



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: 7.28.2021

Project Name (if applicable): SOUREZ HVR - HIGH VALLEY RANCH

Appellant's Name: DONALD MARCIE VAN PELT

Appellant's Mailing Address: P.O. Box 140 CLEARLAKE OAKS

Phone #: 998-1115

Appellant's Representative: SAME

Phone #: _____

Location of Project: 11650 HIGH VALLEY ROAD CLEARLAKE OAKS

Assessor's Parcel Number: 006-004-06, 07, 24 AND 25, 006-007-01 AND 09, 006-009-31

Previous Action Taken: EA AND LP APPROVED BY THE

PLANNING COMMISSION ON Date: JULY 22, 2021

Reason for Appeal: (Attach extra sheets if necessary)

SEE ATTACHED STATEMENT - LETTER

Signature of Appellant/s

FOR OFFICE USE ONLY

Appeal Number: _____

Related File#: _____

Fee: _____

Receipt #: _____

Date Received: _____

Received By: _____

July 28, 2021

Lake County Board of Supervisors
Lake County Courthouse
255 North Forbes Street
Lakeport, California 95453

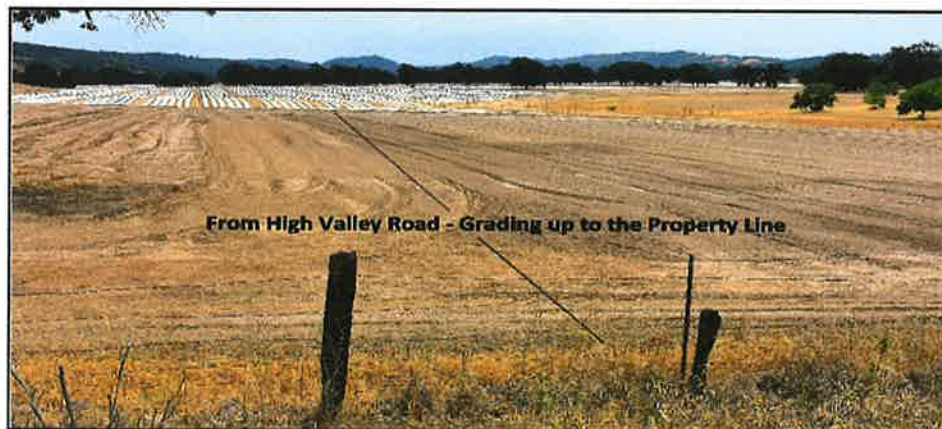
Re: Appeal of the Planning Commission Decision on Major Use Permit UP 21-10 - Sourz HVR

Supervisors:

In accordance with the Lake County Zoning Ordinance Article 58, Sections 21- 58.30 - 58.36, the following statement is offered setting forth the grounds for an appeal of the approval of the Sourz High Valley Ranch Use Permit UP 21-10 by the Lake County Planning Commission on July 22, 2021. We believe that the Planning Commission erred in making their decision based on the following:

Grading/Earth Movement/Dust/Air Quality - Under early activation, the project was allowed to move forward with site preparation activities. These activities were done over an extended period starting in late May of 2021 and involved illegal grading, soil movement, and furrowing. The prep work went on over a period of weeks, on weekends, into the late-night hours and was both noisy and dusty. There were no dust mitigation measures taken during the prep work. On-site traffic movement and windy conditions are still kicking up dust which is impacting our property. The developer performed substantial illegal grading without any permits issued by the County, no oversight by any public entity, and violated Department of Fish and Wildlife regulations. There was testimony made at the July 8, 2021 Planning Commission hearing regarding the illegal grading within various waterways and the issuance of a violation by the California Department of Fish and Wildlife. Recent overflight photos of the site identify the extent of the illegal grading activities that have taken place on the subject property. This clearing, grubbing, and grading has been extensive and appears to have encroached within the various waterways and setback areas identified on the project site plans.

The photo below taken on 7-26-21 identifies grading and clearing/grubbing areas that violate the County Zoning Ordinance setbacks requirements and the County Grading Ordinances.



