

ATTACHMENT H

Mitigation Monitoring Program – Revised Mitigated Negative Declaration PLUS # PMPA 20080493 for St. Joseph Marelo Church

Section 21081.6 of the Public Resources Code requires all public agencies to establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval in order to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction, and project operations, as necessary.

Said monitoring shall be accomplished by the county's standard mitigation monitoring program and/or a project specific mitigation reporting program as defined in Placer County Code Chapter 18.28, Mitigation Monitoring and Reporting Program.

Standard Mitigation Monitoring Program (pre project implementation):

The following mitigation monitoring program (and following project specific reporting plan, when required) shall be utilized by Placer County to implement Public Resources Code Section 21081.6. Mitigation measures adopted for discretionary projects must be included as conditions of approval for that project. Compliance with conditions of approval is monitored by the county through a variety of permit processes as described below. The issuance of any of these permits or county actions which must be preceded by a verification that certain conditions of approval/mitigation measures have been met, shall serve as the required monitoring of those condition of approval/mitigation measures. These actions include development review committee approval, improvement plan approval, improvement construction inspection, encroachment permit, recordation of a Minor Boundary Line Adjustment, acceptance of improvements as complete, building permit approval, and/or certification of occupancy.

The following mitigation measures, identified in the Revised Mitigated Negative Declaration, have been adopted as conditions of approval on the project's discretionary permit and will be monitored according to the above Standard Mitigation Monitoring Program verification process:

Mitigation Measures #'s II.2, III.1, III.2, III.3, III.4, III.5, III.6, III.7, III.8, III.9, III.10, III.11, III.12, III.13, III.14, III.15, III.16, III.17, III.18, III.19, III.20, IV.1, IV.2, IV.3, IV.4, IV.5, VI.1, VI.2, VI.3,4,5, VI.6, VI.7, VIII.1, VIII.2, VIII.3, VIII.4, VIII.5, VIII.7, VIII.12, IX.1, XV.1, XV.2, XV.3, XV.4, XV.5, XV.6, XV.7, XV.8, XVI.5.

Project Specific Reporting Plan (post project implementation):

The reporting plan component is intended to provide for on-going monitoring after project construction to ensure mitigation measures remain effective for a designated period of time. Said reporting plans shall contain all components identified in Chapter 18.28.050 of the County code, Environmental Review Ordinance- "Contents of project specific reporting plan."

The reporting plan has been adopted for this project and is included as conditions of approval on the discretionary permit.

**APPEAL OF PLANNING COMMISSION'S
APPROVAL OF A MINOR USE
PERMIT/MINOR BOUNDARY LINE
ADJUSTMENT (PMPA 20080493) ST. JOSEPH
MARELLO CHURCH REVISED MITIGATED
NEGATIVE DECLARATION SUPERVISORIAL
DISTRICT 4 (UHLER)**

Placer County Board of Supervisors

February 9, 2010
10:00 AM

Correspondence Received

Rev 1/28/10

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12/29/09
- [] Board of Supervisors - 5
- [] County Executive Office
- [] County Counsel
- [] Mike Flynn
- [] Planning via []

16 Dec 2009

Placer County Board of Supervisors
Ann Holman
Clerk of the Board
175 Fulweiler Avenue
Auburn, CA 95603

RECEIVED
DEC 16 2009
CLERK OF THE
BOARD OF SUPERVISORS

Re: Minor Use Permit Appeal, Mitigated Negative Declaration, (St. Joseph Marella Church)
Additional Materials

In accordance with the provisions of Placer County Code 17.60.110 (C)(1), this letter and additional materials are included in this submission.

- According to the Traffic Impact Analysis conducted by KD Anderson & Associates, Inc. on June 22, 2009 there are significant errors and omissions
 - Traffic counts were made in December 2005. This data is stale, being four years old and not reflecting current traffic load(s). This is in stark contrast to traffic data compiled for Del Oro Estates Draft EIR which includes data that is as recent as one year. Traffic on Auburn-Folsom Road has dramatically increased in the last two years. The completion of the new bridge connecting Auburn-Folsom Road to Folsom (bypass for the Folsom Dam Road) is a major contributor to north and south traffic on Auburn-Folsom Road. By 2010 or 2011 when the proposed project would be completed, the situation will be worse. The traffic data should be updated and used for the recent analysis rather being based on the old data.
 - Traffic counts and Level of Service (LOS) already appear to violate LOS C (Table 2). Based on Analysis data and personal experience at the intersection of Auburn-Folsom and Cavitt-Stallman Roads, I believe LOS D or E is appropriate due to capacity, unstable flow, and typical queue time of one to two minutes, especially when turning left onto Auburn-Folsom Road from Cavitt-Stallman Road. Therefore, there is a high probability of LOS F along the project site and at the intersection of Auburn-Folsom Road and Cavitt-Stallman Road. Reference 4, Table 8-1 highlights this condition for an un-signalized intersection.
 - The Analysis failed to include the traffic from the north church location. It only considered the traffic from the Granite Bay Junior High School location. As stated by the project planner, there are two separate church locations--a north and a south that would be consolidated at the proposed site. Thus, there is new traffic in a south direction on Auburn-Folsom Road to the proposed site as well as new traffic in a north direction on Auburn-Folsom Road to the proposed site.
 - Widening Auburn-Folsom Road to four lanes south of the Douglas Blvd intersection serves no practical purpose with respect to the project. My assertion is that it will cause further congestion and queue times along the portion of

Auburn-Folsom Road north of Douglas Boulevard because the road narrows to two lanes just north of Douglas Blvd.

- Generation of an additional 2,100 daily trips is inconsistent with the physical characteristics of Auburn-Folsom Road at and around the project site. The narrow lanes on Auburn-Folsom Road leave little room for bicyclists to safely mix with traffic (see attached photos). Auburn-Folsom Road is a major bicycle route from Auburn to the American River at Greenback Lane and Auburn-Folsom Road.
- In particular, see Reference 4, page 8-13 "Existing Bicycle System" and Table 8-5 discusses the classifications of Granite Bay On-Road Bikeways. Neither Cavitt-Stallman Road, Laird Road or Barton Road have any designated bikeway(s). Auburn-Folsom Road has dual direction bikeways but in most areas, they fail to meet any of the listed CALTRANS classifications. Furthermore, the project's projected traffic would violate the Granite Bay Community Plan in the Circulation Area, Goal 1, and its Policies 1, 2, 5, 7 (increases load on Auburn-Folsom Road), 9, 11, 13, 16, 17, 18, 19 (Cavitt-Stallman Road is extremely dangerous after recent re-paving due to severe drop-off along the edges of each lane as well as a major blind spot [hill] west of the proposed Cavitt-Stallman entrance to the project), and 24 (see §8-6). Also violated is Goal 2 and its Policies 14 and 17. Also violated is Goal 3 and its Policy 7 (as stated in Reference 4, "Existing Transit System," Dial-A-Ride would appear to be the only available public transit provider. However, it serves six days a week and excludes Sundays. Goal 4 and its Policies 3 through 8 are also not followed.
- No details are provided or seen how the project will comply with the Americans with Disabilities Act (ADA) Title III. With respect to Title III, it would seem that the county would have to construct disability access from the project site to at least Douglas Blvd. (Reference 4, §8-6)
- What was the rationale for starting such a large project at the limited access on the Cavitt-Stallman and Auburn-Folsom Roads proposed location rather than the existing Marelo property on Wells Ave (City of Loomis)? There is existing infrastructure, facilities and access north and south on Barton Road such that there would be minimal or no bicycle issues (see attached pictures).
- CEQA issues from THE DETERMINATION OF THRESHOLDS OF ENVIRONMENTAL SIGNIFICANCE IN THE APPLICATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, Owen H. Seiver and Thomas H. Hatfield, March 2001:
 - a) Conflict with adopted environmental plans and goals of the community where it is located
 - l) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system
 - p) Increase substantially the ambient noise levels for adjoining areas
 - t) Substantially diminish habitat for fish, wildlife or plants
 - u) Disrupt or divide the physical arrangement of an established community
 - y) Converts prime agricultural land to non-agricultural use or impair the agricultural productivity of prime agricultural land

- Unconvinced that the Planning Commission considered off-site as well as on-site effects, indirect as well as direct effects and cumulative effects based on defined thresholds—if factual and quantitative or is missing, this and other factors led to poor policy decision making and implementation (to wit, Seiver and Hatfield, 2001):

“CEQA does authorize and encourage the adoption of local thresholds to determine the environmental significance of an impact. Thresholds of significance are used to determine whether a project may have a significant environmental effect. The “threshold of significance” for a given environmental effect is that level at which the lead agency finds the effects of the project to be significant.⁸ Thresholds must be dynamic and flexible. For example, an activity that may not be significant in an urban area may be significant in a rural one. [emphasis added] Both direct and indirect consequences must be considered by the lead agency. Direct consequences are those related to a project, such as soil erosion, air pollution and water pollution. **Indirect consequences are those caused by long term effects such as population growth leading to increased traffic congestion.**”[emphasis added]

“The CEQA process begins with the determination of whether or not an activity is a “project.” According to the California Supreme Court, the term “project” includes not only government-initiated actions but also any private projects requiring a permit or a lease issued by the government.⁹ The CEQA Guidelines, certified and adopted by the Secretary of Resources and reviewed by the Office of Planning and Research, specifically states that CEQA does not apply to any activity where it can be determined **“with certainty”** [emphasis added] that there is no possibility that the activity may have a significant effect on the environment.”

“CEQA requires that lead agencies acts [sic] so as to minimize environmental damage and balance competing public objectives.¹² To accomplish this, each lead agency is required to adopt objectives, criteria and specific procedures for CEQA review consistent with CEQA and the guidelines for the evaluation of projects and preparation of environmental documents. With the removal of the list of “significant effects” from the old Appendix G and the replacement with the checklist, it now becomes critical to examine the agency’s criteria (qualitative, quantitative and performance based) in establishing thresholds. In other words, lead agencies may now have an increased role in determining thresholds of significance. We must also consider consistency in the decision making process, and the level of understanding by the agency. Studies have shown that inconsistent perceptions of a policy can lead to poor policy implementation.¹³ If the perceptions relative to the entire¹⁴ CEQA process by the public, the Legislature, the Clearinghouse and the lead agencies are inconsistent, it becomes difficult to maintain a level of efficiency in carrying out the intent of CEQA.”

- Based on the requirement to address cumulative impacts as delineated in CEQA, this project cannot go forward without a more detailed review by the Planning Commission because the US Army Corp of Engineers Form 404 permit application includes a school at the site--to be built at some time in the future. Since this is an indefinite impact at an indefinite future time, there is no quantitative method of assessing the environmental impacts in the long term. A comprehensive EIR now

which includes the school might resolve this issue.

- Gray v. County of Madera (Oct. 24, 2008) __ Cal.App.4th
 - [T]he County does have the burden to show that substantial evidence exists to support its environmental conclusions
 - The Court found that the draft EIR failed to adequately analyze the project cumulative impacts. [With respect the Marelo Church project, the county bypassed the EIR process]
 - The Court did uphold the County's limiting of probable future cumulative projects to those for which an application had been filed with the County and for setting the date of the Notice of Preparation's release as the cut-off date for the search of probable future projects. [A school is a probable future project: See Corps e-mail, Reference 5 wherein the school was not included in this permitting process due to lack of funds to construct it or other structures at one time; to wit, "as funding becomes available"]
- Project Mitigated Use Permit violates CEQA 21083(a), (b)(1), (2), (3)
 - No evidence of established guidelines were found or disclosed
 - Probable future projects and its impacts were not discussed or evaluated due to the school being removed from the county permit application but the church intends to include a school in the future by including it in the 404 Permit application. [Corps -e-mail, Reference 5]
 - The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly

Conclusion: The Planning Commission has not provided any proof of certainty that the proposed project would not have a significant effect on the environment. Suggest rejection of the project because the Planning Commission and staff did not consider the individual and cumulative impacts on this rural area, the traffic analysis was flawed and the CEQA process was inadequately followed. As stated in the prior Planning Commission hearing presentation, the project is inappropriate for the proposed site. However, another option might be to relocate the project to the existing Marelo site on Wells Road as one with much less environmental and traffic impact and no destruction of wetlands and agricultural areas as well as preserving the rural nature of the proposed site and surrounding areas along Auburn-Folsom Road and Cavitt-Stallman Road.

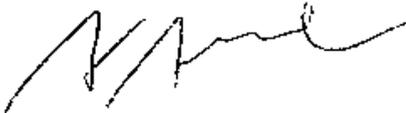
Many of the issues raised in this cover letter and the subsequent arguments and issues are reinforced by counsel (see Atch 6)

We, like most other residents of rural Placer County, moved to this area with full confidence that our Board of Supervisors and other public officials would do everything necessary to protect the rural nature of the area. Although we support the St. Joseph Morello Project, it is simply inappropriate and overly intrusive in this proposed location, and will deprive many of us of the rural lifestyle we chose. We are confident that the Board of Supervisors will acknowledge that fact, and agree that the approval process in this case is fatally flawed.

Thank you very much for your consideration of our appeal of the Planning Commission's decision. We sincerely hope that your Board will overrule the Planning Commission's approval

of an MUP, and that this matter can be resolved without the need for further action of any sort.

V/R,



Gary Gaugler, Ph.D.

Atch:

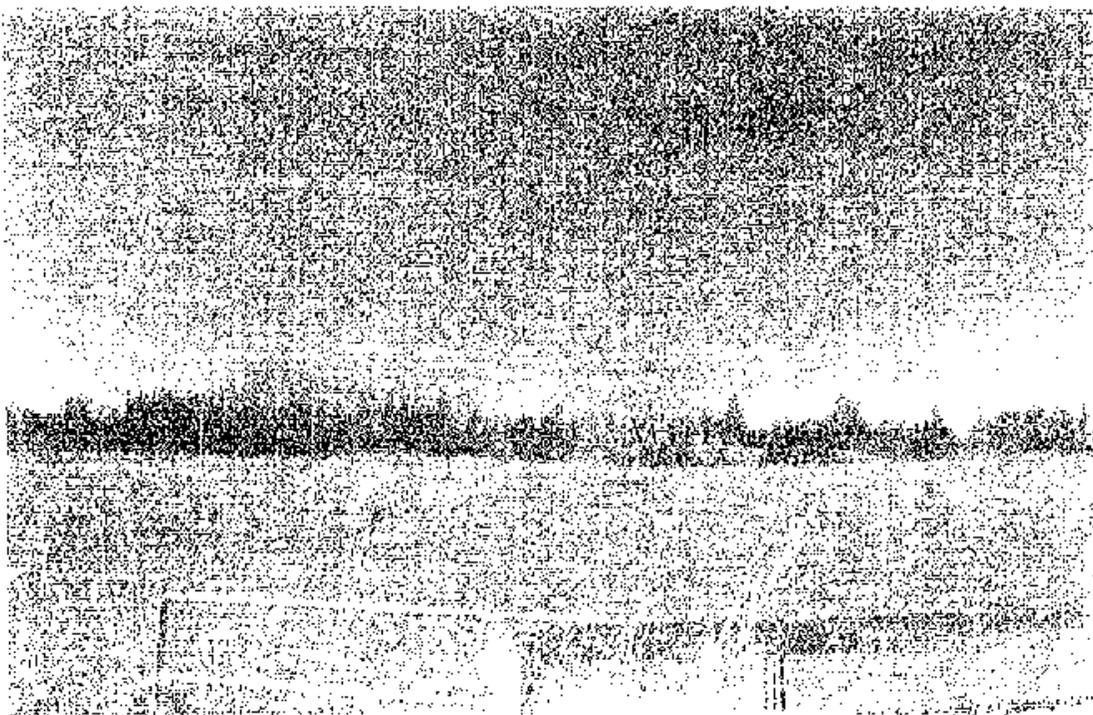
1. Photos of proposed project site along Auburn-Folsom Road (18 pgs)
2. Photos of existing Marellio site (10 pgs)
3. Document: Placer County Code Violations, December 2009 (12 pgs)
4. Article: "Child's hit-run death in North Sac spurs school safety warnings." Sacramento Bee, 1 Dec 2009 (2 pgs)
5. E-mail from Corps of Engineers regarding inclusion of a school in the 404 Permit application
6. Letter from Robert Hunt, Hunt and Jeppson, Attorneys at Law, Dec 14, 2009 (5 pgs)

References:

1. Prior materials submitted to Planning Commission (satellite pictures, rationale for objection to the project)
2. THE DETERMINATION OF THRESHOLDS OF ENVIRONMENTAL SIGNIFICANCE IN THE APPLICATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, Owen H. Seiver and Thomas H. Hatfield, March 2001, CSU, Northridge
3. Traffic Impact Analysis, KD Anderson & Associates, Inc., June 22, 2009
4. Del Oro Estates Draft EIR, December 2009.

