list.

12. I understand that pursuant to State Fish and Games Code Section 711.4, a filing fee is required for all projects processed with a Negative Declaration or Environmental Impact Report unless it has been determined by the California Department of Fish (CDFW) that the project will have no effect on fish and wildlife. The fees are collected by the County Community Development Department, Planning and Environmental review Division (PER) for payment to the State. I understand that I will be notified of the fee amount upon release of the environmental document for the project.

**COUNTY OF LAKE**

Community Development Department  
255 N. Forbes St.  
Lakeport, CA 95453  
(707) 263-2382

Receipt No.: **52170**

Receipt Date: **10/31/2019**

## RECEIPT

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**RECORD & PAYER INFORMATION**

Record ID: AB19-07  
Record Type: Planning Entitlement  
Property Address: 18426 S STATE HWY 29, MIDDLETOWN 95461  
Parcel Number: 014-260-51  
Description of Work: Appeal to the board supervisors for Valley Oaks (Grocery Outlet)  
Job Value: \$0.00  
Payer: NorCal Legal  
Applicant:  
  
Owner: VALLEY OAKS LAND & DEVELOPMENT, INC

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**PAYMENT DETAIL**

Date	Payment Method	Reference	Cashier	Comments	Amount
10/31/2019	Check	6163	COUNTER		\$1,136.30

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**FEE DETAIL**

Fee Description	Account Code	Fee Amount	Current Paid
Appeal to the Board	001-2702-492.79-90	\$1,000.00	\$1,000.00
Appeal to the Board	001-1908-492.79-90	\$65.00	\$65.00
General Plan Maintenance	001-2702-461.66-21	\$50.00	\$50.00
Technology Recovery 2% Cost	001-2702-461.66-19	\$21.30	\$21.30
		<hr/> \$1,136.30	<hr/> \$1,136.30



## COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

### APPEAL TO BOARD OF SUPERVISORS

Date: October 31, 2019

Project Name (if applicable): Valley Oaks Grocery Outlet

Appellant's Name: Lake County Local

Appellant's Mailing Address:

c/o Tal C. Finney, Esq.  
Finney Arnold LLP  
633 W. 5<sup>th</sup> Street, 28<sup>th</sup> Floor  
Los Angeles, California 90071  
Phone #: (310) 729-7266  
tfinney@falawyers.com

Appellant's Representative: Tal C. Finney, Esq.  
Finney Arnold LLP  
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Los Angeles, California 90071  
Phone #: (310) 729-7266  
tfinney@falawyers.com

Location of Project: Hwy 29 and Hartmann Road, Hidden Valley, Middletown, CA  
18196 and 18426 South State Hwy 29, Middletown, CA  
18765 Hartmann Rd., Middletown, CA

Assessor's Parcel Number: APN 014-260-51; APN 14-260-36 and may still include APN 14-260-24

Previous Action Taken: On October 24, 2019 the County of Lake Planning Department ("Planning Department") approved Major Use Permit UP 19-09 ("UP 19-09"), which allows the owner, Valley Oaks Land Development ("Owner"), to construct the Valley Oaks an approximately 18,000 square foot retail store for Grocery Outlet, on a parcel that currently totals approximately 47 acres. A new access road will also be constructed on a neighboring property which is approximately 17 acres in size.

Reasons for Appeal: (Attach extra sheets if necessary)

See Next Page

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**OCT 31 2019**

**LAKE COUNTY COMMUNITY  
DEVELOPMENT DEPT.**

Statement of Interest

Lake County Local (“Appellant”) is an unincorporated association of local Middletown and Hidden Valley residents that are concerned about the Valley Oaks Grocery Outlet as the project was approved by the County of Lakes Planning Department last week. Members of Appellant may be adversely affected by the potential traffic, air quality, soil quality, ground water quality, noise, public health and safety hazards imposed by the Project. Appellant includes individuals, and their families, who live and work in Middletown and Hidden Valley. Because they are local residents, the individual members of Lake County Local would be directly affected by the traffic, noise, air quality, soil quality, ground water quality, health and safety and other impacts created by the Project. Individual members may also work on the Project itself. As such, they would be first in line to be exposed to any health and safety hazards that exist on the Project site.

Appellant objects to the approval of UP 19-09, and hereby appeal to the County of Lake Board of Supervisors pursuant to Lake Co. Zoning Ord. Ch. 51, for the following reasons:

1. The Planning Department’s public hearing was not properly noticed to the local community.

Several members of Lake County Local never heard about the public hearing until the approval of UP 19-09 was published online and in the local newspaper. At that time it was too late for them to attend. We note that the public hearing was held at 9:00 a.m., on a Thursday morning, in Lakeport, which is approximately 30 miles (nearly an hour’s drive) away from our modest community. Several of Appellant’s members work during the week. Others lack private transportation to travel this far to a public hearing.