Odor - The significant impact of the smell/odor (air quality) of 80 acres of outdoor maturing cannabis plants during the typical cultivation season will last for several months. Our family home/residence is located just to the east (downwind) of the cultivation areas. We will be severely impacted by the smell of a 3.4 million square foot outdoor cannabis cultivation operation to the point of not being able to enjoy the outdoor environment of our place. It will also affect our indoor living space. The County in the review of this project does not have an answer or effective mitigation plan for the cannabis cultivation odor problem, particularly the cumulative impact of large-scale grows on adjacent neighbors. The project CEQA Initial Study downplays the odor impacts of cannabis plants.

The submission of an odor control plan to the County does not by itself mitigate odor impacts. The developer admits that odor from the cannabis cultivation project will occur over an 8 to 10 week timeframe every year. It will actually be a longer period and could last for three to four months. This is a significant environmental impact on adjacent residents. There is no evidence whatsoever that planting odor masking fragrant plants around the perimeter of the growing areas will have any appreciable effect on reducing odor impacts. The imposition of a 100-foot setback from property lines will not be sufficient. Cannabis cultivation setbacks of 2,000 to 3,000 feet (1/2 mile) should be mandated by the County for cultivation areas adjacent to private properties on the east side of the project. This increased setback may not even be sufficient to reduce the odor impact to a less than significant level and should be monitored and increased if nuisance odor conditions persist.

The ability to contact a community liaison/emergency contact to resolve any odor -related concerns does not guarantee that any action will be taken to reduce odor issues.

The Planning Commission erred in its decision by not imposing any conditions of approval or mitigation measures to reduce the outdoor cannabis odors from an 80 acre grow, to a less than significant level.

The conclusion is that there really is no adequate mitigation measures for outdoor cultivation that will reduce the odor impacts that will be experienced by adjacent or nearby residents to a less than significant level. This is an unmitigated significant environmental impact.

Water Availability - Aquifer drawdown of groundwater in the High Valley Basin to supply the irrigation water to grow 80 acres of cannabis is a significant adverse environmental impact that will affect recharge of the aquifer and existing water wells in the area, including on our property.

We were provided with a Hydrology Memo for the project, and we had a qualified professional review the Memo. The initial Hydrology Memo does not address the impacts of the project on the aquifer or the existing wells. The Memo does not address the impacts during drought conditions. This Memo was not included in the CEQA Initial Study analysis of water impacts from the project. The drawdown test results did not include monitoring of adjacent wells and the drawdown model did not include sufficient information to evaluate the efficacy of the results.

The County should have required an independent water availability analysis by a qualified professional that addresses projected amount of groundwater and its impact on the High Valley Groundwater Basin and the existing wells in the Basin. According to the Lake County Groundwater Management Plan

(March 31, 2006 - California Department of Water Resources, Northern District) the High Valley Aquifer is recharged by direct rainfall and in the drought of 1976 declined 45 feet and it took 5 years to recover. We are in a drought condition right now that is comparable to that 1976 drought. Both the Property Management Plan and the CEQA Initial Study are inadequate in the analysis of the impacts this project would have on the High Valley Basin and existing water wells in the Basin.

A Revised Hydrogeology Technical Memorandum (Revised TM) for the Sourz High Valley Ranch Project dated July 14, 2021 was prepared by Kimley Horn, the developers consultant. The professional qualifications of the preparers and their independent status are not listed.

There was no independent review of this report by a qualified staff member of the County Department of Water Resources (DWR), by an independent qualified engineer, or other licensed specialist familiar with the region? This should trouble the Board.

An independent licensed Water Resources Engineer has reviewed both the Original and Revised TM. The annual water demand is 351.59 acre-feet per year. The revised TM incorporates information, made available since the initial Planning Commission meeting, from a Groundwater Availability Study prepared by EBA Engineering in 2016 for the High Valley Basin. However, this study was not included in the planning packet or appears to have been made available to the Planning Commission. The Revised TM states that the EBA Engineering Study was conducted on behalf of Brassfield Estates Winery, to the west of the proposed project. Kimley Horn makes statements from the EBA Study, without providing details of how those statements were determined. In addition, there is zero analysis regarding the impacts during a drought.