Marallo Church-Granite Bay

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Marengo Church-Granite Hay



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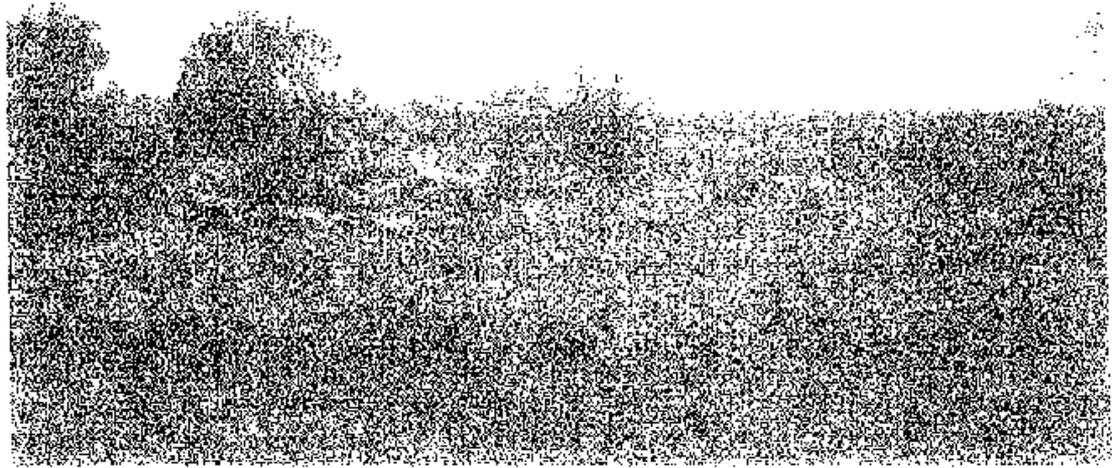
Marengo Church Granite Hay



EX-COMMUNICANTS



Marble Church-Granite Bay



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Marcello Church-Granite Bay



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Marcello Church - Granite Hwy



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Marello Church-Granite Hwy



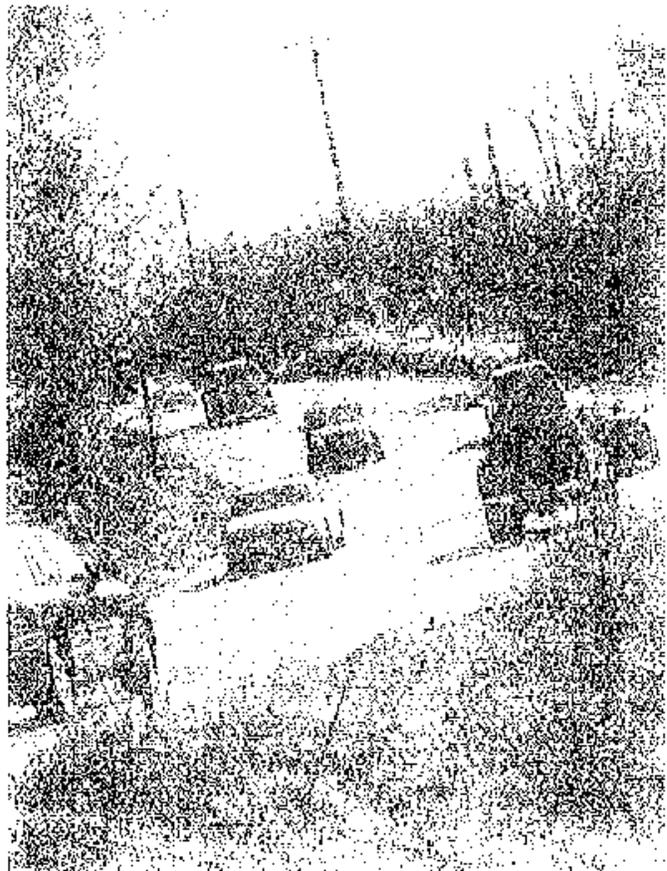
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Marcello Church - Granite Mt.



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Warren Church - Granite Bay



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Marble Church-Granite Bay



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Marallo Church Granite Bay



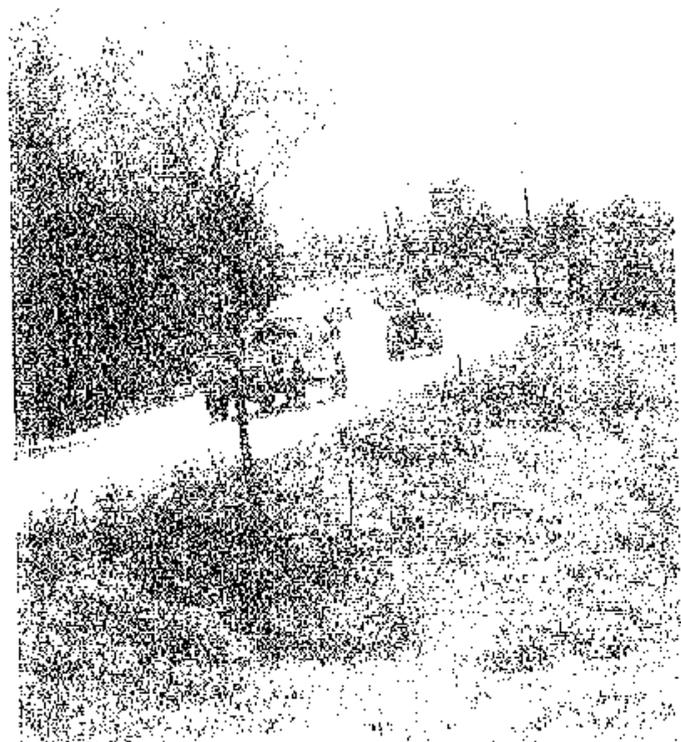
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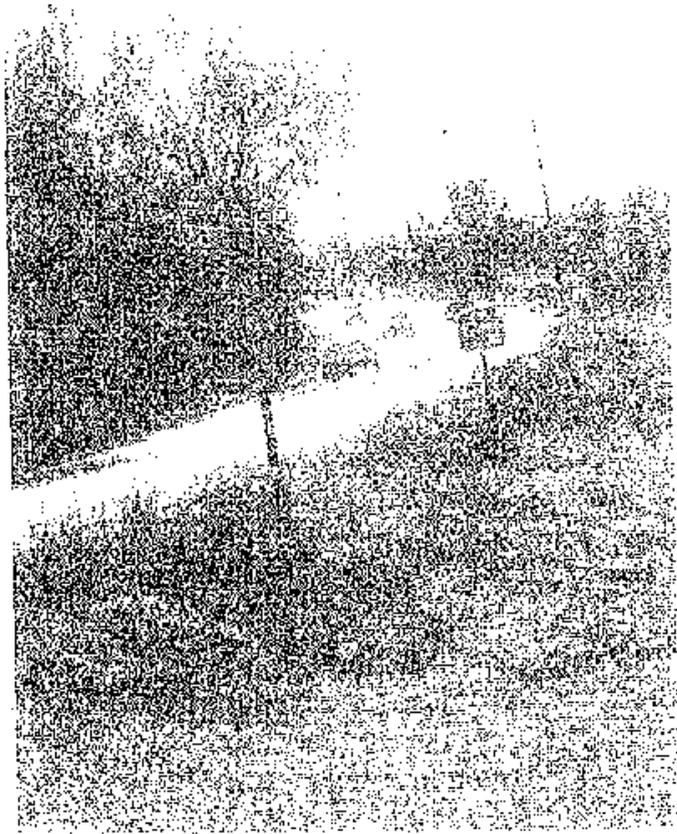
Marcello Church - Granite Bay



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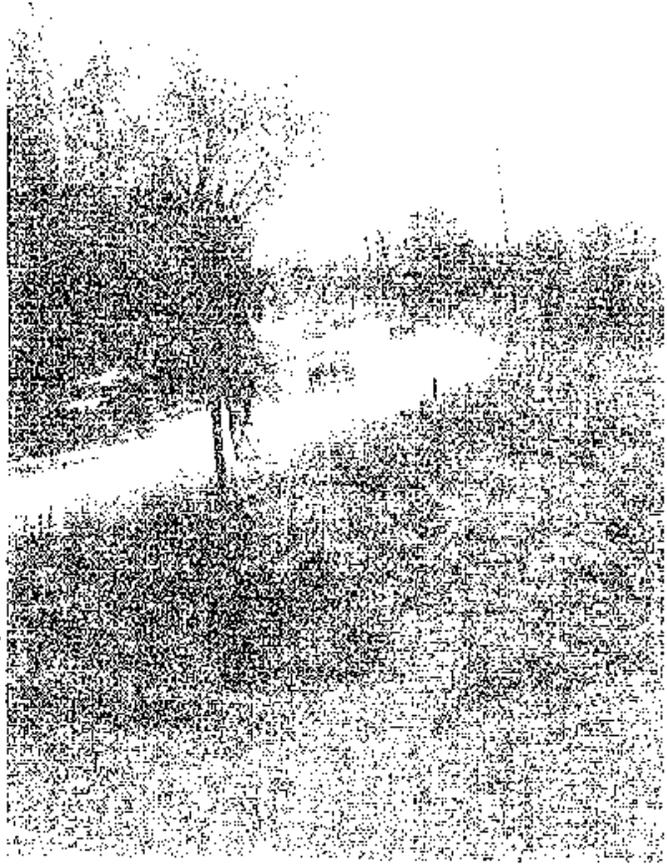
Marcello Church Granite Bay



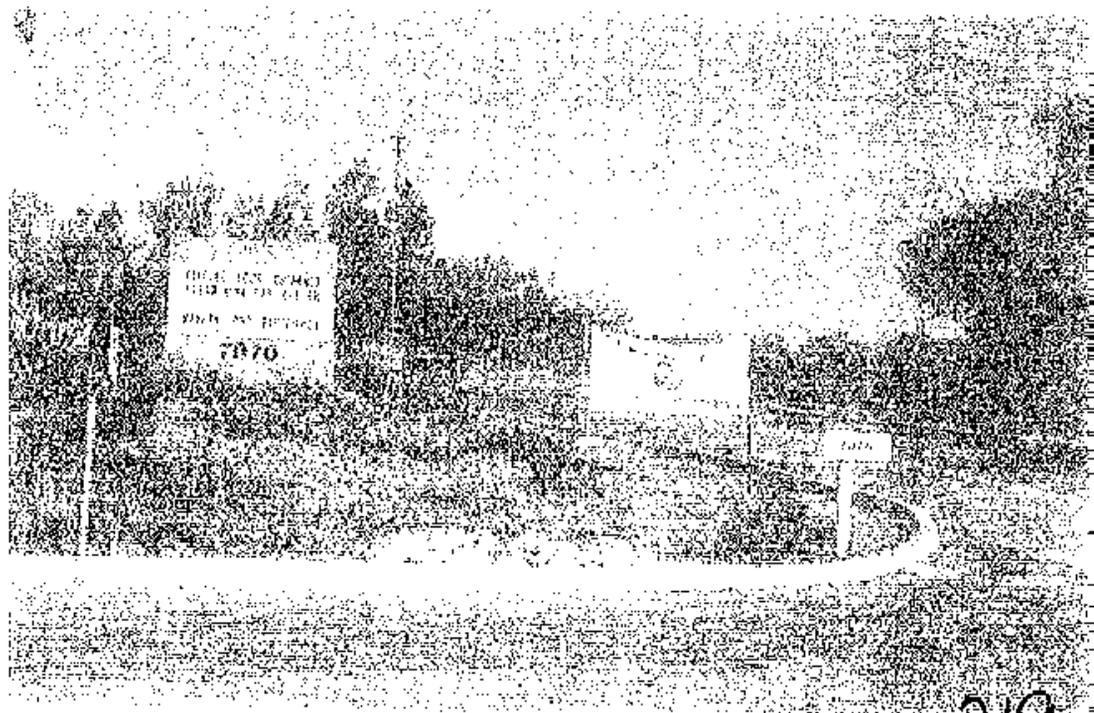
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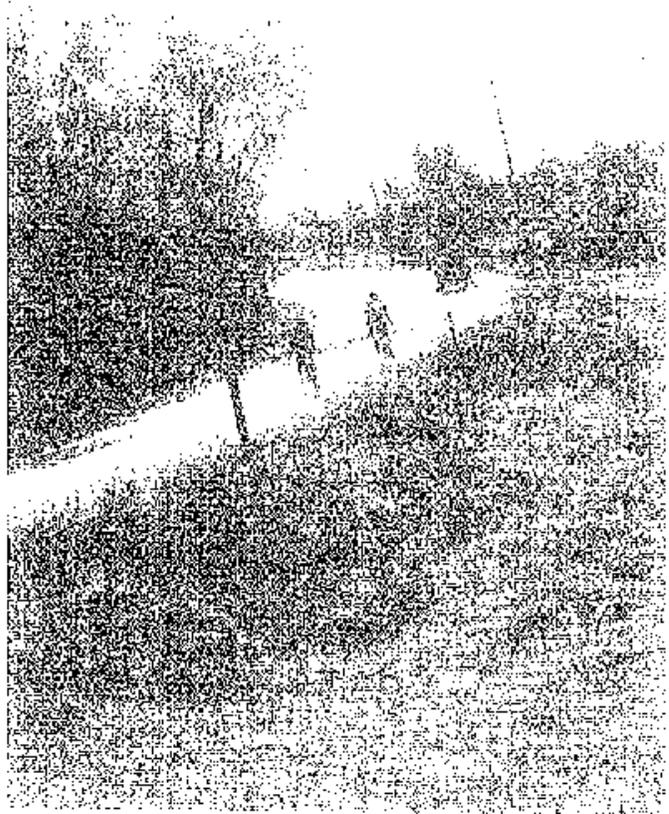
Warrenton Church - Granite Day



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Marengo Church-Granite Flay



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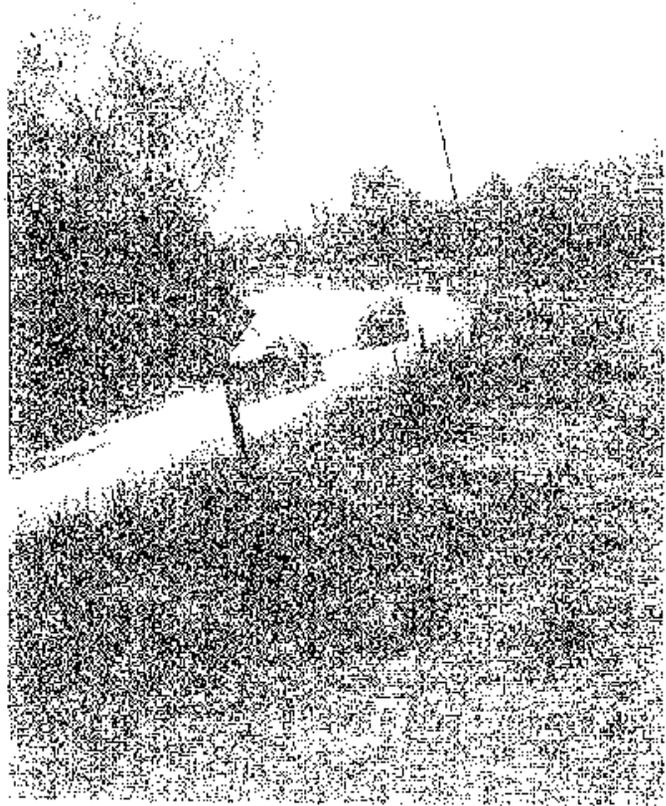
Marcello Church-Granite Bay



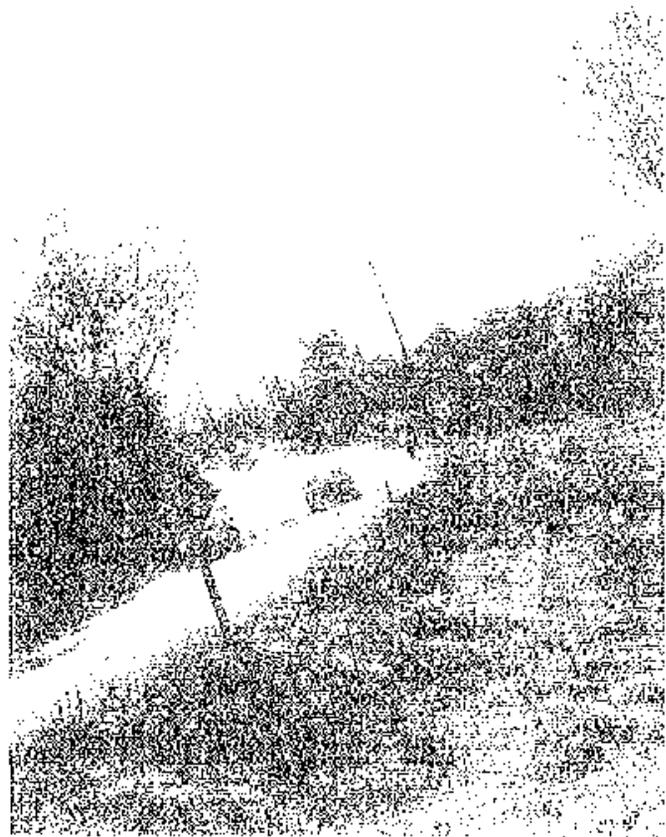
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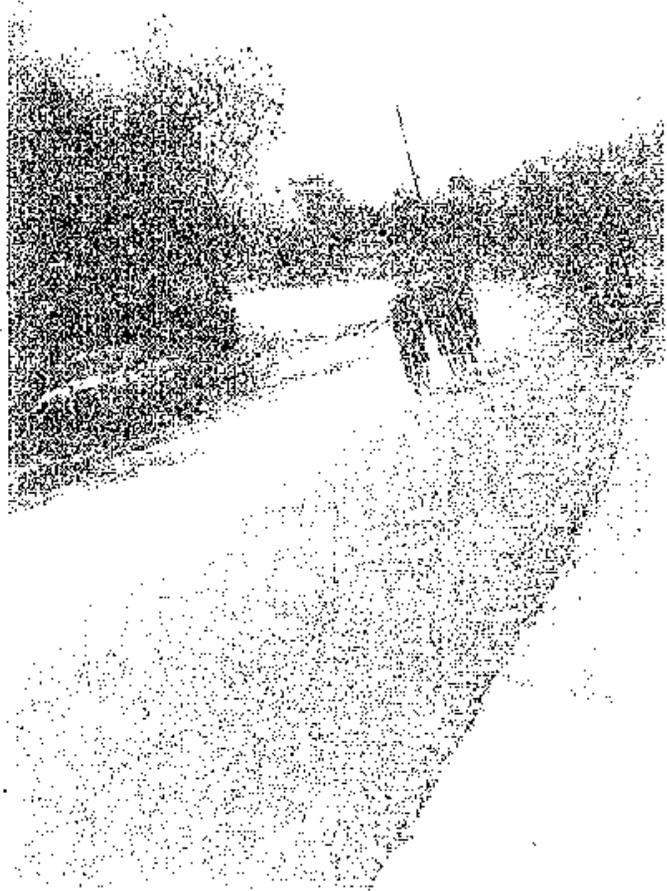
Marolle Church - Granite Bay