Generally, agencies hold hearings for public comment during the evening hours, when the public can attend and be heard. Such was not the case here. Appellant requests that the approval of UP 19-09 be vacated, and that a proper public hearing be held. If the hearing cannot be held in the local community that will be impacted by the Project, then Appellant requests that the approval of UP 19-09 be vacated and that a public comments hearing be rescheduled and held during the evening hours so that members of the public that will be adversely impacted by the Project can attend to voice their concerns about the Project.

2. The Grocery Store Usage Presents an Unreasonable Fire Hazard

The Owner of the Project states that the grocery store intends to burn biowaste, rather than transport it to a local landfill. The reason for this is economic. Appellant understands the Owner’s desire to save money. Indeed, saving money helps to stabilize food prices. However, in light of California’s escalating seasonal fire dangers, burning biowaste in a dry rural community is just not a good idea – especially in a community intended for seniors that may not escape a conflagration in time.

We all know that nearby communities have been completely devastated by fires in recent years. This needs to be considered before activities like the burning of biomass are publicly sanctioned. The Owner has not made clear how burning of biomass would be accomplished, or how fire dangers created by these actions can and will be mitigated.

3. The Project has been substantially changed from the Project that was the subject of the certified EIR.

When the Owner first proposed the project years ago, it was intended to be a senior planned community, with +/- 380 single family homes, a walkable town center, redirected waterways, and a complementary commercial center. The environmental impact report that was certified on June 30, 2015 contemplated this Project to be configured thusly. Much has changed with the Project since then.

This Project has given rise to a General Plan Amendment from agricultural and rural residential land use designations to the suburban residential and community commercial designations, a Sphere of Influence Amendment, an annexation, changes to the Middletown Area Plan, multiple zone changes, and a new tentative plat map all of which led to the development of the Specific Plan of Development UP 07-05 (which, in turn led to the current Specific Subplan of Development UP 19-09). These changes, all of which have been in accommodation of this Project, were originally touted to substantially increase property tax base and sales taxes, etc., to the local community. We now find, however, that the Owner has flipped the development plan on its head. This may lead to a severe diminution in value of the Project.

Rather than providing much needed affordable housing to area residents, it appears as though the Owner is attempting to entitle the commercial portions of the Project, and leave the residential portions to languish, in Owner's own words, for decades, before the single-family homes are built. The members of the Appellant feel this is a bait-and-switch being pulled on the community.

Appellant appreciates the Owner's efforts to develop this Project over the years. However, the approved changes do not support the local Middletown and Hidden Valley communities. We don't need another major grocery store outlet. We need affordable housing. The notion of affordable senior housing in California (given our quickly dwindling housing stock) was tantalizing to our senses, and it now appears to be gone, or put firmly on the back burner.

Additional changes have occurred to the Project plans over time and they threaten to negatively impact our local community. For example, Substantial changes in the Project and development plan since the approval of UP 07-05 will result in new and more severe environmental impacts. These changes include, but are not limited to,

construction of a new access road, removal of a prohibition of billboards and signs visible from Hwy 29, construction of a new left-turn lane for any future development of the Project and increasing impervious surface area. The purported addendum contains no analysis of the potential for these changes to result in new or more severe environmental impacts. For these reasons, the Planning Department should have ordered a revised EIR. The approval of UP 19-09 was improper and must be vacated so that a revised environmental impact report ("EIR") that analyzes the above-referenced issues can be circulated for public comments.

Due to all of the changes that have occurred to the nature of the Project, the Planning Department erred when it approved the Project by a simple amendment to the certified EIR. This Project has substantially changed since the EIR was certified in 2015, and these changes may adversely impact the environment. For this reason, the Planning Department may not approve the Project based only on an addendum to the 2015 EIR. A new EIR must be drafted and circulated for public comments.

4. The Project is inconsistent with the Middletown Area Plan.

A "mini-box" "bargain" grocery store with a generic design is inconsistent with the vision and goals of the Community Development, Special Study Areas, and Design Guidelines of the Middletown Area Plan as applied to the Coyote Valley/Hidden Valley study areas. While Appellant appreciates the fact that the Project was changed over time to accommodate various circumstances, and the peculiar nature of the land, the Middletown Area Plan should not be disregarded.