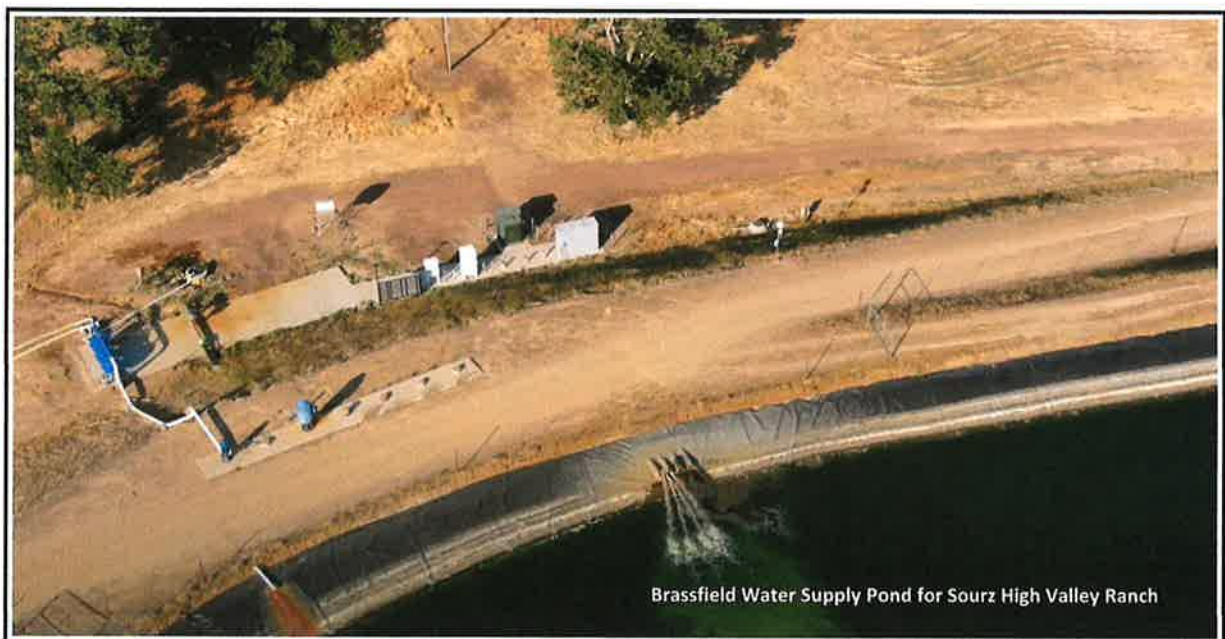
For example, Kimley Horn states the EBA Study estimated the storage capacity to be 27,799 acre-feet. How was the storage capacity determined? The State Department of Water Resources estimated a storage capacity of 9,000 acre-feet with a usable capacity of 900 acre-feet. Without the report, there is no way to evaluate how EBA estimated storage capacity was determined.

Another example relates to recharge. Kimley Horn states the EBA Study estimated groundwater recharge to be 2,321 acre-feet. Groundwater recharge is not the same from year to year. Does this recharge estimate represent an average year? What about during a drought, and multiple consecutive drought years? The Lake County Water Inventory Analysis indicates that the average annual rainfall near the site at Clearlake was reported as 27.5 inches, the minimum was reported as 8.26 inches. If the recharge estimate from the EBA Study represents an average year, then, not considering evaporation or evapotranspiration (which result in even less water getting to the aquifer) and using a direct proportion, the recharge during the dry year on a year with rainfall of 8.26 inches would be less than 697.14 acre-feet.

Another example relates to demand. Kimley Horn states the EBA Study estimated existing demand in High Valley Basin to be 378.70 acre-feet per year. If there is no recharge or if the recharge is a fraction of the average, as provided in the example above, during consecutive years of drought the aquifer may not be able to support the existing demand, let alone the existing demand plus the demand proposed by the project. The existing demand plus the proposed cultivation demand is 730.29 acre-feet.

Kimley Horn states that there is an existing well with a yield of 200 gallons per minute (gpm) and that all the other wells are no longer functional and will be replaced. The Revised TM state that 2,040 gpm are needed to irrigate the 85 acres of cannabis and nursery and that additional wells will be installed to supply this water and that the new wells will have no impact on the surrounding wells in the High Valley Basin. Was the combined drawdown of 2,040 gpm conducted to determine the impact on surrounding wells looked at and addressed? 2,040 gpm is a lot of water to be extracted from the aquifer at once.