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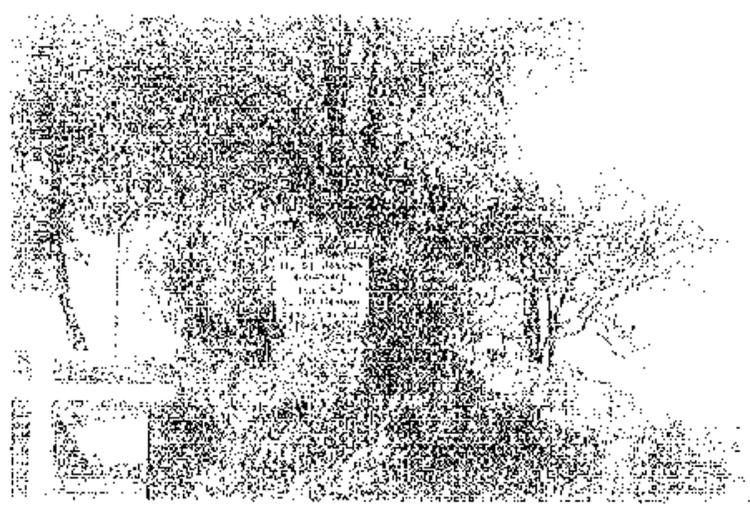
Alarollo Church-Granite Bay



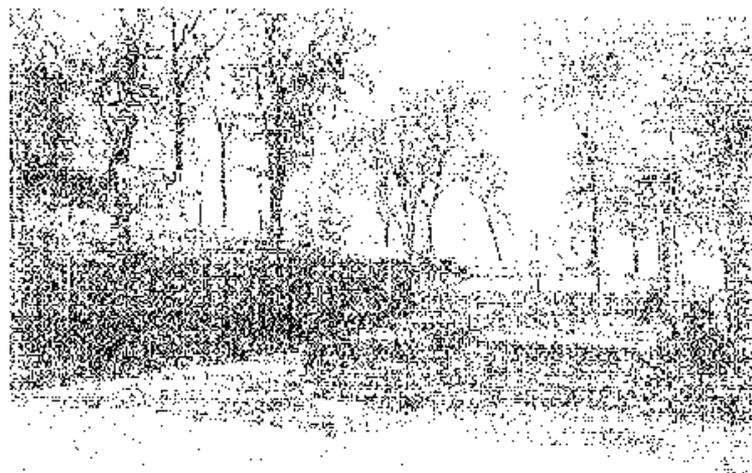
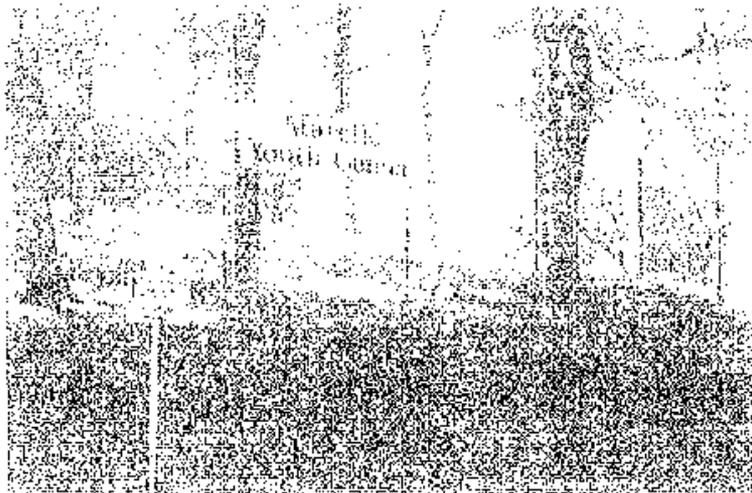
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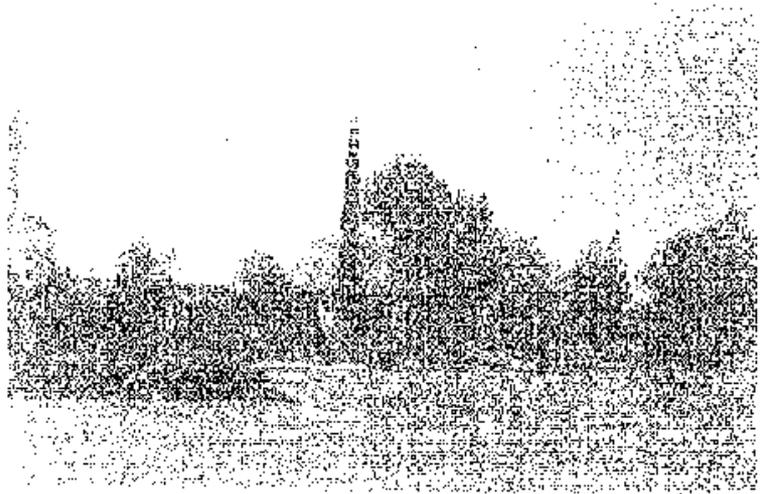


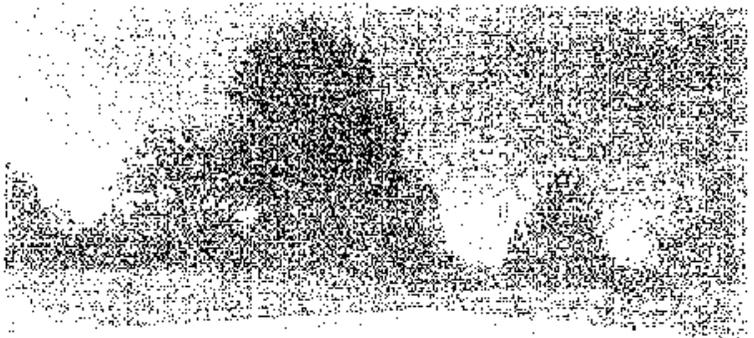
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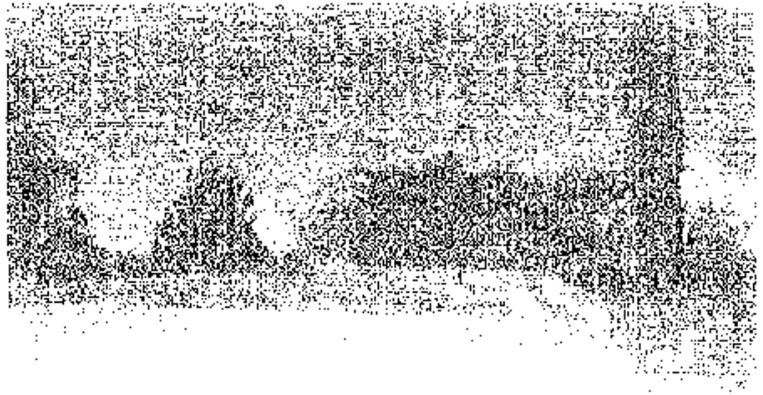


Marvella Church grounds

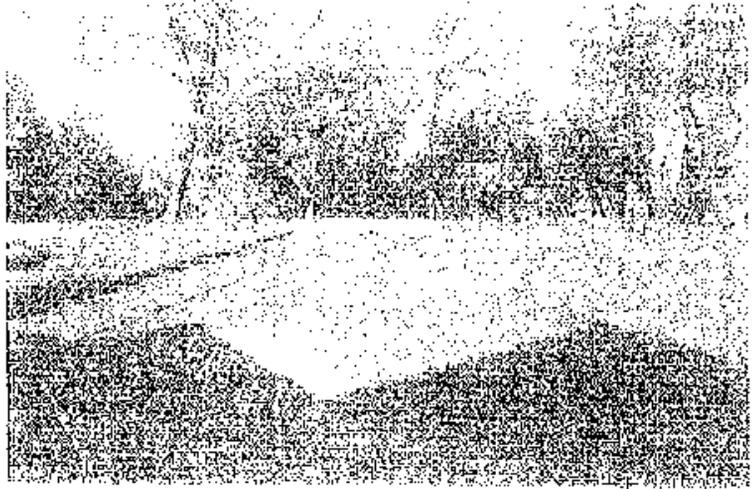


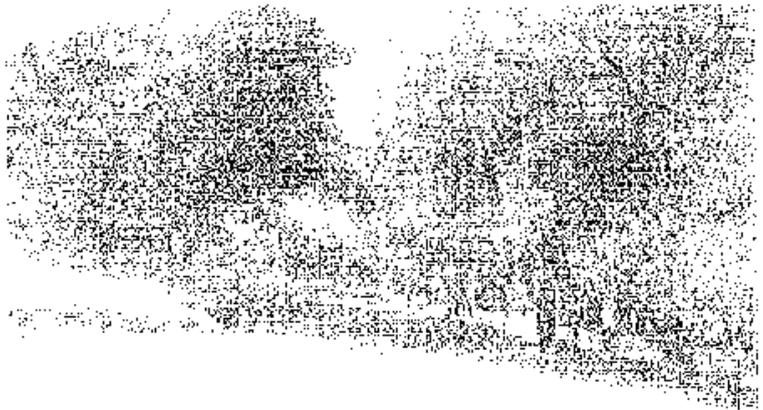




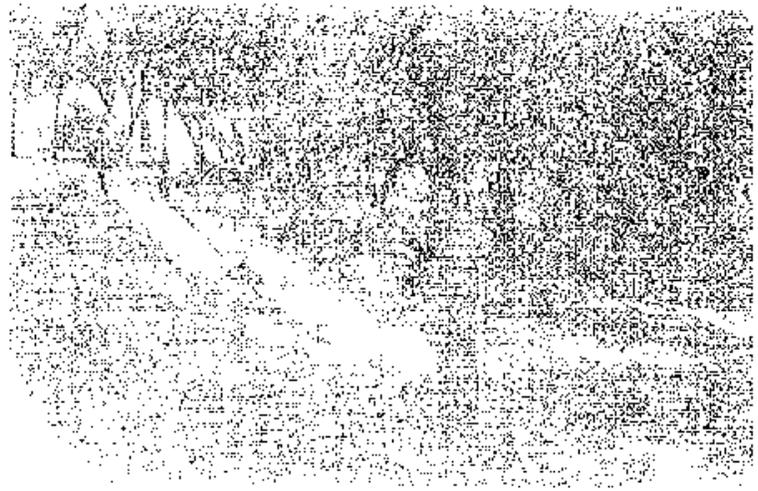


171











Placer County Code Violations

1) Public Review of Subsequent Mitigated Negative Declaration - Per Section 18.16.070 (Subsequent negative declarations) of the Placer County Code, "If a previously adopted negative declaration is revised to include an expanded project description or other substantial new information pursuant to Section 15162 of the CEQA Guidelines, the subsequent negative declaration must comply with the notice and review (Section 18.16.030) provisions of this chapter. (Ord. 5119-B (part), 2001)."

A mitigated negative declaration (MND) for the project was prepared and circulated for public review. Following receipt of comments on the MND, the County prepared a revised MND which included a new project description discussion that had been significantly expanded (an entirely new paragraph that describes the anticipated weekday, evening and ancillary activities and functions of the proposed use was added). However, as stipulated in Section 18.16.070 of the Placer County Code, the expanded project description should have resulted in the preparation of a subsequent MND, and that subsequent MND should have been properly noticed for public review per the notice and review provisions (Section 16.16.030) of the Placer County Code.

2) Height and Setbacks: Per Section 17.44.010 E (Site Development Standards), the maximum permitted height in the Residential Agricultural (RA) District is 36 feet maximum, with footnotes to Section 17.54.020 (Height limits and exceptions). Section 17.54.020 D 1 notes that houses of worship may be erected to a maximum height of fifty (50) feet; provided, that all required setbacks shall be increased by one foot for each one foot of height that the building exceeds the normal height limit established by the zone.

The project includes a church building 50 feet in height, with two matching bell towers each with a height of 57.5 feet (plus architectural features of an additional 10 feet). The placement of the church building is proposed 30 feet from the western property boundary; per Section 17.44.010 E (Site Development Standards), the required rear setback in the RA zone is 30 feet minimum. Given that the church building is proposed at 50 feet tall, which exceeds the allowable height of 36 feet by 14 feet, the rear setback for the project would need to be a minimum of 44 feet (30 feet as required by zoning plus additional foot for every foot of height that the building exceeds the normal height limit established by the zone). The 44 foot setback requirement is considered to be conservative, as it does not take into account the fact that the project will have bell towers at 57.5 feet and architectural features of an additional 10 feet (67.5 feet exceeds the 36 foot height limit by 31.5 feet, which would equate to a required rear setback of 61.5 feet). Regardless, the project as currently proposed violates the rear setback requirement because of the height exceedance and the project must be made to comply with the appropriate setback requirements.

Inconsistency with Granite Bay Community Plan (GBCP)

The GBCP includes ten General Community Goals and Policies that are general in nature and basic to the entire Plan. One of the stated ten goals is “To provide only those commercial, professional, and institutional services and facilities which are required to meet the frequently recurring needs of residents of the community and which are scaled to meet only the local resident’s needs” (*emphasis added*). Presumably having a level of importance as one of only ten major goals, this particular goal recognizes the need to provide the GBCP residents with needed services and facilities, but only at a scale and size to meet only the local resident’s needs. While we can accept that churches should not be limited in membership based on geographic boundaries, the development of a house of worship that is over 41,000 square feet in size is clearly not just limited to meeting the needs of the residents of the community and is far beyond the scale needed to meet only the local resident’s needs.

The GBCP Land Use Element’s first stated goal is “Preservation of the unique character of the Granite Bay area, which is exemplified by the general rural environment, mix of land uses and densities, and high quality of development, is a major goal of the plan.” The development of the project site as currently zoned would result in several rural residences, a development consistent with the “major goal” of the Plan of preserving the unique character of the Granite Bay area that is exemplified by the general rural environment. The development of a house of worship that is over 41,000 square feet in size impacts and disrupts the general rural environment and unique character of the area, creating an inconsistency with a “major goal” of the GBCP.

To further the GBCP’s major goal of preserving the unique character of the Granite Bay area, the GBPC Land Use Element includes the following policies:

15. Buildings shall be of a size and scale conducive to maintaining the rural residential atmosphere of Granite Bay. The architectural scale of non-residential buildings, as differentiated from size, shall be more similar to that of residential buildings than that of monumental buildings.

16. Non-residential buildings shall generally be of small or moderate size and, where groups of buildings are used, connected by plazas, terraces, porches, arcades, canopies or roofs, to provide a pleasant environment as well as safety and shelter to pedestrians.

The proposed project is inconsistent with these policies; the development of a house of worship that is over 41,000 square feet in size would result in a large project (not small or moderate sized) that is not in an architectural scale that is conducive to maintaining the rural atmosphere and is more similar to a monumental building than residential buildings.

The GBCP Land Use Element also contains “Specific Policies of Intensity of Use”, including policy 3 - “Intensity of use of individual parcels and buildings shall be governed by considerations of: health and safety; impact on adjoining properties due to noise, traffic, night lighting, or other disturbing conditions; and protection of natural land characteristics.”

The proposed project's size and scale will impact adjoining properties due to noise, traffic, night lighting, particularly when compared to what adjoining properties would have been subject to if the properties were developed per their land use designation and zoning.

The GBCP Land Use Element also contains "Specific Policies for Public and Private Institutions", including policies 2 and 3, respectively: "The intensity of use of an institutional site shall be limited to that which is compatible with adjoining uses and in keeping with the rural character of Granite Bay; the institution should not generate excessive noise or traffic.", and "Institutional buildings shall be of a size and scale compatible with the rural atmosphere of the Community."

The proposed project's size and scale is not compatible with adjoining uses and is not in keeping with the rural character and atmosphere of Granite Bay. The institution will generate excessive noise and traffic, and although not considered by the Planning Commission to be a significant impact in the project's environmental analysis, the level of noise and traffic from the project is far beyond what can be normally anticipated for a property with residential/agricultural zoning.

In summary, the size and scale of the proposed project are inconsistent with the goals and policies of the Granite Bay Community Plan. The proposed project results in a much more intense and environmentally damaging development of the project site, as compared to if the site were to be developed under existing land use designations and zoning. The Granite Bay Community Plan did not contemplate a development of this size and specifically included goals and policies to prevent development on a scale as being proposed from occurring. The project's staff report supports this reasoning by apprehensively noting the following on page 4 "Houses of worship" are generally considered compatible with rural residential land uses. The proposed project appears to be in scale with what was contemplated by the Granite Bay Community Plan." (*emphasis added*).

California Environmental Quality Act (CEQA) Violations.

The revised Mitigated Negative Declaration (MND) is inadequate in multiple areas, and that there is substantial evidence that the project will result in significant environmental effects such that an Environmental Impact Report ("EIR") must be prepared.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare and EIR whenever a "fair argument" can be made that the project may have a significant adverse effect on the environment. Per CEQA Guidelines section 15073.5, "If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the

project." The "fair argument" threshold established by CEQA for requiring the preparation of an EIR is an extremely low threshold.