5. The Project has been put on hold by the Hidden Valley Lake Community Services District

On October 15, 2019 the Project was put on hold during the Hidden Valley Lake Community Services District (the "District") board meeting. The District released a report wherein the sub-committee assigned to this Project stated that the Project has been put on hold by County of Lake and Army Corp of Engineers until further notice (we understand that this may be related to the Project's lack of access to water and sewage). How can the Planning Department approve the Project if the County of Lake and Army Corp of Engineers has shelved it indefinitely? Certain grading activities appear to be happening at the site. Appellant wonders if this work has been properly permitted. There is a huge disconnect among the County of Lake's various agencies as it relates to this project. For this reason, it is necessary to vacate the approval of UP 19-09, and a revised EIR must be ordered and circulated for public comments.

The Project site is bordered by waterways and there is a dam nearby. Although the EIR states that a dam break is unlikely, Appellant is extremely concerned that serious, perhaps undisclosed, riparian engineering issues underly these delays. This Project simply cannot move forward under these conditions. A revised EIR must be drafted, in

light of the actions taken by the County of Lake and Army Corp of Engineers, and that revised EIR must be circulated for public safety, understanding and comments.

6. Ultimately, the approval of UP 19-09 is not compliant with California Environmental Quality Act requirements unless and until a revised EIR is drafted and circulated for public comments.

CEQA has two basic purposes, neither of which the Report satisfies. Firstly, CEQA is designed to inform decisionmakers, and the public about the potential significant environmental effects of a project. CEQA Guidelines §15002(a)(1). CEQA requires that an agency analyze potentially significant environmental impacts in an EIR. Pub. Resources Code §21000; CEQA Guidelines §15002. Specifically, that EIR should result from “extensive research and information gathering,” including consultation with state and federal agencies, local officials, *and the interested public.* (emphasis added.) *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1367 (*Berkeley Jets*); *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 620.

To be adequate, the EIR should evidence the lead agency’s good faith effort at full disclosure. CEQA Guidelines §15151; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 406 (*Laurel Heights I*). The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. Thus, the EIR protects not only the environment but also informed self-government.” *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.

Secondly, CEQA directs public agencies to avoid, or reduce, environmental damage when possible by requiring alternatives, or mitigation measures. CEQA Guidelines §15002(a)(2)-(3); *Berkeley Jets*, supra, 91 Cal.App. 4th at 1354. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines §15002(a)(2). If a project has a significant effect on the environment, the agency may approve the project only upon a finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible,” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA §21081. CEQA Guidelines §15092(b)(2)(A)-(B).

As our comments demonstrate, the Planning Department’s approval of UP 19-09 fails to comply with the requirements of CEQA and may not be used as the basis for approving the Project. UP 19-09, and the Addendum to the EIR individually and collectively fail in significant aspects to perform their respective function as an informational document that is meant provide adequate time to the public to review the Project, “to provide public agencies and the public in general with detailed information about the effect which a proposed project



is likely to have on the environment,” and “to list ways in which the significant effects of such a project might be minimized.” Laurel Heights I, supra, 47 Cal.3d at p. 391.

7. The approval of the Amendment to the EIR, and UP 19-09 each fails to implement all feasible operational mitigation measures

Under CEQA, the County of Lake Planning Department cannot approve the Project as proposed because there are feasible mitigation measures available which would substantially lessen one, or more, of the Project’s significant environmental effects. Pub. Resources Code, § 21002. For example, the prior agricultural uses, and the prior equestrian uses of the land may have deposited toxins into the soil that may be disturbed during demolition and regrading of the soil. These actions present significant public safety issues. These impacts are not mitigated in the EIR, as amended.

In addition to Appellant’s need to review and comment on a revised EIR, Appellant will submit expert reports on the insufficiency in the air quality, traffic, soils and other environmental impacts that are created by the approval of UP 19-09 and the amendments to the certified EIR. Our expert reports are in progress and will be submitted in full in the near future. Therefore, Appellant is requesting additional time to submit our expert reports on these issues.



Tal C. Finney, Esq.  
**FINNEY ARNOLD LLP,**  
Attorneys for Lake County Local  
Appellants

FOR OFFICE USE ONLY

Appeal Number: \_\_\_\_\_

Related File#: \_\_\_\_\_

Fee: \_\_\_\_\_

Receipt #: \_\_\_\_\_

Date Received: \_\_\_\_\_

Received By: \_\_\_\_\_

ADDITIONAL INFORMATION  
AMENDMENT TO  
VALLEY OAKS GROCERY OUTLET



**FinneyArnoldLLP**

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NOV 05 2019

COUNTY OF LAKE  
BOARD OF SUPERVISORS

Twenty-Eighth Floor  
633 West Fifth Street  
Los Angeles, CA 90071  
tfinney@falawyers.com  
C (310) 729-7266  
sarnold@falawyers.com  
C (213) 718-3468