The fact that the project has been Early Activated to cultivate all acres, that require 2,040 gpm, without wells installed to provide that water or storage to provide the water is shocking. Especially during a drought. In addition, a recent drone overflight video shows that the Sourz HVR property has been connected to an offsite pond south of High Valley Road. It is obvious from the video that piping has been installed from this pond to the HVR property. This pond is being filled from pumped groundwater. This pond and the well or wells filling the pond were not included in the applicants' water availability analysis or in the CEQA analysis. Further, this pond is not even located on one of the project parcels. In addition, grading has been done on the site to install water facilities, which is in direct violation of the Early Activation.



The revised water memorandum does not address drought conditions, the existing state of the aquifer and what mitigation measures are needed during drought conditions.

Lake County requires that cannabis cultivation projects prepare a Property Management Plan to describe a number of operational plans. The County also requires a CEQA Initial Study to identify potentially significant environmental impacts and to develop mitigation measures to reduce these potential impacts to a less than significant level. Both the Property Management Plan and the County Initial Study for the project failed to properly describe the water supply and use.

Neither one of these two documents describe the water supply, storage, distribution, and operational characteristics of what the developer is actually doing on the property. At the July 22, 2021 Planning Commission hearing, public testimony was given regarding the use of a water source, supply, storage pond, and distribution system that is located on an adjacent property. This water is being used on the Sourz HVR site and should be addressed in both the Property Management Plan and the CEQA Initial Study.

When asked at the Planning Commission hearing about the use of water being piped from Brassfield to Sourz HVR, LLC, the two persons that identified themselves as owners had conflicting responses that required more clarification. One owner, Elli stated that the water from Brassfield is being pumped through the filters and will be used for agricultural uses such as sunflowers along the perimeter and for cattle. There was no mention if the pump and filters are separate from the one being used for the cannabis cultivation area. Then when the second person that identified himself as an owner, Tom, addressed the issue, he stated that the water will not be used for any cannabis cultivation activities but also failed to mention whether this water was being pumped and stored separately from the water to be used for the project.

The Planning Commission should have asked for more clarification rather than to simply take the word of the applicant. If the water being piped over from Brassfield is not being stored separately, it should have been included as a water source in accordance with the CEQA process. How will this water be safeguarded and monitored that it is not diverted to the cannabis cultivation project?

The Commission asked many questions of the applicants hydrologist, whom is working in the interest of the applicant. There was no definitive answer as to the question of sustainability for this project and the surrounding areas which is a great concern for residents.

The Property Management Plan and the CEQA Initial Study are both required by the County in order to disclose information to the Planning Commission, the Board of Supervisors, and the general public about how a proposed land-use project is intended to operate. If a significant component of the project water system is not disclosed in these documents, how is the public supposed to know what the level of impact is?

Anecdotal information regarding the projects water system indicates that there is a lack of available and usable well water on the HVR site.

Logic says that there would not be a need for an offsite water supply if there were not some problems with the onsite water supply. What is really going on with water?

The Board of Supervisors, in response to current (2021) drought conditions has looked at adopting emergency measures to require ground water hydrology reports for all projects. If ever there was a situation that requires such a report, it is the High Valley Ranch. At the Board of Supervisors meeting on 7/27/2021, the Board unanimously approved an "urgency ordinance requiring land use applicants to provide enhanced water analysis during a drought emergency" from a CA licensed civil engineer, hydro

geologist or geologist. The Sourz HVR, LLC use permit definitely falls within the scope of this urgency ordinance and must be required to provide such analysis.

The Sourz HVR project should be remanded back to the Planning Commission and the proponent should be told to update the Property Management Plan to provide an honest, accurate, and comprehensive description of their actual water system (ground water availability, water supplies and sources, water storage and distribution system, etc.). The updated PMP should be reviewed by the County or a qualified outside consultant and the County CEQA Initial Study must then be required to be revised and amended to accurately describe the project water system, impacts, and based on the identification of potentially significant environmental impacts, to reduce the scale of the project and/or impose appropriate mitigation measures that will reduce the impacts to a less than significant level.