The MND has failed to comply with the legal requirements of the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) as demonstrated by the following specific comments:

1. The Proposed Project Will Result in a Significant Aesthetic Impact

The MND addresses the project's aesthetic impacts by noting compliance with the Granite Bay Community Plan Scenic Corridor design standards, Rural Design Guidelines and elements of the project that will result in landscaping, setback buffers, and down shielded lighting. The development of two large buildings totaling 41,300 square feet, with building heights of 36 and 50 feet (67 feet with bell towers and architectural features) will have a substantial adverse impact on a scenic vista. Such development will also substantially alter the rural character of the area in such a way that was not anticipated or addressed in the Granite Bay Community Plan EIR ("GBCP EIR") since that environmental analysis assumed current land use and zoning of the project site as Rural Estates and 4.6 acre minimum building sites. Because of the proposed project's intensity, scale, size of development and its amount of lighting, it will substantially degrade the visual character and quality of the site and its surroundings and it will create a new source of substantial light and glare, again in such a way that was not anticipated or addressed in the GBCP EIR. Lighting concerns also include the project's affect on the night sky that is afforded by the rural character of the area. Beyond the direct significant impact, the project also contributes significantly to a cumulatively considerable aesthetic impact.

While Placer County has chosen to prepare a MND for this project, they have also chosen to prepare an EIR for the Amazing Facts Ministry project on Sierra College Boulevard. Notwithstanding the fact that the Amazing Facts project is larger and perhaps has more of a scenic view in a singular direction because of the site's elevation, there is relatively no difference between the two projects in the sense that both involve the development of large houses of worship that were never anticipated in the GBCP EIR. Why then is an EIR being prepared for one of the projects to in part address a cumulatively considerable significant aesthetic impact, when a MND is being prepared for the other? The County's analysis in the St. Joseph Marello Church MND does not support the less than significant aesthetic impact conclusions that were made.

2. The Proposed Project Will Result in a Significant Cumulatively Considerable Air Quality Impact

The original MND's air quality analysis concluded that the project will not conflict with the Placer County Air Quality Management Plan to attain federal and state ambient air quality standards. The 1991 Placer County Air Quality Attainment Plan and subsequent updates, including the recent Sacramento Regional 8-hour Ozone Attainment and Reasonable Further Progress Plan did not account for the development of the project site

with the intensity that will result with the proposed project, and as such, the project's air quality emissions were not anticipated in any prior environmental review and have not been adequately addressed in the MND. The project's traffic analysis indicates that the project will result in approximately 2,100 daily Sunday trips and average weekday daily trips of approximately 549. If the 12.8 acre project site were to be developed according to current land use designations and zoning, automobile trip generation and the associated vehicular emissions from that type of development would be significantly less (12.8 acres x 0.75 [gross to net conversion] = 9.6 acres; 9.6 acres with 4.6 acre building site minimums zoning would allow for 2-3 residential units; 3 residential units generate 9.5 daily weekday trips per unit and 8.78 Sunday trips per unit, using ITE Trip Generation Manual rates, for a total of 28.5 daily weekday trips and 26.34 Sunday trips). In conclusion, the number of trips that the proposed project will generate is nearly 20 times higher than the number of weekday trips and nearly 80 times higher than the number of Sunday trips that would result if the project site were developed according to current land use designations and zoning. The number of automobile trips and the resultant pollutant emissions created by the proposed project have not been adequately addressed in the MND and will result in a significant air quality impact.

Even the most basic of air quality modeling tools involve a project site's underlying land use and zoning to project air quality impacts from property or properties that have not yet been developed. The fact that the proposed project is an allowed use in the particular zoning district subject to the issuance of a Minor Use Permit (MUP) does not relieve the County from reviewing potential environmental impacts, particularly those related to air quality. If the County philosophy of "it's an allowed use in that zone subject to a MUP" is carried out to the extreme, one is left to wonder how many MUPs can be granted before it is recognized that environmental impacts that have not been previously addressed or disclosed are being created through the issuance of a MUP(s).

The revised MND's air quality analysis still concludes that the project will not conflict with the ability to meet the region's air quality attainment standards because the project-related emissions are below the District's thresholds. While the project's emissions may not exceed the District's thresholds, the project will still result in significant long-term air quality impacts and cumulative impacts in the Sacramento Valley Air Basin.

A lead agency must find that a project may have a significant effect on the environment and must prepare an EIR if the project's potential environmental impacts, although individually limited, are cumulatively considerable. (Pub. Resources Code, Section 21083(b); CEQA Guidelines Section 15065(c); see *San Bernadino Valley Audubon Society v Metropolitan Water District* (1999) 71 Cal.App.4th 382, 398.) The Fifth District Court of Appeal has found that "[t]he relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether *any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin.*" (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 781, emphasis added.). The Fifth District concluded that the more severe the existing environmental problems are, the *lower the threshold for finding that a project's*

cumulative impacts are significant (Id., emphasis added) The MND fails to analyze this issue, and simply dismisses the potentially significant cumulative impacts to air quality by noting that daily emission thresholds would not be exceeded. This contradicts the ruling in *Kings County* which stated that the more severe the existing environmental problems, the lower the threshold for finding a project's cumulative impacts are significant.

It should be noted that Placer County has prepared EIRs on several other large houses of worship projects that are either now built or are being proposed, and that those projects each required an EIR. The EIRs for those projects recognized that the proposed uses were much more intense than previously studied or assumed for the subject properties, and as such, each of those EIRs identified that the project would result in a cumulatively considerable air quality impact. Specifically, the EIR prepared for the Bayside church included the following analysis/discussion:

"Project-generated emissions, together with emissions from existing and future projects, would contribute to existing and projected exceedances of California and National AAQs for CO, PM10, and O3 in the Sacramento Valley Air Basin, as well as Placer County. Due to the existing nonattainment designation, and the new federal standards, continuing growth in western Placer County contributes to a significant and unavoidable cumulative impact. Mitigation measures presented below would reduce the project's contribution to regional pollutant emissions. However, the project would have to reduce project emissions 100% to achieve a less than significant cumulative impact."

Similarly, the EIR prepared for the Amazing Facts Ministries project includes the following analysis/discussion:

"Placer County is classified as a severe nonattainment area for the federal ozone standards. In order to improve air quality and attain health-based standards, reductions in emissions are necessary within the nonattainment area. The growth in vehicle usage and business activity within the nonattainment area would contribute to cumulative regional air quality impacts. Additionally, implementation of the proposed project may either delay attainment of the standards or require the adoption of additional controls on existing and future air pollution sources to offset project-related emission increases. The Placer County General Plan includes policies aimed at reducing ozone precursor and particulate emissions associated with cumulative development in Placer County. These policies are of particular importance since the portion of Placer County surrounding the proposed project site is currently designated as being in nonattainment for the state and federal 1-hour ozone standard and the state PM10 standard. The proposed project would result in an increase in regional criteria air pollutant emissions. The increases, as compared to the federal and state standards, are identified in Section 7.0 of this Draft EIR. Though mitigation measures included in this Draft EIR would reduce project-related emissions, these mitigation measures would not reduce emissions below the significance thresholds. Even with feasible mitigation measures, the proposed project's incremental contribution to regional criteria pollutant emissions is considered cumulatively

considerable and thus a significant and unavoidable impact. No feasible mitigation is available to completely mitigate this impact.”

Both of the EIR documents noted above recognized that because of the existing air quality conditions and non-attainment status for certain pollutants in Placer County and the region, the projects would have an incremental contribution to regional pollutant emissions and a significant and unavoidable impact was identified. Such direction should be followed with the St. Joseph Marengo proposal and an EIR should be prepared to address the project’s cumulatively considerable contribution to a significant air quality impact.

Finally, the Placer County Air Pollution Control District has utilized a 10 lbs./day cumulative threshold in the past and has required participation in offsite mitigation programs – it is unclear why such a threshold and mitigation measure was not applied to this project.

3. The Biological Resources Section Identifies Potential Significant Impacts But Fails to Identify Mitigation

The discussion of items IV-1, 2, and 4 includes the statement “The riparian woodland at the project site could, however, provide suitable nesting habitat for Cooper’s hawk, and white-tailed kite, while the open grassland habitat of the project site could provide suitable foraging habitat for these species, as well as the Swainson’s hawk.” The MND identifies potential impacts to suitable foraging habitat for several bird species, but declines to offer mitigation to address this significant impact. The project’s legal counsel provided responses to comments on the MND to the members of the Planning Commission. In this response to comment document, the Planning Commission was told in Response to Comment 2-3 that “Impacts of the project on foraging habitat for raptor species is addressed in the Mitigated Negative Declaration.” – this statement, which in part was used by the Planning Commission to make their decision to certify the environmental document, is simply false. The MND addresses the impacts of the project on foraging habitat for raptor species by noting that such impacts could occur, but there is no mitigation offered in the MND to address this potential impact (mitigation is identified for potential impacts to nesting raptors, but not for loss of foraging impacts).

4. The Cultural Resources Evaluation Is Inadequate

The discussion of cultural resources describes the presence of two historic sites that are intended to be avoided by being fenced off. While such actions will serve to avoid direct impacts to the historic site, the analysis does not clearly address whether the integrity of the sites will be jeopardized and indirectly impacted by the proposed project. It is unclear from the discussion in the MND if the historic sites are historic in nature in part because of the setting and surroundings that exist. However, if such conditions exist, then the proposed project will have a significant impact on a historic resource. Per CEQA Guidelines section 15064.5 (b), a project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a

significant effect on the environment. (1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (emphasis added); (2) The significance of an historical resource is materially impaired when a project: (A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or (B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register or historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; (C) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

The MND's current analysis does not demonstrate that the proposed project will not have a significant impact on cultural resources as a result of the alteration of the historic resource's immediate surroundings, including the removal of a tree that may have some association with the historical site.

In addition, the MND does not adequately support the conclusion that the project site has no potential to yield significant fossils.

5. The Project Will Result in a Substantial Alteration of the Present or Planned Land Use of an Area

The MND's Land Use discussion item IX-7 notes that "The proposal to construct a house of worship will not substantially alter the present or planned land use of the area as this land use would be consistent with the Granite Bay Community Plan land use designation and underlying Residential Agricultural zone district because a house of worship, although not a residential use, supports the need of a rural community and is "generally an allowed use." "

The discussion fails to acknowledge that the proposed project requires a Minor Use Permit. A minor use permit is a discretionary permit authorizing a particular land use in a zone where such use is permitted only by the issuance of a permit, and not as a matter of right. By the very definition of a minor use permit and the County's acknowledgement that such a permit is required of the proposed project, the proposed project is not an allowed use by right, and as such, because of the project's size and mass, will result in a substantial alteration of the present or planned land use of an area.

6. The Project's Noise Analysis is Flawed

The discussion of potential noise impacts from the proposed project does not address the noise levels that can be expected from the project's extra-curricular activities as noted in the revised project description. The MND fails to discuss whether the evening services parking lot noise levels will meet the County's nighttime exterior level noise standards.

7. The Project Will Have Significant Effects on Public Services

The discussion of the project's impact on public services notes that "The project does not generate the need for more maintenance of public facilities than what was expected with the buildout of the Community Plan. The project's impacts to public services are less than significant and no mitigation measures are required." These false statements are not supported in the MND.

As demonstrated in Item B above, the proposed project will result in a significantly higher number (20-80 times) of automobile trips on local roadways when compared to the number of trips that would occur with the development of the property under current land use designations and zoning. Such additional vehicle trips will clearly accelerate the deterioration of the local roadways and likely require maintenance activities in advance of what is planned. With this information in mind, coupled with the fact that the project site will no longer generate the tax revenue to the County's general fund at the levels that would be anticipated if development were to occur under existing land use designations and zoning, the project will clearly generate a higher need for maintenance than what was expected with buildout of the Granite Bay Community Plan.

With respect to police and fire services, while not as easily demonstrated as the accelerated pavement deterioration that the project will create, the proposed project will result in additional calls for service beyond those that would have occurred under existing land use designations and zoning simply due to the large number of persons gathering at one site.

Mitigation options include requiring the project to supplement the County's roadway maintenance fund as well as the operating budgets of the Fire and Sheriff's Department to account for the additional demands created. At minimum, the project should fund some level of monitoring by the County to determine how much additional and more frequent roadway maintenance the proposed project is creating, and how many additional calls for service to police and fire the proposed project is creating.

8. The Revised MND Fails to Adequately Address Greenhouse Gases

CEQA requires that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Resources Code Section 21002.1(a); see *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52Cal.3d 553, 564-65). Under CEQA, global warming is an "effect on the environment" and a project's contribution to global warming can be significant or cumulatively considerable. CEQA requires that all phases

of a project must be considered when evaluating the project's impacts on the environment (CEQA Guidelines Section 15126)

The MND fails to adequately address GHG emissions. Placer County fails to completely recognize the Governor's Office of Planning and Research's June 19, 2008 Technical Advisory entitled *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*. In the Technical Advisory, OPR provides a recommended approach:

Each public agency that is a lead agency for complying with CEQA needs to develop its own approach to performing a climate change analysis for projects that generate GHG emissions. A consistent approach should be applied for the analysis of all such projects, and the analysis must be based on best available information. For these projects, compliance with CEQA entails three basic steps: identify and quantify the GHG emissions; assess the significance of the impact on climate change; and if the impact is found to be significant, identify alternatives and/or mitigation measures that will reduce the impact below significance. (Technical Advisory, page 5)

The Technical Advisory also directs lead agencies to assess whether the emissions are individually or cumulatively significant. (*Id.*) Thus, the lead agency must consider the impact of the project when viewed in connection with the effects of past, current, and probable future impacts. (*Id.*) In identifying GHG emissions, OPR's Technical Advisory states:

Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO₂ and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities. (Technical Advisory, page 5)

The Technical Advisory identifies technical resources/modeling tools to estimate GHG emissions. (Technical Advisory, pages 15-17). Placer County's original MND, however, did not use any of these modeling tools. The revised MND did incorporate an URBEMIS model run to calculate CO₂ emissions that would be generated by the project, but the revised MND failed to calculate the project's emissions related to all of its energy consumption (i.e. electricity usage) and water usage, as recommended in the OPR Technical Advisory.

It is without dispute that Placer County's MND failed to establish a baseline or establish the threshold of significance. As such, the MND fails to comply with the requirements of CEQA. The California Attorney General's office has concluded that "even small, incremental emissions can be cumulatively considerable", and that the absence of state thresholds is not an excuse to avoid determining significance.

OPR's Technical Advisory cautions lead agencies that GHG emissions should not be dismissed without substantial evidence to support the decision.

Lead agencies should not dismiss a proposed project's direct and/or indirect climate change impact without careful consideration, supported by substantial evidence. Documentation of available information and analysis should be provided for any project that may significantly contribute new GHG emissions, either individually or cumulatively, directly or indirectly (e.g., transportation impacts). (*Id.*)

In the present situation, Placer County's analysis does in fact dismiss the project's GHG emissions without any substantial evidence. The MND makes an incomplete effort to quantify the project's GHG emissions. It also fails to establish the baseline or threshold of significance for GHG emissions.

In summary, the proposed project's MND analysis is inadequate in multiple areas and the project's potential environmental impacts are such that an EIR should be prepared. The comments provided above meet the fair argument standard that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. As such, per CEQA Guidelines section 15063, the lead agency should prepare an EIR. Additionally, per CEQA Guideline section 15064, if the lead agency determines that there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect on the environment (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

PLANNING COMMISSION ACTION

During the Planning Commission's meeting on the project the applicant proposed that they would install timers on the parking lot lights (presumably to address a concern about night sky impacts raised by the public). After some deliberation the Planning Commission ultimately agreed to apply such a condition to the project, which was encouraging from the public point of view. However, it was extremely disappointing to have the Planning Commission then make light of the condition for putting the parking lot lights on a timer. Members of the Planning Commission made reference to the condition requiring them to install timers, but then jokingly noted that nothing in the condition stated that the timers actually had to be used, or what the hours of use would be on the timers. Upon recognizing that a proposed condition of theirs was unclear and vague, a reasonable expectation would have been for the Planning Commission to suggest additional language so that the condition had greater purpose and meaning. Why the Planning Commission made no such effort was disconcerting, but it is hopeful that

the Board of Supervisors can strengthen this condition language in a way that makes it more meaningful.

Child's hit-run death in North Sac spurs school safety warnings

By Laurel Rosenhall and Kim Minugh
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HIT-AND-RUN

A 4-year-old boy was fatally hit by a car leaving an elementary school



[Click to view the Large Graphic](#)

Safety advocates sounded a grim reminder to drivers and walkers after Monday's hit-and-run death of a 4-year-old boy outside a North Sacramento school: Drivers need to be extra cautious in school zones, and walkers need to hold on to little ones when crossing a driveway or parking lot.

More Information

The boy, Jonathan Vasquez, was struck about 8:20 a.m. as he rode a scooter to the preschool at Smythe Academy on Northgate Boulevard while his grandmother and 7-year-old brother trailed behind on foot, said Sacramento police spokesman Officer Konrad von Schoech.

- [Victim's father seeks help](#)

A vehicle pulling out of the parking lot onto Northgate struck the boy and then fled, von Schoech said, dragging the boy's body into the street.

Jonathan was transported to UC Davis Medical Center, where he died Monday afternoon. His grandmother and his brother were not injured.

Because the accident occurred about five minutes after classes began, only a few stragglers were in the area, and descriptions of the vehicle were vague, von Schoech said. It has been described only as a newer dark-colored sedan, possibly a Nissan Maxima and possibly with front-end damage.

Police are still searching for the driver, described as a man with a dark complexion.

Safety advocates say the rush of the morning drop-off can create a dangerous environment for kids.

About half of children struck by cars near schools are hit by drivers taking their own children to school, according to the Safe Routes to School National Partnership, an advocacy group that promotes safe walking and cycling.

Terry Preston, of the Walk Sacramento advocacy group, said parents in cars need to slow down when they're dropping kids off at school.

"Many people are trying to rush through, drop their children off and get to work. ... Their mind is already a half an hour ahead to the morning staff meeting." Preston said.

He advises leaving home 10 minutes earlier to avoid feeling hurried.

Adults who are walking kids to school need to hang on to them when they come to any kind of intersection.

"It's always good to hold your child's hand when they're crossing a driveway or parking lot," Preston said.

