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June 22, 2009

*Via Facsimile and Mail (707) 942-2831*  
*Via E-Mail ELundquist@ci.calistoga.ca.us*

Erik V. Lundquist  
Planner  
City of Calistoga  
City Hall, Planning and Building  
1232 Washington Street  
Calistoga, CA. 94515

Re: Objections to Arroyo Tentative Parcel Map (PM 2008-03)

Dear Mr. Lundquist:

We represent Jack Berquist, the property owner of 1602 Greenwood Avenue. Mr. Berquist's home is near the proposed project site. On Mr. Berquist's behalf, we are submitting these comments on the Notice of Intent To Adopt a Mitigated Negative Declaration, dated May 19, 2009 for the CEQA project identified in the proposed Mitigated Negative Declaration as the Arroyo Tentative Parcel Map. We have reviewed Tentative Map PM 2008-03, the Initial Study checklist and the evidence used by the City to support its conclusion that the project would not have a significant impact because of the incorporation of the proposed mitigation measures. For the following reasons, we respectfully disagree with this conclusion.

Under CEQA, an EIR must be prepared for this project. Because the 2005 Tentative Map proposed for an adjoining parcel on the Arroyo Property (TM 2005-03) is still pending and has not been withdrawn, both projects must be analyzed together to avoid unlawful piecemealing of a project. (*See Orinda Ass'n v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171: "CEQA cannot be avoided by chopping up proposed projects into bite-sized pieces which, individually considered, might be found to have no significant effect on the environment"). By not treating both subdivisions as one project for purposes of CEQA review, the City is engaging in piecemealing.

Piecemealing such as this also results in understating potential significant cumulative impacts from both projects. Cumulative impacts refer "to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental



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impacts.” (CEQA Guidelines § 15355.) Specifically, “[t]he cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.”

Here, TM 2005-03 is a reasonably foreseeable project for purposes of CEQA analysis of PM 2008-03 because the application for the first project has been filed and is pending. Accordingly both projects should be analyzed together for their cumulative impact, but the City has not done so, resulting in the potential that significant environmental impacts might evade review. For example, the MNDs for both maps indicate that without mitigation, the impacts from approval of each map create potentially significant impacts to air quality. Yet there is no analysis of potential cumulative air quality impacts from TM 2005-03 in the MND for PM 2008-03. Should Mr. Arroyo wish to proceed with PM 2008-03, the application for TM 2005-03 must be formally withdrawn. And if a subsequent application were to be filed for another portion of the property, then the cumulative impacts would need to be identified and studied at that time.

Our final concern with approval of PM 2008-03 also stems from the fact that TM 2005-03 is still pending. Given that fact, approval of PM 2008-03 would run afoul of the California Subdivision Map Act’s prohibition against successive subdivisions. That rule requires that when counting parcels to determine whether a final map (5 or more parcels) or parcel map (4 or fewer parcels) is required, all subdivisions by the same subdivider must be included. *See Bright v. Board of Supervisors* (1977) 66 Cal.App.3d 191. Here, there are 2 maps pending on adjacent property owned by the same person. Both maps would create 8 total parcels, which would require final map review. However, each map is being proposed as if it were a stand-alone 4 parcel subdivision, requiring only parcel map review. Clearly, under these facts, a final map showing an 8 lot subdivision would be required.

Based on the above, the City is improperly piecemealing review of PM 2008-03 under both CEQA and the California Subdivision Map Act. The result is that the public is being deprived of all the information required for subdivision and CEQA review for these projects. For these reasons, we urge the City to require that both maps be refiled as one subdivision and subject to an EIR.

Please do not hesitate to contact me at (707) 967-4000 with any questions regarding this letter.



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Sincerely,

A handwritten signature in cursive script that reads "Katherine Philippakis".

Katherine Philippakis

cc: Jack Berquist

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