Biology - The Project Biological Study was performed in late September 2020 (the end of a very hot, dry summer). No floristic level studies for the Project were performed during the spring or early summer of 2021 as is standard operating practice now required by Lake County CDD and the California DFW CEQA protocol. The staff explanation for this was that the Biologist said there wasn't a need for a floristic level study, however that response is not consistent with the CDFW CEQA protocol.

Several drainages/wetland areas, were not mapped in the Biological Study and have already been destroyed by project grading activities. According to the project Biology report, "ephemeral drainages flow following precipitation events during the wet season. These features convey water from vertical precipitation and as topographic depressions within valley systems and gather water from upland areas via sheet flow. Ephemeral drainages occupy a total of 20.38 acres on the project site. Intermittent creeks flow more often than just after a single precipitation event and only cease to flow during very dry periods. The flow may occur when the water-table is seasonally high; however, no flow will occur when the water-table is significantly below the river-channel bed level. One intermittent creek feature occurs along the northern Property boundary flowing west-to-east (Figure 5 of the Biological Study). This feature was dry and mostly devoid of vegetation during the September 2020 surveys. The intermittent creek, which would likely be classified as a Class II Watercourse, occupies a total of 9.17 acres (Figure 5 of the Biological Study)". According to the Biology report, no formal wetland delineation was conducted, and a wetland is shown in the southeast corner of the site (Figure 5 of the Biological Study). The Biological Report does not comply with County policy or California Department of Fish and Wildlife protocol for CEQA biological reports. There was never a protocol level floristic survey of the project or a report prepared

Security - The design of the security systems associated with the cannabis cultivation and processing facilities is important. Details matter with regard to how the security systems are to be developed and operated including where cameras will be located, perimeter fencing locations and design, intended signage, road and property access design is important as these points of ingress and egress and on-site circulation are potential points of entry for unwanted visitors. The security and well-being of the residents and property owners in this somewhat secluded valley is of concern when large-scale cannabis cultivation operations like this are proposed.

Noncompliance with the Zoning Ordinance - Article 51, Section 51.4 (a) 1 through 6 - All projects for which a Use Permit is required must comply with the criteria found in Article 51 of the Zoning Ordinance and the Planning Commission must make findings that support that determination of compliance. The County staff report on this project (prepared by the applicant's consultant) does not adequately address these criteria. The County staff report makes statements about the level of compliance with Article 51 and how the CEQA Initial Study (also prepared by the applicant's consultant) has established compliance. Community Development Department staff and the Planning Commission had an obligation to review this project in an impartial way, not to just take the applicants word for it. The Planning Commission has an important job in reviewing these types of projects and deserves better information from staff. There is no depth of information, detail, facts, or analysis set forth in the staff report regarding how the establishment, maintenance, or operation of this large cannabis cultivation project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood, detrimental to property and improvements in the neighborhood, or to the general welfare of the County. Article 51 of the Lake County Zoning Ordinance indicates that the Lake County Planning Commission may only approve or conditionally approve a Major Use Permit if all the Article 51 findings are satisfied.

At the Planning Commission meeting on July 8th, the Sourz HVR developer was asked to look at traffic, water availability and other issues, without a detailed scope of work or a requirement for an independent analysis. The applicant used their planning and engineering consultant to prepare additional water and traffic documentation for the Planning Commission to review.

There was no independent peer review or staff analysis to determine the accuracy and validity of the facts, figures, and information being presented with regard to traffic generation and impacts, water availability and the impact of a new, large withdrawal of ground water from the High Valley Aquifer, especially during drought conditions.

The developer's consultant project team prepared almost every document submitted to County staff and the Planning Commission including:

- The Use Permit application forms.
- The Project Description.
- The Property Management Plan.
- The Site Plans.
- The Traffic Memorandum
- The Hydrogeology and Water Technical Memorandums and reports.
- The CEQA Initial Study.
- The Staff Report to the Planning Commission.
- The Conditions of Approval.

Although evidently sanctioned by Lake County because of insufficient staffing, the fact that the applicant has prepared all of the above-mentioned documentation for the project calls into question the level of fair analysis that the project has received. The neighbors, nearby residents and the general public have a right to expect a fair and equitable analysis of any project and to not have to rely upon self-serving information and planning details that have been largely prepared by the developer. How does this

protect the public welfare as is required in Section 51.4 of the Lake County Zoning Ordinance? How does this prove that the establishment, maintenance, or operation of the 80 acre outdoor cannabis farm will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County?