There's nothing wrong with children riding scooters to school, he said, but they should stop and cross traffic with an adult. And California law says anyone under age 18 must wear a helmet when riding a bike, scooter, skates or skateboard.

Officials say the boy was not wearing a helmet.

Robert Ping, of Safe Routes to School, said schools ideally should not have their drop-off and pickup zones on major thoroughfares such as Northgate Boulevard.

"A quiet neighborhood street is going to be a lot safer," he said.

Ping encouraged Smythe Academy, a pre-kindergarten through sixth-grade charter school in the Twin Rivers Unified School District, to apply for a Safe Routes to School grant that could pay for safety improvements such as signs, striping, stoplights and crosswalks – as well as traffic safety education programs for students and families.

"An incident like this will often fire up the neighbors to look at the risks around that school," he said. "Obviously there is a problem."

Sacramento police said that the child was heading north on the sidewalk of the southbound side of the street when the accident occurred. The driver turned right to join southbound traffic.

"It's entirely possible he didn't see anyone coming up on the sidewalk," said Officer Laura Peck, another police spokeswoman. "But we won't know, because he took off."

Trinette Marquis, spokeswoman for the Twin Rivers district, said she's not aware of any ongoing issues with the parking lot at Smythe Academy but noted that Northgate is a congested street and "it's always dangerous to be on a busy street."

"I'm sure we're going to be looking at exactly what happened and how it happened and doing whatever we can to improve safety, even if it means getting some more volunteers out there," she said.

Preston, of Walk Sacramento, said he lives near Northgate Boulevard and described it as a "real nightmare" for children coming and going to school.

"As I've gone down this street, I've looked at this school and said, 'Ooooph. That's an extremely unsafe configuration there.'"

Police asked anyone with information about Monday's hit-and-run to call the department's traffic investigators at (916) 808-6030 or Crime Alert at (916) 443-HELP. Callers can remain anonymous and might be eligible for a reward of up to \$1,000.

Call The Bee's Laurel Rosenhall, (916) 321-1083.

Hess, Erin E SPK, RE: Wetlands permitting

To: "Hess, Erin E SPK" <Erin.E.Hess@usace.army.mil>
From: Gary Gaugler <gary@gaugler.com>
Subject: RE: Wetlands permitting
Cc:
Bcc:
Attached:

To: "Hess, Erin E SPK" <Erin.E.Hess@usace.army.mil>
From: Gary Gaugler <gary@gaugler.com>
Subject: RE: Wetlands permitting
Cc:
Bcc:
Attached:

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BOARD OF SUPERVISORS

At 11:47 AM 12/7/2009, you wrote:
Dr. Gaugler,

Yes, that's what the applicant has proposed at this time. For our evaluation of proposed impacts for our permitting process, we evaluate the overall footprint of the proposed impacts for all phases of development. The applicant stated during our site visit that they do not have the funding at this time to construct all of the buildings onsite at once, but they do have a development plan and will be constructing as funds become available. They wish to prepare the entire site at one time with access and utilities for the first phase of construction, including the church, multi-purpose structure, and associated parking, and for the later phase of construction of the school facilities.

Erin Hess
Project Manager
Regulatory Division, California North Branch
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814-2922
(916) 557-6740

New Customer Service Hours: M-F 10:00am-2:30pm
Please be aware phone calls and emails will be answered only during these hours

-----Original Message-----
From: Gary Gaugler [mailto:gary@gaugler.com]
Sent: Thursday, December 03, 2009 6:39 PM
To: Hess, Erin E SPK
Subject: RE: Wetlands permitting

Thanks again for the FOIA link. I've done that. Any idea how long that will take?

HUNT & JEPSON

ATTORNEYS AT LAW

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ROBERT W HUNT
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December 14, 2009

Dr. Gary Gaugler
7970 Twin Rocks Road
Granite Bay, CA 95746

RECEIVED

DEC 16 2009

CLERK OF THE
BOARD OF SUPERVISORS

Re: *St. Joseph Morello Church Project*

Dear Dr. Gaugler:

At your request, I have reviewed the materials pertaining to the Planning Commission's approval of a Minor Use Permit application for the St. Joseph Morello Church Project to be located near the intersection of Cavitt Stallman and Auburn-Folsom Roads in Granite Bay, California. I understand that you have no philosophical or religious objection to the church itself, but that you are more concerned about the impact such a large project is likely to have on the rural character of the Granite Bay neighborhood for which the project is proposed.

Section 15064 of the CEQA Guidelines provides that:

"If there is substantial evidence, in light of the whole record before a Lead Agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR."

The evidence before the Planning Commission that the St. Joseph Morello Church Project is considerable and, like Placer County has done with other large church projects, the significant effects the project will have on the environment mandates that an EIR should be prepared.

Based on the information available, I believe your concerns are well taken. The project is seemingly incompatible with the goals set forth in the Granite Bay Community Plan ("GBCP"), and seems to be far beyond the parameters considered when the GBCP was prepared. It also appears that the CEQA Initial Study which resulted in the adoption of a Mitigated Negative Declaration ("MND") was flawed and, instead, should have required the preparation of a full Environmental Impact Report ("EIR"). It also appears that the adoption of a revised MND failed to comply with Placer County Code and, thus, is likely invalid.

249

The Granite Bay Community Plan

One of the stated major goals of the GBCP was to guide land use decisions into the future in order to assure the “[p]reservation of the unique character of the Granite Bay area, which is exemplified by the general rural environment, mix of land uses and densities, and high quality of development.” To meet this goal, the GBCP adopted a policy of permitting “only those commercial, professional, and institutional services and facilities which are required to meet the frequently recurring needs of residents of the community and which are scaled to meet only the local residents’ needs.”

To achieve these goals, the GBCP mandates that “buildings shall be of a size and scale conducive to maintaining the rural residential atmosphere,” and that “non-residential building shall generally be of small or moderate size”

The proposed St. Joseph Morello Church project is incompatible with these policies and mandates. A 41,000+ square foot project is neither small nor moderately sized, and is clearly not conducive to maintaining the rural residential atmosphere of propose project location. Locating such a large project in the proposed location runs directly contrary to the GBCP’s mandate of preserving the rural environment and character of the area. Moreover, given that Granite Bay has a total population of only 25,688,¹ a church facility of over 41,000 square feet is grossly out of proportion to the needs of the residents of Granite Bay, and significantly over-scaled to meet those residents’ needs. A church of this size is clearly intended to serve the needs of a far greater number of people than reside in Granite Bay.

The proposed church also seems to be inordinately high for its proposed location—apparently exceeding the height of a five-storey building set incongruously in this rural area.

Because the St. Joseph Morello Church is so clearly contrary to the mandates of the Granite Bay Community Plan, the MUP should have been denied.

CEQA Initial Study

Section 15369.5 of the CEQA Guidelines defines a “mitigated negative declaration” as:

“Mitigated negative declaration” means a negative declaration prepared for a project when the initial study has identified potentially significant

¹ City-Data.com, July, 2007

effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

Therefore, only where the effects of a project do not have a significant effect on the environment, or where those effects are sufficiently mitigated so that there is no significant effect on the environment, may an MND be adopted and avoid the need for the preparation of an EIR. That is not the case here—traffic effects were not properly evaluated, project lighting in this rural area was not properly addressed, foraging and nesting grounds of raptors was not properly identified or evaluated, protection of the historical resources on the subject property were not adequately addressed, and the cumulative impacts of this project and planned subsequent phases of this project were neither disclosed nor addressed. Thus, the MND is invalid and the County should require the preparation of a full EIR prior to permitting this project.

1. Traffic

As a threshold matter, the traffic counts used for the project were done in 2005—more than four years ago. Such counts are stale and the Traffic Impact Analysis (“TIA”) must be viewed with skepticism. Nonetheless, the TIA acknowledges that, even at 2005 traffic levels, the intersections of Cavitt Stallman and Auburn-Folsom Roads, and Wells Ave. and Laird Road were already at peak hour warrant levels requiring traffic signals. Even at 2005 levels it appears that the A, B and C Levels of Service (“LOS”) are exceeded on a daily basis—the addition of the project’s traffic will create a significant impact which has not been adequately addressed in the Initial Study.

At 2009 traffic levels, these levels are undoubtedly exceeded. The Initial Study simply fails to either recognize or to sufficiently mitigate the traffic conditions resulting when the project’s projected traffic is added to existing levels.

Significantly, neither the TIA nor the Initial Study acknowledge or consider traffic levels should a 400-student school be added.

2. Aesthetics & Lighting

Project proponents and the Planning Commission recognized that the project would likely have considerable lighting and, thus, significantly impact the night sky in this rural area. Although the proponents agreed to put timers on the lights, the Planning Commission did not impose any condition whatsoever with regard to the hours of operation of the projects lights. Thus, without more, the lighting impact has not been mitigated in any way.

Similarly, the historic buildings on the site will be isolated and overwhelmed by the proposed project. A significant impact is defined, in part, as a physical alteration of the historical resource's immediate surroundings. Clearly, the proposed project will have a significant impact on these historical resources, yet there is no consideration or mitigation of the adverse effects.

3. Raptor Habitat

The Initial Study identifies protected raptor species associated with the subject property, and identifies potentially significant impacts to nesting and foraging areas. The project proponents identify mitigation for nesting impacts, but make no mention of significant impacts to foraging.

4. Cumulative Impacts

Public Resources Code section 21083(b)(2) and Section 15064(h) of the CEQA Guidelines require that environmental reviews consider the cumulative impacts of "probable future projects." It appears clear that the 400-student school is a "probably future project" and its impacts should have been considered in the Initial Study.

Therefore, after reviewing all of the materials, I'm not at all sure that that the Project Description in the MUP or the MND is correct. I understand that early on the St. Joseph Morello project included a school and, for reasons not clear, the school was deleted from the project. However, I also understand that the project description provided to the Corps of Engineers for permitting does include the school. Given these facts, the Board of Supervisors must ask:

- Why does the proponent's application to the Corps of Engineers include a future school, while the school has been deleted from the application for the MUP and from the CEQA Initial Study?

- Does the "project" actually include the school, or has it been carved up to avoid having to deal with the environmental significance of perhaps quadruple the vehicle traffic represented in the Initial Study, and associated increase in emissions and deterioration of air quality?
- Has the project description been revised solely to deceive Placer County?
- How can the County and residents respond to a subsequent application for the construction of a school on the property—especially after the church and multi-purpose building have been approved and built?

There are a number of other concerns and irregularities with the Initial Study, its findings and proposed mitigations, as well as the Traffic Study which you have already identified and which, therefore, are not repeated here.

In the interest of good government and good public policy, the Placer County Board of Supervisors should treat the St. Joseph Morello Church Project just as the County has other large church projects in the County and require the preparation of an EIR. This is especially true in this case because, unlike the other church projects which were sited in primarily suburban areas, the St. Joseph Morello project is situated in a largely rural area and will make an even greater environmental change to the area.

Very truly yours,

HUNT & JEPPSON



Robert W. Hunt

RWH:ks

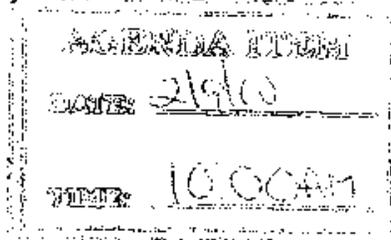
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January 27, 2009

Placer County Board of Supervisors
175 Fulweiler Avenue
Auburn, CA 95603



RECEIVED

JAN 28 2010

CLERK OF THE
BOARD OF SUPERVISORS

Re: **St. Joseph Marelo** – Response of the Applicant Team to Issues
Raised on Appeal

Dear Chairman Uhler and Members of the Board:

On December 16, 2009 the Board of Supervisors was presented with a letter from Dr. Gary Gaugler in support of his appeal of the November 12, 2009 decisions by the County Planning Commission to approve a Minor Use Permit for the St. Joseph Marelo Church (the "Project") and adopt a Mitigated Negative Declaration (the "MND") in accordance with CEQA.

Changes were made to the Project following the initial 2006 submittal and before going before the Granite Bay MAC. Subsequently letters describing the Project were sent to nearby neighbors to facilitate meetings with them. In our meeting presentation to the Hidden Valley HOA (located to the east across the street from the Project, we heard concerns regarding potential traffic impacts that might result from including a school. Because a school would not likely be feasible or needed on a program basis for quite some time, the Diocese agreed to remove the school from the Project under application. We also had meetings with Shelborne residents to the south and other neighbors to the north and west, but no concerns were raised.

The Project has been presented to the GB MAC twice, and received a unanimous vote of support at their September 2009 meeting. It also received a unanimous vote of approval from the Planning Commission on November 12.

We have reviewed the December 16, 2009 letter from Dr. Gaugler, a follow-up to his appeal filed on November 20, 2009. The letter includes an Attachment 3 with additional comments as well as a letter from the Law Offices of Hunt and Jeppson dated December 14, 2009. The points raised in the attorneys' letter are reiterated by the Gaugler letter, and thus do not require a separate response.

It is our opinion that none of the arguments contained in Dr. Gaugler's submittal

254

have legal merit, and that all approvals and findings made by the Planning Commission should be affirmed by the Board of Supervisors on appeal. In particular, we concur with County Staff that the MND is legally adequate and meets the requirements of CEQA.

For consideration by the Board, and for the purposes of the record, we wish to respond to the various arguments brought forward by Dr. Gaugler in the December 16 letter and its Attachment 3. For ease of reference, the original text of each comment is presented in the indented paragraphs below, followed by our responses:

LETTER FROM DR. GARY GAUGLER DATED DECEMBER 16, 2009

According to the Traffic Impact Analysis conducted by KD Anderson & Associates, Inc. on June 22, 2009 there are significant errors and omissions. Traffic counts were made in December 2005. This data is stale, being four years old and not reflecting current traffic load(s).

We requested that KD Anderson and Associates (KDA) review the comments of Dr. Gaugler related to traffic and circulation, and to provide a written response. The responses provided by KDA are contained in a letter dated January 15, 2010 (the "KDA Letter"), attached to this letter as Exhibit A.

The KDA Letter indicates that the traffic counts conducted in 2005 remain representative of current conditions, and that no additional analysis is required. It should be further noted that CEQA does not provide that data conducted beyond a certain time period prior to project approval is stale or obsolete. Under CEQA, the age of the analysis is irrelevant if the analysis continues to depict current circumstances. See *Snarled Traffic Obstructs Progress v City & County of San Francisco* (1999) 74 CA4th 79 (upholding the use of a nine-year old Negative Declaration where no substantial change in circumstances occurred in the meantime).

This is in stark contrast to traffic data compiled for Del Oro Estates Draft EIR which includes data that is as recent as one year.

As described in the KDA Letter, none of the Del Oro Estates study locations were common to the St Joseph Marellio traffic study, and therefore the reference provides no indication of any change in traffic volume in the area of St Joseph Marellio Church. Absent any data to the contrary presented by the comment, it is appropriate to regard the traffic counts contained in the traffic study as representative of current conditions on the roadways and intersections analyzed.

Traffic on Auburn-Folsom Road has dramatically increased in the last two years. The completion of the new bridge connecting Auburn-Folsom Road to Folsom (bypass for the Folsom Dam Road) is a major contributor to north and south traffic on Auburn-Folsom Road.

255

As described in the KDA Letter, Auburn Folsom Road remains a route to El Dorado County with and without the new bridge, and thus it is unlikely that the bridge would have an appreciable effect on conditions 4 miles away. In addition, the comment offers no evidence that the volume of traffic on Auburn Folsom Road has in fact increased, when a slight decrease would appear to be likely consistent with recent trends.

By 2010 or 2011 when the proposed project would be completed, the situation will be worse. The traffic data should be updated and used for the recent analysis rather being based on the old data.

As described above, the traffic analysis in the MND depicts current conditions, which have not changed significantly since 2005. The comment does not contain any substantial evidence to contradict this. Under Public Resources Code §§21080(e) and 21082.2(c), and CEQA Guidelines §§15064(f)(5) and 15384, the following constitute substantial evidence:

- Facts
- Reasonable assumptions predicated on facts; and
- Expert opinions supported by facts.

Under the same sections, the following *do not* constitute substantial evidence:

- Argument;
- Speculation;
- Unsubstantiated opinion or narrative;
- Clearly inaccurate or erroneous evidence; and
- Evidence of social and economic impacts that do not contribute to, and are not caused by, physical impacts on the environment.

Under CEQA, in order to constitute substantial evidence statements must be supported by an adequate factual foundation. The comment offers no factual data to support the conclusion that traffic conditions will be different or worse in the immediate future compared to the analysis in the MND.

Traffic counts and Level of Service (LOS) already appear to violate LOS C (Table 2). Based on Analysis data and personal experience at the intersection of Auburn-Folsom and Cavitt-Stallman Roads, I believe LOS D or E is appropriate due to capacity, unstable flow, and typical queue time of one to two minutes, especially when turning left onto Auburn-Folsom Road from Cavitt-Stallman Road.

The traffic study notes that the Level of Service at one location exceeds the Granite Bay Community Plan's minimum LOS C standard. During the weekday a.m. and p.m. peak hour eastbound traffic stopped at the Auburn Folsom Road / Cavitt Stallman Road intersection operates at LOS D. However, traffic volumes are lower on Sundays when the church holds Mass, and the intersection operates at LOS B.

Therefore, there is a high probability of LOS F along the project site and at the

intersection of Auburn-Folsom Road and Cavitt-Stallman Road. Reference 4, Table 8-1 highlights this condition for an un-signalized intersection.

