

Thomas P. Infusino, Esq.
P.O. Box 792
Pine Grove, CA 95665
(209) 295-8866
tomi@volcano.net

May 16, 2007

Robert Sellman, Planning Director
Calaveras County Planning Department
891 Mountain Ranch Road
San Andreas, CA 95249

RE: May 17, 2007 Planning Commission Agenda Item 5 E; Application 2003-114 by
John D. Reynen, LLC. (Wallace Lake Estates).

Dear Sir:

I am very pleased to submit these comments on behalf of the Calaveras Planning Coalition ("Coalition"). The Coalition is composed of community groups, organizations, and individuals interested in growth and planning issues in Calaveras County. The Coalition is united in its belief in the need for a comprehensive update to the Calaveras County General Plan. Further, the Coalition believes that citizen participation is the key to a successful update of the General Plan, and necessary to the update of area specific plans throughout the County. Such updated plans are necessary precursors to the approval of development projects that will exacerbate problems created by the currently inadequate general plan.

I. The County Must Prepare an EIR Prior to Approval of the Wallace Lakes Estates Project.

CEQA requires that an EIR be prepared whenever there is a fair argument, supported by substantial evidence, that the proposed project may have a significant impact on the environment. (CEQA Guidelines, sec. 15064, subd. (f)(1).) The County has received comments from others outlining the potentially significant impacts of this project on water supply, fire safety, emergency access, emergency evacuation, and cumulative impacts. The Coalition respectfully requests that the County prepare an environmental impact report for this project. The County need not wait for the completion of the new general plan to begin to follow the law with regard to the approval of land use developments. When it comes to following the laws designed to protect the health, safety, and well being of the good people of Calaveras County, there is no time like the present!

II. The Project has a Nexus to Legally Substandard Provisions of the County General Plan.

Land use law allows approvals of only those projects that do not have a nexus to the legally substandard aspects of the general plan. (*Garat v. City of Riverside* (1991) 2 Cal.App.4th 259.) The Calaveras County General Plan Evaluation prepared for the County by Mintier and Associates identified numerous substandard provisions of the County General Plan. However, the record for this project lacks any analysis indicating that the project has no nexus to these many flawed provisions of the County General Plan. By contrast, the evidence in the record indicates that this project raises the issues of evacuation routes and peakload water supplies, at a time when the Mintier Report indicates that the Safety Element of the County General Plan lacks evacuation routes and peakload water supply requirements. (Mintier Report, pp. 42-43.) To approve this project, the County must prepare findings of fact, supported by substantial evidence, that there is no nexus between the effects of the project and the flaws in the general plan. Those findings must note the general plan provisions at issue, must reference the evidence in the record, and must provide the analysis that fills the logical gaps between the evidence in the record and the ultimate conclusions of the findings. A single, general, and conclusory finding is not sufficient. (See *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511-518 [113 Cal.Rptr. 836, 522 P.2d 12].) If the facts do not support such findings, the County must not approve this project.

Sincerely,

Thomas P. Infusino, Esq.

For Calaveras Planning Coalition