Cultural Resources - There was no training provided to the operators of the grading and site preparation equipment, regarding how to spot any cultural or archaeological resources. There was no on-site independent ground level or soil observations by an archaeologist or Native American Tribe. Other projects are subjected to agreements with archeologists or local Native American Tribes to have on-site personnel in place during grading activities, to assure the public that cultural resources are being protected and preserved.

Traffic - A Traffic Memorandum for the Sourz High Valley Ranch Project dated July 14, 2021 was prepared by Kimley Horn. What are the qualifications of the preparer as a Traffic Planner or Engineer? Again, there was no independent review of this report, by a qualified member of CDD or the County Public Works Department or by an independent qualified traffic expert?

The applicant's consultant prepared the memo in response to a letter of concern from the California Highway Patrol with regard to traffic and the possibility for increased collisions. A letter of concern regarding traffic from an agency such as the CHP should be required to provide an adequate, thorough report from a traffic engineer, not the applicants consultant.

The applicant states that they are working on having a portion of High Valley Road repaired to accommodate the traffic and Public Works Director DeLeon confirmed that the applicant has been in contact with Public Works, but did not go into detail. There was no requirement made in the use permit that this work will be done, so the applicant could ultimately abandon the proposal entirely.

The Traffic Memorandum compares the traffic associated with the prior use - PSI Seminars and proposed project traffic and states that the proposed project traffic would be similar to the previous PSI Seminar traffic. This information is not verified and is flawed. We are skeptical about the proposed seasonal employee count and number of trips on High Valley Road. There should be a traffic report prepared by a traffic engineer and a restriction or condition of approval to address potential increased traffic, above the amount stated in the Traffic Memorandum, to protect residents that use High Valley Road.

There should be conditions imposed that require the developer to construct off-site road improvements to enhance geometric design, widen narrow sections, improve shoulders, and cut back adjacent banks/slopes to improve roadway performance, driver vision, and safety.

Notice Deficiency - The public hearing notice for UP 21-10 scheduled for Thursday, July 8, 2021 was deficient and did not meet County Zoning Ordinance requirements. The notice did not include any reference to the start time of the Planning Commission meeting/public hearing. The notice did not contain a street name, address number, or the name of the town where the Lake County Courthouse is located. This missing information made the notice deficient. Article 57 of the County Zoning Ordinance requires that this type of notice include the date, time, and place of the public hearing.

CEQA Study - At the hearing on 7/22/2021, Planning Commissioner Hess addressed the fact that there was not an Environmental Impact Report (EIR) submitted and available for review. This leads one to believe that a CEQA analysis does not completely address the issues and may be inadequate. Many concerns cannot be mitigated to 'less than significant' without full, comprehensive studies by certified individuals.

Conclusion – Based on the discrepancies with regards to the Sourz HVR application, we ask that the appeal be granted, and that the Major Use Permit UP 21-10 be denied. The applicant has already been cited for violations including illegal grading. There may have been disturbance of a cultural resources site that cannot be replaced. The applicant stated that the fines have been paid and remedies have been made but that does not return the ground to its former state. The applicant stated this will be their third site in Lake County, so shouldn't the applicant be well aware of the restrictions with regards to grading, waterways, and cultural resources? Are we sending the message that applicants can do as they see fit, disregard the process and merely pay a fine as forgiveness?

As a neighbor directly impacted by the proposed Sourz HVR cannabis cultivation project, it is obvious to us that there has been a lack of independent, qualified, professional level review and analysis of the project.

We urge the Board to deny the Use Permit or send the project back to the Planning Commission with direction to address the criteria in Article 51 of the Zoning Ordinance, to update the Property Management Plan, to prepare a traffic study by a traffic engineer, to prepare a comprehensive hydrology report by a qualified, independent engineering firm, and to prepare a revised CEQA environmental document that provides adequate mitigation measures to reduce the significant traffic, water, odor, dust, biological, and cultural resources impacts to a less than significant level.

We also request that the project be redesigned and cut back in scale so as to substantially reduce the potentially significant environmental impacts to a less than significant level.

Thank you.


Don and Margie Van Pelt