The Project will add a small amount of traffic on weekdays, estimated in the traffic study at 22 trips in the a.m. and p.m. peak hour at full buildout. This traffic will primarily use the project's Auburn Folsom Road access, and its contribution to the Auburn Folsom Road / Cavitt Stallman Road intersection is too small to have any significant effect on the weekday Level of Service. The traffic study identified Levels of Service occurring on Sundays before and after church services, indicating that the Auburn Folsom Road / Cavitt Stallman Road intersection would operate at LOS C during both time periods under "existing Plus Project" conditions. As noted in the traffic study, signalization of the Auburn Folsom Road / Cavitt Stallman Road intersection is included in the current Placer County traffic fee program / CIP. Thus, although the church does not create the need for improvements, it will contribute its fair share to the cost of improving the intersection by paying adopted fees.

The Analysis failed to include the traffic from the north church location. It only considered the traffic from the Granite Bay Junior High School location. As stated by the project planner, there are two separate church locations--a north and a south that would be consolidated at the proposed site. Thus, there is new traffic in a south direction on Auburn-Folsom Road to the proposed site as well as new traffic in a north direction on Auburn-Folsom Road to the proposed site.

As discussed in the KDA Letter, the comment appears to relate to a statement made at the November 12, 2009 Planning Commission meeting regarding current travel to the facilities used by St Joseph Marelo church members. Church services are currently held at Cavitt Junior High School, and parishioners also attend a variety of evening activities and meetings at the facility located on Wells, between Laird and Barton. The traffic study correctly assumed that on Sundays trips to and from the church would continue to originate at the parishioners' residences, and the trip distribution is based on the locations of church member residences, as indicated by the Parish. The majority of residences are located to the south of the Project, but as noted in the study, some are to the north. The construction of new Project facilities might even result in a reduction of trips which currently originate from the south of the Project. St Joseph Marelo Church Traffic Study assumptions and conclusions are valid.

Widening Auburn-Folsom Road to four lanes south of the Douglas Blvd intersection serves no practical purpose with respect to the project. My assertion is that it will cause further congestion and queue times at Auburn-Folsom Road north of Douglas Boulevard because the road narrows to two lanes just north of Douglas Blvd.

The Auburn Folsom Road widening project is a phased improvement being coordinated by Placer County. As noted in the comment, this construction project is limited to the area south of Douglas Blvd. Widening Auburn Folsom Road south of Douglas Blvd will improve the overall flow of traffic through areas that are today "constrained", especially the signalized Auburn Folsom Blvd / Eureka

Road intersection. However, the locations of constraint are far south of the Project. The improvement project does not change the overall capacity of the signalized intersection closest to the church (i.e., Auburn Folsom Road / Douglas Blvd intersection). As a result, the effect of the improvement project on Sunday traffic conditions near the St Joseph Mareello site would not be significant.

Generation of an additional 2,100 daily trips is inconsistent with the physical characteristics of Auburn-Folsom Road at and around the project site. The narrow lanes on Auburn-Folsom Road leave little room for bicyclists to safely mix with traffic (see attached photos). Auburn-Folsom Road is a major bicycle route from Auburn to the American River at Greenback Lane and Auburn-Folsom Road.

The traffic study notes that while the church may generate 2,100 daily trip ends on Sunday at full occupancy, these trips may spread to many streets, and the contribution to Auburn-Folsom Road south of Cavitt Stallman Road is 1,555 trip ends. However, with this increase the Sunday traffic volume on Auburn Folsom Road will continue to be far less than the current weekday volume, and on Sunday the road will continue to operate at LOS B, well above the minimum LOS C standard of the Granite Bay Community Plan.

Many of Placer County's rural roads are used by recreational and commuter bicycle cyclists. In most cases bicycle traffic is accommodated on paved shoulders that are 2 to 4 feet wide but are not standard Class II bike lanes. This is the current condition on Auburn-Folsom Road in the area between Cavitt Stallman Road and the urbanized area near Douglas Blvd. While the Project will increase the volume of automobile traffic in this area, the church is required to improve its Auburn Folsom frontage. These improvements will include a multi-purpose trail along Auburn Folsom Road from the south property boundary to the church entrance and will widen the road for all transportation modes.

Development of St Joseph Mareello Church will not result in a significant safety impact for cyclists on Auburn Folsom Road or surrounding roads, and the Traffic Study assumptions and conclusions are valid.

In particular, see Reference 4, page 8-13 "Existing Bicycle System" and Table 8-5 discusses the classifications of Granite Bay On-Road Bikeways. Neither Cavitt Stallman Road, Laird Road or Barton Road have any designated bikeway(s). Auburn-Folsom Road has dual direction bikeways but in most areas, they fail to meet any of the listed CALTRANS classifications.

As indicated by the KDA Letter, the comment is incorrect and is based on information from the Rancho Del Oro EIR that describes bicycle facilities in another area of Granite Bay. Table 8 of the Granite Bay Community Plan's Circulation chapter discusses planned bicycle facilities. This table notes that Barton Road from Douglas Blvd to the Loomis Town limits is the "top priority" for class II bike lanes. This work is included in the current County fee program / CIP. Cavitt Stallman Road from Barton Road to Auburn Folsom Road is a "high priority" for Class II bike lanes. This work is in the fee program/CIP. The Community Plan notes that class II bike lanes are a "lower priority" on Auburn

Folsom Road from Douglas Blvd to Dick Cook Road, and class II bike lanes from Douglas Blvd to Joe Rogers Road are in the fee program / CIP. Finally, the fee program / CIP includes funding for class II bike lanes on Laird Road from Cavitt Stallman Road to the Loomis Town limits.

Existing facilities dedicated to bicycle use are limited in the rural areas of Placer County. There are many rural roads that lack shoulders, but regardless, bicycles mix with automobiles in many of those instances. The development of St Joseph Marelo Church does not significantly change the existing bicycle environment, and the church will contribute its fair share to the cost of regional bicycle facilities by installing identified frontage improvements and paying adopted fees.

Furthermore, the project's projected traffic would violate the Granite Bay Community Plan in the Circulation Area, Goal 1, and its Policies 1, 2, 5, 7 (increases load on Auburn-Folsom Road)

The comment suggests that the Project violates these policies because of increased traffic on Auburn Folsom Road. Project frontage improvements will be designed and constructed in accordance with the Granite Bay Community Plan's requirements (Policy 1), and right of way dedication along the Project frontage will provide the space needed for paving, trails, utilities, etc (Policy 2). As noted in the traffic study the addition of Project traffic to Auburn Folsom Road does not result in post-project conditions in excess of adopted standards, nor does the proposed church create a significant impact by contributing to conditions that may already exceed minimum standards on weekdays. Improvements to the Auburn Folsom Road / Cavitt Stallman Road intersection and to Auburn Folsom Road are already included in the adopted fee program (Policy 5). Primary Project access is to Auburn Folsom Road, a regional facility, as suggested by Policy 7, which is one of the busiest roads in the Granite Bay Community.

Policies 9, 11, 13, 16, 17, 18, 19 (Cavitt-Stallman Road is extremely dangerous after recent re-paving due to severe drop-off along the edges of each lane as well as a major blind spot [hill] west of the proposed Cavitt-Stallman entrance to the project), and 24 (see §8-6).

The comment suggests that St Joseph Marelo Church will violate the referenced policies based on the existing Cavitt Stallman Road conditions. However, the site access has been designed in consultation with Placer County staff to avoid the use of a traffic signal at the Project access by making secondary use of an existing (private) access to Cavitt Stallman Road (Policy 9) at Laird Road. The Project mitigates for any impact to designated scenic or country roads such as Auburn Folsom Road and Cavitt Stallman Road (Policy 11 and 18) by providing a 25-foot landscape buffer along the site's Auburn Folsom Road frontage. A multipurpose trail will also be provided along the site's Auburn Folsom Road frontage and IOD's are provided on other frontage (Policy 13). The Project shall contribute to regional bicycle facilities by improving its Auburn Folsom Road frontage and paying adopted fees (Policy 16 and 18). New pavement will conform to Placer County requirements (Policy 19). Required improvements to Auburn Folsom Road and to the Laird Road/Cavitt Stallman Road have been

presented to the Granite Bay Municipal Advisory Committee (MAC) and the Placer County Planning Commission and approved by each body (Policy 24).

Specifically, the pavement work completed on Cavitt Stallman Road by Placer County is generally consistent with the intent of the County's traffic fee program / CIP and does not represent a negative impact to safety in this area of the County. The sight distance limitation on Cavitt Stallman Road west of the Laird Road intersection was noted in the traffic study, and with perpetuation of the existing all-way stop at Laird, current conditions are not significantly impacted by the church. The existing Cavitt Stallman/Laird Road intersection, which will provide secondary access to the church, will be improved as part of the Project's construction. Improvements to Cavitt Stallman Road, to the Cavitt Stallman Road / Laird Road intersection, and to the Cavitt Stallman Road / Auburn Folsom Road intersection, are all included in the existing fee program. Development of the Project is consistent with Policies 9, 11, 13, 16, 17, 18, 19 and 24.

Also violated is Goal 2 and its Policies 14 and 17.

The Project is required to construct a multi-purpose trail along Auburn Folsom Road from the south property boundary to the church entrance. The church will also make an irrevocable offer of dedication (IOD) for the area along its eastern boundary north to Cavitt Stallman Road, and along the Cavitt Stallman Road frontage for use by the County, including a future trail (Policy 14 and 17).

Also violated is Goal 3 and its Policy 7 (as stated in Reference 4, "Existing Transit System," Dial-A-Ride would appear to be the only available public transit provider. However, it serves six days a week and excludes Sundays.

The existing church sites used by the parish do not have regular transit service, and as noted are not served by Dial-A-Ride on Sundays. There is no expectation that an appreciable demand for transit services will accompany the Project.

The church will adhere to all adopted Placer County ordinances; however, Placer County has no adopted trip reduction ordinance requirements for churches.

Goal 4 and its Policies 3 through 8 are also not followed.

The existing County CIP / fee program addresses roads, intersections, traffic signals and bike lanes in the area of the church (Policy 3). The Project will include frontage improvements to Auburn Folsom Road (Policy 4) and will pay all adopted fees (Policy 5). The County's fee program was recently updated in 2009 and reflects development of facilities that are needed based on anticipated development (Policy 6). St Joseph Mareello Church will also pay for a new emergency traffic signal at the South Placer Fire District Station (Policy 7). The updated Placer County fee program includes bicycle facilities (Policy 8).

No details are provided or seen how the project will comply with the Americans with Disabilities Act (ADA) Title III. With respect to Title III, it would seem that the county would have to construct disability access from the project site to at least Douglas Blvd.

(Reference 4, §8-6)

The Project will satisfy all applicable ADA requirements, which will be addressed during the architectural and improvement plan processing for the buildings and exterior improvements. There is no obligation for the Project to extend access improvements beyond the Project frontage.

What was the rationale for starting such a large project at the limited access on the Cavitt-Stallman and Auburn-Folsom Roads proposed location rather than the existing Marelo property on Wells Ave (City of Loomis)? There is existing infrastructure, facilities and access north and south on Barton Road such that there would be minimal or no bicycle issues (see attached pictures).

The MND analyzes the environmental impacts of the proposed Project at the identified site near the intersection of Auburn-Folsom and Cavitt-Stallman Roads. Because the Project does not result in any significant and unavoidable impacts to the environment, CEQA does not impose the obligation to prepare an EIR or conduct an analysis of alternative locations. The comment does not provide any specific information to support the claim that locating the project at the Wells Avenue location would reduce any environmental impact. In fact, we would argue that the proposed Project is better-located on an existing major arterial than deeper within a rural area served by smaller roads. Moreover, the project site has been owned by the Church for more than 20 years, and was acquired for the purpose of constructing a church facility, consistent with and contemplated by the Community Plan. The Marelo Youth Retreat Center at 6530 Wells Avenue currently holds weekday meetings and occasional mid-week evening events, but would not be a suitable site for a permanent church facility alongside given the terrain, location and limited road access to the existing Center. In fact, nearly all those activities which currently take traffic north past the Project site to the Marelo Youth Retreat Center will be accommodated at the new church, conceivably reducing some of the current trips through the area.

Unconvinced that the Planning Commission considered off-site as well as on-site effects, indirect as well as direct effects and cumulative effects based on defined thresholds-if factual and quantitative or is missing, this and other factors led to poor policy decision making and implementation (to wit, Seiver and Hatfield, 2001):

The MND analyzed off-site environmental impacts, including but not limited to off-site infrastructure improvements, noise impacts potentially affecting off-site receptors, and potential traffic impacts at off-site roadway and intersection locations. [CEQA does not require Negative Declarations to consider or analyze cumulative impacts]. See CEQA Guidelines §15030. In determining that a MND was appropriate under CEQA for this Project, the County found that the Project would not make a cumulatively considerable contribution to cumulative impacts on the environment. See the MND at Page 32.

Based on the requirement to address cumulative impacts as delineated in CEQA, this project cannot go forward without a more detailed review by the Planning Commission because the US Army Corp of Engineers Form 404 permit application includes a school

at the site--to be built at some time in the future. Since this is an indefinite impact at an indefinite future time, there is no quantitative method of assessing the environmental impacts in the long term. A comprehensive EIR now which includes the school might resolve this issue.

As stated above, the Project will not result in any significant impacts on a cumulative basis, and all CEQA requirements for analysis of cumulative impacts have been satisfied. The Project initially presented to the County included school facilities, which were subsequently withdrawn from the application, leaving only the church and multi-purpose buildings for evaluation and approval by the Planning Commission.

The Project as initially proposed did originally include school facilities that were subsequently withdrawn, leaving only the church and multi-purpose buildings for evaluation and approval by the County. The Project as approved by the Planning Commission did not propose nor does it now include school facilities. These conceptual future school facilities were, however, included in the Army Corps Section 404 Individual Wetlands Permit application to depict a concept of ultimate site development so that the Church could secure a single wetland permit today to mitigate for all potential wetland and special status species impacts at the Project site. By including these school facilities in the US Army Corps of Engineers application, the Church will achieve considerable efficiencies, fiscal and logistical cost savings by: (1) purchasing all required current and future, potential offsite mitigation at today's prices; and (2) avoiding the considerable cost of onsite mitigation (e.g. onsite conservation easement, preserve management, and endowment) required under a Nationwide Wetlands Permit, which the Project would have qualified for without including the school facilities as a conceptual element of future development.

If in the future a school is proposed at the Project site, the Church would be required to make a separate application to the County, and to undergo additional CEQA review and approval as required. The commenter is correct that impacts of a future school are indefinite both in terms of nature as well as timing, but it is the US Army Corps of Engineers that evaluates wetland impacts and issues wetland permits. The application process for the federal Section 404 permit does not bear upon the validity of the County's CEQA determinations with respect to the Project as defined before the County.

Analysis of a school in the MND would have required both the County and the applicant to engage in a great deal of speculation, which CEQA strongly discourages. See CEQA Guidelines §15145.

ATTACHMENT 3, Dated December 2009

Public Review of Subsequent Mitigated Negative Declaration - Per Section 18.16.070 (Subsequent negative declarations) of the Placer County Code, "If a previously adopted negative declaration is revised to include an expanded project description or other substantial new information pursuant to Section 15162 of the CEQA Guidelines, the subsequent negative declaration must comply with the notice and review (Section

18.16.030) provisions of this chapter. (Ord. 5119-B (part), 2001)."

A mitigated negative declaration (MND) for the project was prepared and circulated for public review. Following receipt of comments on the MND, the County prepared a revised MND which included a new project description discussion that had been significantly expanded (an entirely new paragraph that describes the anticipated weekday, evening and ancillary activities and functions of the proposed use was added). However, as stipulated in Section 18.16.070 of the Placer County Code, the expanded project description should have resulted in the preparation of a subsequent MND, and that subsequent MND should have been properly noticed for public review per the notice and review provisions (Section 16.16.030) of the Placer County Code.

The comment is correct that supplemental text was added to the Project description section of the revised MND. These additions were made to provide additional clarification and detail concerning the Project, largely in response to the Appellant's prior comments on the circulated MND. The added text did not represent a change in the Project as proposed or analyzed in the MND, and the revisions do not constitute "new information" requiring recirculation under CEQA or Placer County Code §18.16.030.

Height and Setbacks: Per Section 17.44.010 E (Site Development Standards), the maximum permitted height in the Residential Agricultural (RA) District is 36 feet maximum, with footnotes to Section 17.54.020 (Height limits and exceptions). Section 17.54.020 D 1 notes that houses of worship may be erected to a maximum height of fifty (50) feet; provided, that all required setbacks shall be increased by one foot for each one foot of height that the building exceeds the normal height limit established by the zone.

The project includes a church building 50 feet in height, with two matching bell towers each with a height of 57.5 feet (plus architectural features of an additional 10 feet). The placement of the church building is proposed 30 feet from the western property boundary; per Section 17.44.010 E (Site Development Standards), the required rear setback in the RA zone is 30 feet minimum. Given that the church building is proposed at 50 feet tall, which exceeds the allowable height of 36 feet by 14 feet, the rear setback for the project would need to be a minimum of 44 feet (30 feet as required by zoning plus additional foot for every foot of height that the building exceeds the normal height limit established by the zone). The 44 foot setback requirement is considered to be conservative, as it does not take into account the fact that the project will have bell towers at 57.5 feet and architectural features of an additional 10 feet (67.5 feet exceeds the 36 foot height limit by 31.5 feet, which would equate to a required rear setback of 61.5 feet). Regardless, the project as currently proposed violates the rear setback requirement because of the height exceedance and the project must be made to comply with the appropriate setback requirements.

Phase I of the Project contains a multi-purpose building, the roof of which is at a height of 36 feet – 6 inches at the mid-point of the building. An architectural feature located toward the front of the building will be at a height of 39 feet, at approximately 130 feet from the rear property line. The building setbacks proposed actually exceed the minimum referenced in Section 17.54.0210 E by approximately 6'. It is also sited 360 feet back from the western edge of Auburn Folsom Road, more than 200 feet over the required minimum. Phase II of the Project contains the main church building, the height of which the commenter

correctly describes. However, the main church will be sited 128 feet from the rear property line and 270 feet from Auburn Folsom Road. The lowest roof heights at the rear of the building are also at least 58 feet from the closest side or rear property lines, exceeding the minimum requirements required of a single family home in this zone district.