November 5, 2019

County of Lake  
Community Development Department  
Planning Division  
Courthouse – 255 N. Forbes Street  
Lakeport, California 95353  
Attn: Mark Roberts – Planner assigned to Valley Oaks Grocery Outlet

Re: Appeal of the Valley Oaks Grocery Outlet  
Located at Hwy 29 and Hartmann Road, Hidden Valley, Middletown, CA  
18196 and 18426 South State Hwy 29, Middletown, CA  
18765 Hartmann Rd. Middletown, CA

Dear Mr. Roberts:

Please find enclosed a First Amended Appeal to the Board of Supervisors regarding the above reference project. The document is an amendment to the Appeal to the Board of Supervisors, which was filed with the Community Development Department on October 31, 2019. The amended document provides the signature of a member of Lake County Local, the aggrieved party.

Should you have any questions or require any additional information, please feel free to contact me.

Very truly yours,



Tal C. Finney, Esq. Of  
**FINNEY ARNOLD LLP**

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**COUNTY OF LAKE**

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Courthouse - 255 N. Forbes Street  
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Telephone 707/263-2221 FAX 707/263-2225

**LAKE COUNTY COMMUNITY  
DEVELOPMENT DEPT.**

**FIRST AMENDED APPEAL TO BOARD OF SUPERVISORS**

Date: October 31, 2019

Project Name (if applicable): Valley Oaks Grocery Outlet

Appellant's Name: Lake County Local

Appellant's Mailing Address:  
c/o Tal C. Finney, Esq.  
Finney Arnold LLP  
633 W. 5<sup>th</sup> Street, 28<sup>th</sup> Floor  
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See Next Page

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6. Ultimately, the approval of UP 19-09 is not compliant with California Environmental Quality Act requirements unless and until a revised EIR is drafted and circulated for public comments.

CEQA has two basic purposes, neither of which the Report satisfies. Firstly, CEQA is designed to inform decisionmakers, and the public about the potential significant environmental effects of a project. CEQA Guidelines §15002(a)(1). CEQA requires that an agency analyze potentially significant environmental impacts in an EIR. Pub. Resources Code §21000; CEQA Guidelines §15002. Specifically, that EIR should result from "extensive research and information gathering," including consultation with state and federal agencies, local officials, *and the interested public.* (emphasis added.) *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm.* (2001) 91 Cal.App.4th 1344, 1367 (*Berkeley Jets*); *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 620.

To be adequate, the EIR should evidence the lead agency's good faith effort at full disclosure. CEQA Guidelines §15151; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 406 (*Laurel Heights I*). The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. Thus, the EIR protects not only the environment but also informed self-government." *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.

Secondly, CEQA directs public agencies to avoid, or reduce, environmental damage when possible by requiring alternatives, or mitigation measures. CEQA Guidelines §15002(a)(2)-(3); *Berkeley Jets*, supra, 91 Cal.App. 4th at 1354. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines §15002(a)(2). If a project has a significant effect on the environment, the agency may approve the project only upon a finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible," and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in CEQA §21081. CEQA Guidelines §15002(b)(2)(A)-(B).

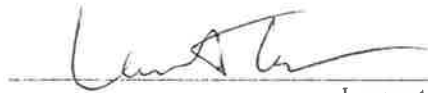
As our comments demonstrate, the Planning Department's approval of UP 19-09 fails to comply with the requirements of CEQA and may not be used as the basis for approving the Project. UP 19-09, and the Addendum to the EIR individually and collectively fail in significant aspects to perform their respective function as an informational document that is meant provide adequate time to the public to review the Project, "to provide public agencies and the public in general with detailed information about the effect which a proposed project

is likely to have on the environment," and "to list ways in which the significant effects of such a project might be minimized." Laurel Heights I. *supra*, 47 Cal.3d at p. 391.

7. The approval of the Amendment to the EIR, and UP 19-09 each fails to implement all feasible operational mitigation measures

Under CEQA, the County of Lake Planning Department cannot approve the Project as proposed because there are feasible mitigation measures available which would substantially lessen one, or more, of the Project's significant environmental effects. Pub. Resources Code, § 21002. For example, the prior agricultural uses, and the prior equestrian uses of the land may have deposited toxins into the soil that may be disturbed during demolition and regrading of the soil. These actions present significant public safety issues. These impacts are not mitigated in the EIR, as amended.

In addition to Appellant's need to review and comment on a revised EIR, Appellant will submit expert reports on the insufficiency in the air quality, traffic, soils and other environmental impacts that are created by the approval of UP 19-09 and the amendments to the certified EIR. Our expert reports are in progress and will be submitted in full in the near future. Therefore, Appellant is requesting additional time to submit our expert reports on these issues.



Lamont Kucer  
Lake County Local  
Appellants

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