Inconsistency with Granite Bay Community Plan (GBCP)

The GBCP includes ten General Community Goals and Policies that are general in nature and basic to the entire Plan. One of the stated ten goals is "To provide only those commercial, professional, and institutional services and facilities which are required to meet the frequently recurring needs of residents of the community and which are scaled to meet only the local resident's needs" (*emphasis added*). Presumably having a level of importance as one of only ten major goals, this particular goal recognizes the need to provide the GBCP residents with needed services and facilities, but only at a scale and size to meet only the local resident's needs. While we can accept that churches should not be limited in membership based on geographic boundaries, the development of a house of worship that is over 41,000 square feet in size is clearly not just limited to meeting the needs of the residents of the community and is far beyond the scale needed to meet only the local resident's needs.

The Project is comprised of a 16,300 s.f. multi-purpose building, which will be followed by a 25,000 s.f. church building. The Project is scaled to meet the program needs of the St. Joseph Mareello Parish, which has been serving the Granite Bay area since 2004, using the gymnasium at Cavitt Junior High School for weekend services and the Mareello Youth Retreat Center on Wells Avenue in Loomis for a variety of mid-week afternoon and evening meetings. The Project and its proposed scale are consistent with the Community Plan land use designation and zoning requirements applicable to the site.

It should be further considered that the Appellant's position on this issue, if accepted by the Board, would raise concerns under the federal Religious Land Use and Institutionalized Persons Act (42 U.S.C. § 2000cc (RLUIPA)). This federal law states: "*No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a . . . religious . . . institution, unless the government demonstrates that imposition of the burden on that . . . institution (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest.*" (42 U.S.C.A. § 2000cc, subd. (a)(1)(A)-(B), *italics added*.) "Religious exercise" is defined by RLUIPA as including "any exercise of religion, whether or not compelled by, or central to, a system of religious belief." (42 U.S.C. § 2000cc-5(7)(A).) RLUIPA's purpose, among other things, is to prevent the government from treating religious organizations in a manner that is unequal to similarly situated entities. (*Ventura County School v. City of San Buenaventura* (C.D.Cal. 2002) 233 F.Supp.2d 1241, 1247.). The Appellant essentially requests that the Project be developed at a size and scope to serve "local" residents only. Not only is such a limitation not justified by or consistent with the Community Plan, it would place a substantial burden on religious exercise in a manner that would be prohibited by

RLUIPA under the circumstances.

The GBCP Land Use Element's first stated goal is "Preservation of the unique character of the Granite Bay area, which is exemplified by the general rural environment, mix of land uses and densities, and high quality of development, is a major goal of the plan." The development of the project site as currently zoned would result in several rural residences, a development consistent with the "major goal" of the Plan of preserving the unique character of the Granite Bay area that is exemplified by the general rural environment. The development of a house of worship that is over 41,000 square feet in size impacts and disrupts the general rural environment and unique character of the area, creating an inconsistency with a "major goal" of the GBCP.

To further the GBCP's major goal of preserving the unique character of the Granite Bay area, the GBPC Land Use Element includes the following policies:

15. Buildings shall be of a size and scale conducive to maintaining the rural residential atmosphere of Granite Bay. The architectural scale of non-residential buildings, as differentiated from size, shall be more similar to that of residential buildings than that of monumental buildings.

16. Non-residential buildings shall generally be of small or moderate size and, where groups of buildings are used, connected by plazas, terraces, porches, arcades, canopies or roofs, to provide a pleasant environment as well as safety and shelter to pedestrians.

The proposed project is inconsistent with these policies; the development of a house of worship that is over 41,000 square feet in size would result in a large project (not small or moderate sized) that is not in an architectural scale that is conducive to maintaining the rural atmosphere and is more similar to a monumental building than residential buildings

See response above. In addition, the Project has been designed with a traditional architectural style that is residential in look and scale.

The GBCP Land Use Element also contains "Specific Policies of Intensity of Use", including policy 3 - "Intensity of use of individual parcels and buildings shall be governed by considerations of: health and safety; impact on adjoining properties due to noise, traffic, night lighting, or other disturbing conditions; and protection of natural land characteristics."

The proposed project's size and scale will impact adjoining properties due to noise, traffic, night lighting, particularly when compared to what adjoining properties would have been subject to if the properties were developed per their land use designation and zoning.

The Project site is designated Rural Estates under the Granite Bay Community Plan, and zoned Residential Agriculture. A "house of worship" is an allowable use in this zone district and on this site, subject to County approval of a Minor Use Permit (MUP). As described in Zoning Code §17.44.010, other MUP uses in the Residential Agriculture zone include libraries, schools, child care facilities, and similar non-residential uses. The proposed change of the Project site from residential to church use is described in the MND, including the change in

aesthetic character. The MND further analyzes impacts with respect to noise, traffic, light, and health and safety, consistent with Policy 3.

The GBCP Land Use Element also contains "Specific Policies for Public and Private Institutions", including policies 2 and 3, respectively: "The intensity of use of an institutional site shall be limited to that which is compatible with adjoining uses and in keeping with the rural character of Granite Bay; the institution should not generate excessive noise or traffic.", and "Institutional buildings shall be of a size and scale compatible with the rural atmosphere of the Community."

The proposed project's size and scale is not compatible with adjoining uses and is not in keeping with the rural character and atmosphere of Granite Bay. The institution will generate excessive noise and traffic, and although not considered by the Planning Commission to be a significant impact in the project's environmental analysis, the level of noise and traffic from the project is far beyond what can be normally anticipated for a property with residential/agricultural zoning.

As described in the MND, the Project will not have a significant and unavoidable impact on noise or traffic conditions, and impacts will be less than significant with the implementation of adopted mitigation measures. Absent a significant and unavoidable impact with respect to noise or traffic, the Project cannot be said to be "excessive" in these regards. The County's noise thresholds are defined by the General Plan, and vary depending on the affected land use. Traffic thresholds are defined by the County General Plan and the Community Plan.

In summary, the size and scale of the proposed project are inconsistent with the goals and policies of the Granite Bay Community Plan. The proposed project results in a much more intense and environmentally damaging development of the project site, as compared to if the site were to be developed under existing land use designations and zoning. The Granite Bay Community Plan did not contemplate a development of this size and specifically included goals and policies to prevent development on a scale as being proposed from occurring. The project's staff report supports this reasoning by apprehensively noting the following on page 4 "Houses of worship" are generally considered compatible with rural residential land uses. The proposed project appears to be in scale with what was contemplated by the Granite Bay Community Plan." (*emphasis added*).

In its adopted Findings, the Planning Commission concluded that the Project is consistent with the Community Plan, which includes those provisions of the Community Plan related to the size and scale of the project. The Project is consistent with all County zoning requirements and development standards, including standards governing building height, site coverage, and setback.

The revised Mitigated Negative Declaration (MND) is inadequate in multiple areas, and that there is substantial evidence that the project will result in significant environmental effects such that an Environmental Impact Report ("EIR") must be prepared.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare and EIR whenever a "fair argument" can be made that the project may have a significant adverse effect on the environment. Per CEQA Guidelines section 15073.5, "If during the negative declaration process there is substantial evidence in light of the whole record,

before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project." The "fair argument" threshold established by CEQA for requiring the preparation of an EIR is an extremely low threshold.

We do not believe that issues raised by the Appellant constitute "substantial evidence" supporting a fair argument that the Project would have a significant impact on the environment. It is recognized that a strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the "fair argument" standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *No Oil, Inc. v City of Los Angeles* (1974) 13 C3d 68; *Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 CA4th 1597; *Friends of "B" St. v City of Hayward* (1980) 106 CA3d 988.

The fair argument rule does not mean that the lead agency has no discretion concerning the evidence or the determination of significance. The County must consider the entire record and decide whether the information relating to potential impacts is "substantial evidence" sufficient to support a "fair argument" that the impacts may occur and whether the identified impacts should be considered "significant." The Planning Commission considered the issues now on appeal, and found that they did not rise to the level of substantial evidence, and that adoption of a MND was appropriate.

Complaints, fears, and suspicions about a project's potential environmental impact do not constitute "substantial evidence" for CEQA purposes. See *Porterville Citizens for Responsible Hillside Dev. v City of Porterville* (2007) 157 CA4th 885 (general objections to project density and quality were not substantial evidence of environmental impact); *Bowman v City of Berkeley* (2004) 122 CA4th 572 (generalized aesthetic objections to project were not substantial evidence).

Without substantial evidence in the record showing that significant adverse impacts will remain after mitigation, a court must presume that the conditions adopted by the agency in a mitigated negative declaration will be effective and will ensure that impacts are mitigated to an acceptable level. See *Perley v Board of Supervisors* (1982) 137 CA3d 424. In other words, the burden is on the petitioner to demonstrate that there is substantial evidence in the record supporting a fair argument that the proposed project may have a significant effect even after mitigation measures are considered. *Citizens for Responsible & Open Gov't v City of Grand Terrace* (2008) 160 CA4th 1323; *Architectural Heritage Ass'n v County of Monterey* (2004) 122 CA4th 1095. If the petitioner does not meet this burden, the mitigated negative declaration must be upheld. *San Bernardino Valley Audubon Soc'y v Metropolitan Water Dist.* (1999) 71 CA4th 382; *Citizens for Responsible Dev. v City of W. Hollywood* (1995) 39 CA4th 490.

The MND addresses the project's aesthetic impacts by noting compliance with the Granite Bay Community Plan Scenic Corridor design standards, Rural Design Guidelines and elements of the project that will result in landscaping, setback buffers, and down shielded lighting. The development of two large buildings totaling 41,300 square feet, with building heights of 36 and 50 feet (67 feet with bell towers and architectural features) will have a substantial adverse impact on a scenic vista. Such development will also substantially alter the rural character of the area in such a way that was not anticipated or addressed in the Granite Bay Community Plan EIR ("GBCP EIR") since that environmental analysis assumed current land use and zoning of the project site as Rural Estates and 4.6 acre minimum building sites. Because of the proposed project's intensity, scale, size of development and its amount of lighting, it will substantially degrade the visual character and quality of the site and its surroundings and it will create a new source of substantial light and glare, again in such a way that was not anticipated or addressed in the GBCP EIR. Lighting concerns also include the project's affect on the night sky that is afforded by the rural character of the area. Beyond the direct significant impact, the project also contributes significantly to a cumulatively considerable aesthetic impact.

The aesthetic impacts of the Project are described in the MND. While the generalized concerns of the commenter regarding the aesthetic impacts of the project are recognized, the comment does not appear to raise any issues not addressed in the MND. The Project site is designated Rural Estates under the Granite Bay Community Plan, and zoned Residential Agriculture. A "house of worship" is an allowable use on the site, subject to County approval of a Minor Use Permit (MUP). Impacts on nighttime lighting are analyzed in the MND, and are addressed through adopted Mitigation Measures, Conditions of Approval and compliance with County Code requirements. The comment does not indicate the nature of the "cumulative" aesthetic impacts of concern, or how this Project specifically contributes.

While Placer County has chosen to prepare a MND for this project, they have also chosen to prepare an EIR for the Amazing Facts Ministry project on Sierra College Boulevard. Notwithstanding the fact that the Amazing Facts project is larger and perhaps has more of a scenic view in a singular direction because of the site's elevation, there is relatively no difference between the two projects in the sense that both involve the development of large houses of worship that were never anticipated in the GBCP EIR. Why then is an EIR being prepared for one of the projects to in part address a cumulatively considerable significant aesthetic impact, when a MND is being prepared for the other? The County's analysis in the St. Joseph Mareello Church MND does not support the less than significant aesthetic impact conclusions that were made.

As required by CEQA, the County's determination whether to prepare an EIR or a Negative Declaration for a particular project was based upon the facts and circumstances that apply in each situation. As described in the Notice of Preparation (February 9, 2009) for the Amazing Facts Ministry project, that project proposes to develop approximately 208,000 s.f. of worship space and related uses, including a school, gymnasium and office uses. The Amazing Facts Ministries project is over 5 times the size in terms of building square footage as the Project.

The original MND's air quality analysis concluded that the project will not conflict with

the Placer County Air Quality Management Plan to attain federal and state ambient air quality standards. The 1991 Placer County Air Quality Attainment Plan and subsequent updates, including the recent Sacramento Regional 8-hour Ozone Attainment and Reasonable Further Progress Plan did not account for the development of the project site with the intensity that will result with the proposed project, and as such, the project's air quality emissions were not anticipated in any prior environmental review and have not been adequately addressed in the MND. The project's traffic analysis indicates that the project will result in approximately 2,100 daily Sunday trips and average weekday daily trips of approximately 549. If the 12.8 acre project site were to be developed according to current land use designations and zoning, automobile trip generation and the associated vehicular emissions from that type of development would be significantly less (12.8 acres x 0.75 [gross to net conversion] = 9.6 acres; 9.6 acres with 4.6 acre building site minimums zoning would allow for 2-3 residential units; 3 residential units generate 9.5 daily weekday trips per unit and 8.78 Sunday trips per unit, using ITE Trip Generation Manual rates, for a total of 28.5 daily weekday trips and 26.34 Sunday trips). In conclusion, the number of trips that the proposed project will generate is nearly 20 times higher than the number of weekday trips and nearly 80 times higher than the number of Sunday trips that would result if the project site were developed according to current land use designations and zoning. The number of automobile trips and the resultant pollutant emissions created by the proposed project have not been adequately addressed in the MND and will result in a significant air quality impact.

The Project site is designated Rural Estates under the Granite Bay Community Plan, and zoned Residential Agriculture. A "house of worship" is an allowable use on the project site, subject to County approval of a Minor Use Permit (MUP). The comment is incorrect to the extent that it concludes that only single family residential uses are permitted in the Residential Agriculture zone, or that the Air Quality Attainment Plan was based upon this assumption. It should be noted that CEQA does not permit the impacts of a project to be evaluated against a baseline of uses allowed under a Community Plan or zoning. Instead, impacts must be evaluated in terms of the change compared to existing conditions. CEQA Guidelines §15125(a). In this case, the MND accounted for the fact that the site is currently undeveloped, and therefore that all emissions were new. No subtraction was given to account for the level of residential use that could have alternatively occurred on the site, or for the fact that the Parish currently conducts worship services at multiple alternative locations which would cease or otherwise significantly diminish when the Project is completed. The MND concluded that Project impacts on air quality are less than significant, in that Project emissions are below adopted daily thresholds of significance.

Even the most basic of air quality modeling tools involve a project site's underlying land use and zoning to project air quality impacts from property or properties that have not yet been developed. The fact that the proposed project is an allowed use in the particular zoning district subject to the issuance of a Minor Use Permit (MUP) does not relieve the County from reviewing potential environmental impacts, particularly those related to air quality. If the County philosophy of "it's an allowed use in that zone subject to a MUP" is carried out to the extreme, one is left to wonder how many MUPs can be granted before it is recognized that environmental impacts that have not been previously addressed or disclosed are being created through the issuance of a MUP(s).

The revised MND's air quality analysis still concludes that the project will not conflict

269

with the ability to meet the region's air quality attainment standards because the project-related emissions are below the District's thresholds. While the project's emissions may not exceed the District's thresholds, the project will still result in significant long-term air quality impacts and cumulative impacts in the Sacramento Valley Air Basin.

See above response.

A lead agency must find that a project may have a significant effect on the environment and must prepare an EIR if the project's potential environmental impacts, although individually limited, are cumulatively considerable. (Pub. Resources Code, Section 21083(b); CEQA Guidelines Section 15065(c); see *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 398.) The Fifth District Court of Appeal has found that "[t]he relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether *any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin.*" (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 781, emphasis added.) The Fifth District concluded that the more severe the existing environmental problems are, the *lower the threshold for finding that a project's cumulative impacts are significant.* (*Id.*, emphasis added). The MND fails to analyze this issue, and simply dismisses the potentially significant cumulative impacts to air quality by noting that daily emission thresholds would not be exceeded. This contradicts the ruling in *Kings County* which stated that the more severe the existing environmental problems, the lower the threshold for finding a project's cumulative impacts are significant.

The daily emissions thresholds of significance adopted by the Placer County AQMD reflect a determination that impacts below these levels are less than significant. These threshold levels reflect conditions in the Sacramento Valley Air Basin, as well as the emission levels required for compliance with the AQMP without the need for additional mitigation. It should be noted that even though the Project will not have a significant impact on air quality based on project-level thresholds, the Project is subject to twenty standard Mitigation Measures to further reduce impacts. The portions of the *Kings County* case cited by the comment established the "one molecule" rule for analyzing cumulative impacts. This rule has since been rejected in *Communities For a Better Environment v. California Resources Agency* (2002) 103 Cal. App. 4th 98, which held that cumulative impacts should be evaluated under CEQA Guidelines §15064(i)(1), i.e. whether the cumulative effect is significant and whether the project's effects are "cumulatively considerable."

It should be noted that Placer County has prepared EIRs on several other large houses of worship projects that are either now built or are being proposed, and that those projects each required an EIR. The EIRs for those projects recognized that the proposed uses were much more intense than previously studied or assumed for the subject properties, and as such, each of those EIRs identified that the project would result in a cumulatively considerable air quality impact. Specifically, the EIR prepared for the Bayside church included the following analysis/discussion:

"Project-generated emissions, together with emissions from existing and future projects, would contribute to existing and projected exceedances of California

and National AAQs for CO, PM 10, and O3 in the Sacramento Valley Air Basin, as well as Placer County. Due to the existing nonattainment designation, and the new federal standards, continuing growth in western Placer County contributes to a significant and unavoidable cumulative impact. Mitigation measures presented below would reduce the project's contribution to regional pollutant emissions. However, the project would have to reduce project emissions 100% to achieve a less than significant cumulative impact."

Similarly, the EIR prepared for the Amazing Facts Ministries project includes the following analysis/discussion:

"Placer County is classified as a severe nonattainment area for the federal ozone standards. In order to improve air quality and attain health-based standards, reductions in emissions are necessary within the nonattainment area. The growth in vehicle usage and business activity within the nonattainment area would contribute to cumulative regional air quality impacts. Additionally, implementation of the proposed project may either delay attainment of the standards or require the adoption of additional controls on existing and future air pollution sources to offset project-related emission increases. The Placer County General Plan includes policies aimed at reducing ozone precursor and particulate emissions associated with cumulative development in Placer County. These policies are of particular importance since the portion of Placer County surrounding the proposed project site is currently designated as being in nonattainment for the state and federal 1-hour ozone standard and the state PM10 standard. The proposed project would result in an increase in regional criteria air pollutant emissions. The increases, as compared to the federal and state standards, are identified in Section 7.0 of this Draft EIR. Though mitigation measures included in this Draft EIR would reduce project-related emissions, these mitigation measures would not reduce emissions below the significance thresholds. Even with feasible mitigation measures, the proposed project's incremental contribution to regional criteria pollutant emissions is considered cumulatively considerable and thus a significant and unavoidable impact. No feasible mitigation is available to completely mitigate this impact."

Both of the EIR documents noted above recognized that because of the existing air quality conditions and non-attainment status for certain pollutants in Placer County and the region, the projects would have an incremental contribution to regional pollutant emissions and a significant and unavoidable impact was identified. Such direction should be followed with the St. Joseph Marelo proposal and an EIR should be prepared to address the project's cumulatively considerable contribution to a significant air quality impact.

The analysis and conclusions of EIRs prepared for other projects, both different and much larger than St. Joseph Marelo, have no relevance to the analysis in the MND or to the Planning Commission's findings. As stated above, the Project will not have a significant impact on air quality either on a project basis or measured on contributions to the cumulative scenario.

Finally, the Placer County Air Pollution Control District has utilized a 10 lbs./day cumulative threshold in the past and has required participation in offsite mitigation programs - it is unclear why such a threshold and mitigation measure was not applied to this project.

The MND recognized that the Project would contribute emissions of ROG, NO_x, and CO₂ to the air basin, contributing incrementally to cumulative impacts. The MND determined that the implementation of Mitigation Measures III-16 through III-20 would reduce Project-related contributions to a less than significant level.

The discussion of items IV -1, 2, and 4 includes the statement "The riparian woodland at the project site could, however, provide suitable nesting habitat for Cooper's hawk, and white-tailed kite, while the open grassland habitat of the project site could provide suitable foraging habitat for these species, as well as the Swainson's hawk." The MND identifies potential impacts to suitable foraging habitat for several bird species, but declines to offer mitigation to address this significant impact. The project's legal counsel provided responses to comments on the MND to the members of the Planning Commission. In this response to comment document, the Planning Commission was told in Response to Comment 2-3 that "Impacts of the project on foraging habitat for raptor species is addressed in the Mitigated Negative Declaration." - this statement, which in part was used by the Planning Commission to make their decision to certify the environmental document, is simply false. The MND addresses the impacts of the project on foraging habitat for raptor species by noting that such impacts could occur, but there is no mitigation offered in the MND to address this potential impact (mitigation is identified for potential impacts to nesting raptors, but not for loss of foraging impacts).

The MND recognizes that the open grassland areas of the Project site could comprise potential foraging habitat for raptor species, but did not conclude that the loss of such potential habitat would result in a significant impact to the affected species. Absent a conclusion of significant impact, no mitigation for foraging habitat is required by CEQA. The Appellant does not offer any factual support for a contrary conclusion beyond the analysis already considered by the Planning Commission in the MND. The MND does recognize that site contains a high potential for nesting habitat. Pre-construction surveys for raptor species during the nesting season are identified as mitigation in the MND. See Mitigation Measure MM IV-6.

The discussion of cultural resources describes the presence of two historic sites that are intended to be avoided by being fenced off. While such actions will serve to avoid direct impacts to the historic site, the analysis *does* not clearly address whether the integrity of the sites will be jeopardized and indirectly impacted by the proposed project. It is unclear from the discussion in the MND if the historic sites are historic in nature in part because of the setting and surroundings that exist. However, if such conditions exist, then the proposed project will have a significant impact on a historic resource. Per CEQA Guidelines section 15064.5(b), a project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (emphasis added); (2) The significance of an historical resource is materially impaired when a project: (A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or (B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its

inclusion in a local register or historical resources pursuant to section 5020.1 (k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1 (g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; (C) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

The MND's current analysis does not demonstrate that the proposed project will not have a significant impact on cultural resources as a result of the alteration of the historic resource's immediate surroundings, including the removal of a tree that may have some association with the historical site.

The historic dwelling on the northeast corner of the site (abandoned) will be retained on a separate parcel of 4.6 acres. Specific changes to the Project's circulation and intersection improvements were made to ensure no direct impacts on this structure and to provide a buffer to avoid potential, indirect impacts from any increased traffic. The State Historic Preservation Officer (SHPO), in consultation with the US Army Corps of Engineers as part of the Section 404 Wetlands Permit process, has confirmed that the proposed Project will not adversely impact this structure or its immediate surroundings (see attached letter dated August 24, 2009 from the Office of Historic Preservation to the Army Corps of Engineers, attached as Exhibit B).

In addition, the MND does not adequately support the conclusion that the project site has no potential to yield significant fossils.

The geology of the site primarily consists of a late Mesozoic-era, basement intrusive igneous formation of dioritic rock (i.e. rock outcrops), and as such, has little potential to yield significant fossils, which occur primarily in sedimentary substrates. Regardless, the MND has identified standard County construction conditions will apply to this Project, requiring the involvement of a paleontologist in the event fossil resources are discovered during grading and construction activities.

The MND's Land Use discussion item IX-7 notes that "The proposal to construct a house of worship will not substantially alter the present of planned land use of the area as this land use would be consistent with the Granite Bay Community Plan land use designation and underlying Residential Agricultural zone district because a house of worship, although not a residential use, supports the need of a rural community and is "generally an allowed use." "

The discussion fails to acknowledge that the proposed project requires a Minor Use Permit. A minor use permit is a discretionary permit authorizing a particular land use in a zone where such use is permitted only by the issuance of a permit, and not as a matter of right. By the very definition of a minor use permit and the County's acknowledgement that such a permit is required of the proposed project, the proposed project is not an allowed use by right, and as such, because of the project's size and mass, will result in a substantial alteration of the present or planned land use of an area.

The Project site is designated Rural Estates under the Granite Bay Community Plan, and zoned Residential Agriculture. A "house of worship" is an allowable use on the Project site, subject to County approval of a Minor Use Permit (MUP). As described in Zoning Code §17.44.010, other MUP uses in the Residential Agriculture zone include libraries, schools, child care facilities, and similar non-residential uses. The proposed change of the Project site from residential to church use is described in the MND, including the change in aesthetic character. The County's CEQA obligations do not rise or fall based upon whether the proposed project is allowed as a matter of right under existing zoning, or instead subject to a use permit requirement. The MND analyzes the physical impacts associated with the development of the Project as proposed, and assesses those impacts in reference to existing environmental conditions.

The discussion of potential noise impacts from the proposed project does not address the noise levels that can be expected from the project's extra-curricular activities as noted in the revised project description. The MND fails to discuss whether the evening services parking lot noise levels will meet the County's nighttime exterior level noise standards.

As stated above, the supplemental text added to the project description did not change the "Project." All potential impacts have been identified and analyzed, including future sports activities. As stated in the MND at Page 25, the Project will comply with all adopted County noise standards.

The discussion of the project's impact on public services notes that "The project does not generate the need for more maintenance of public facilities than what was expected with the buildout of the Community Plan. The project's impacts to public services are less than significant and no mitigation measures are required." These false statements are not supported in the MND.

As demonstrated in Item B above, the proposed project will result in a significantly higher number (20-80 times) of automobile trips on local roadways when compared to the number of trips that would occur with the development of the property under current land use designations and zoning. Such additional vehicle trips will clearly accelerate the deterioration of the local roadways and likely require maintenance activities in advance of what is planned. With this information in mind, coupled with the fact that the project site will no longer generate the tax revenue to the County's general fund at the levels that would be anticipated if development were to occur under existing land use designations and zoning, the project will clearly generate a higher need for maintenance than what was expected with buildout of the Granite Bay Community Plan.

As indicated above, the proposed Project is allowed under the current Community Plan and zoning designations applicable to the site. As discussed in the MND, the Project will not result in a significance increase in vehicle trips, and will not result in deterioration of local roadway facilities out of proportion to trips generated. The comment correctly notes that the Project, as a house of worship, is exempt from the payment of local property taxes. This exemption is established by state law, and based upon constitutional principles. This exemption does not extend to payment of permit and mitigation fees assessed by the County to compensate for the Project's impacts on public facilities.

With respect to police and fire services, while not as easily demonstrated as the accelerated pavement deterioration that the project will create, the proposed project will result in additional calls for service beyond those that would have occurred under existing land use designations and zoning simply due to the large number of persons gathering at one site.

The MND indicates that the Project will result in additional demand for police and fire services. However, it should be fully understood that St. Joseph Marelo is an existing parish and congregation, currently conducting worship services at Cavitt Junior High School in the Granite Bay community and other meetings at the youth center on Wells Avenue in Loomis. In this regard, demand for public services will not be entirely new and additional, but rather will transfer along with the church operations to the Project site. The proposed Project will install an emergency traffic signal for the adjacent fire station on Auburn Folsom Road, which will improve access safety and response times for the community.

Mitigation options include requiring the project to supplement the County's roadway maintenance fund as well as the operating budgets of the Fire and Sheriff's Department to account for the additional demands created. At minimum, the project should fund some level of monitoring by the County to determine how much additional and more frequent roadway maintenance the proposed project is creating, and how many additional calls for service to police and fire the proposed project is creating.

See above response.

CEQA requires that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Resources Code Section 21002.1 (a); see *Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52Cal.3d 553, 564-65). Under CEQA, global warming is an "effect on the environment" and a project's contribution to global warming can be significant or cumulatively considerable. CEQA requires that all phases of a project must be considered when evaluating the project's impacts on the environment (CEQA Guidelines Section 15126)

The MND fails to adequately address GHG emissions. Placer County fails to completely recognize the Governor's Office of Planning and Research's June 19, 2008 Technical Advisory entitled *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*. In the Technical Advisory, OPR provides a recommended approach:

Each public agency that is a lead agency for complying with CEQA needs to develop its own approach to performing a climate change analysis for projects that generate GHG emissions. A consistent approach should be applied for the analysis of all such projects, and the analysis must be based on best available information. For these projects, compliance with CEQA entails three basic steps: identify and quantify the GHG emissions; assess the significance of the impact on climate change; and if the impact is found to be significant, identify alternatives and/or mitigation measures that will reduce the impact below significance. (Technical Advisory, page 5)

The Technical Advisory also directs lead agencies to assess whether the emissions are individually or cumulatively significant. (*id.*) Thus, the lead agency must consider the

impact of the project when viewed in connection with the effects of past, current, and probable future impacts. (*id.*) In identifying GHG emissions, OPR's Technical Advisory states:

Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO₂ and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities. (Technical Advisory, page 5)

The Technical Advisory identifies technical resources/modeling tools to estimate GHG emissions. (Technical Advisory, pages 15-17). Placer County's original MND, however, did not use any of these modeling tools. The revised MND did incorporate an URBEMIS model run to calculate CO₂ emissions that would be generated by the project, but the revised MND failed to calculate the project's emissions related to all of its energy consumption (i.e. electricity usage) and water usage, as recommended in the OPR Technical Advisory.

It is without dispute that Placer County's MND failed to establish a baseline or establish the threshold of significance. As such, the MND fails to comply with the requirements of CEQA. The California Attorney General's office has concluded that "even small, incremental emissions can be cumulatively considerable", and that the absence of state thresholds is not an excuse to avoid determining significance.

OPR's Technical Advisory cautions lead agencies that GHG emissions should not be dismissed without substantial evidence to support the decision.

Lead agencies should not dismiss a proposed project's direct and/or indirect climate change impact without careful consideration, supported by substantial evidence. Documentation of available information and analysis should be provided for any project that may significantly contribute new GHG emissions, either individually or cumulatively, directly or indirectly (e.g., transportation impacts) (*id.*)

In the present situation, Placer County's analysis does in fact dismiss the project's GHG emissions without any substantial evidence. The MND makes an incomplete effort to quantify the project's GHG emissions. It also fails to establish the baseline or threshold of significance for GHG emissions.

The Project site is located within the Sacramento Air Basin portion of Placer County which is designated as non-attainment for ozone and PM₁₀. As noted in Section III of the MND, impacts related to construction equipment exhaust and fugitive dust (PM₁₀) would be at a less-than-significant level. The Project would be well below emissions thresholds, particularly with the implementation of Mitigation Measures III.1 through III.20 and would cause an insignificant contribution to existing or projected air quality violations.

Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency

solar radiation to lower-frequency infrared radiation. GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect.

Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO₂), methane (CH₄), ozone, water vapor, nitrous oxide, and chlorofluorocarbons. Greenhouse gases specifically listed in Assembly Bill AB 32, the California Global Warming Solutions Act of 2006, are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Human-caused emissions of these GHGs in excess of natural ambient concentrations are regarded by many researchers as responsible for enhancing the greenhouse effect. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors; in California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.¹

GHGs are global pollutants, unlike criteria air pollutants and toxic air contaminants, which are pollutants of regional and local concern, respectively. California is the 12th to 16th largest emitter of CO₂ in the world and produced 492 million gross metric tons of CO₂ equivalents in 2004. Carbon dioxide equivalents are a measurement used to account for the fact that different GHGs have different potential to retain infrared radiation in the atmosphere and contribute to the greenhouse effect. Expressing GHG emissions in CO₂ equivalents takes the contribution of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO₂ were being emitted. Current modeling for climate change is not an exact science and there is a high degree of uncertainty in projecting future climate change.

Emitting CO₂ into the atmosphere is not itself an adverse environmental affect. It is the increased concentration of CO₂ in the atmosphere potentially resulting in global climate change and the associated consequences of such climate change that results in adverse environmental affects (e.g., sea level rise, loss of snowpack, severe weather events). Although it is possible to generally estimate a project's incremental contribution of CO₂ into the atmosphere, it is typically not possible to determine whether or how an individual project's relatively small incremental contribution might translate into physical effects on the environment. Given the complex interactions between various global and regional-scale physical, chemical, atmospheric, terrestrial, and aquatic systems that result in the physical expressions of global climate change, it is impossible to discern whether the presence or absence of CO₂ emitted by the project would result in any altered conditions.

¹ California Energy Commission. 2006. *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004*. (Staff Final Report). Publication CEC-600-2006-013-SF.

277

No air district in California, including the Placer County APCD, has identified a significance threshold for GHG emissions or a methodology for analyzing air quality impacts related to GHG emissions. In June 2008, the Office of Planning and Research's (OPR) issued a technical advisory (*CEQA and Climate Change*) to provide interim guidance regarding the basis for determining the proposed project's contribution of greenhouse gas emissions and the project's contribution to global climate change. In the absence of adopted statewide thresholds, OPR recommends the following approach for analyzing greenhouse gas emissions:

1. Identify and quantify the project's greenhouse gas emissions;
2. Assess the significance of the impact on climate change; and
3. If the impact is found to be significant, identify alternatives and/or mitigation measures that would reduce the impact to less-than-significant levels.

The URBEMIS-2007, Version 9.2.4, program was used to calculate the CO₂ emissions that would be generated by the proposed project. It is important to note that this CO₂ emission estimate for vehicle trips associated with the Project is likely much greater than the emissions that will actually occur. The analysis methodology used for the emissions estimate assumes that all emissions sources (in this case, vehicles) are new sources and that emissions from these sources are 100 percent additive to existing conditions. This is a standard approach taken for air quality analyses. In many cases, such an assumption is appropriate because it is impossible to determine whether emissions sources associated with a project move from outside the air basin and are in effect new emissions sources, or whether they are sources that were already in the air basin and just shifted to a new location. However, because the effects of GHGs are global, a project that merely shifts the location of a GHG-emitting activity (e.g., where people live, where vehicles drive, or where companies conduct business) would result in no net change in global GHG emissions levels.

The Project proposes a house of worship facility of approximately 41,000 square feet, which would serve an existing parish and congregation in the Granite Bay community. Similar to other new development in the region, the Project would incorporate modern construction and design features that reduce energy consumption to the extent feasible. Implementation of these features will help reduce potential GHG emissions resulting from the development of the proposed project. In light of these factors, impacts related to the Project's expected contribution to GHG emissions would not be considered significant, either on a project-level or cumulative basis. Impacts would be less than significant.

In summary, the proposed project's MND analysis is inadequate in multiple areas and the project's potential environmental impacts are such that an EIR should be prepared. The comments provided above meet the fair argument standard that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. As such, per CEQA Guidelines section 15063, the lead agency should prepare an EIR. Additionally, per CEQA Guideline section 15064, if the

lead agency determines that there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect on the environment (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

CEQA defines a "significant effect on the environment" as "a substantial or potentially substantial adverse change in the environment." Public Resources Code §21068. CEQA Guidelines §15382 expands on the statute and defines "significant effect on the environment" as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the Project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance. As discussed above, none of the comments on appeal raise a "fair argument" concerning the existence of a significant environmental impact associated with the proposed Project. Accordingly, preparation of a MND is appropriate, and an EIR is not required.

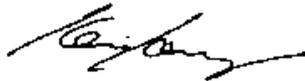
During the Planning Commission's meeting on the project the applicant proposed that they would install timers on the parking lot lights (presumably to address a concern about night sky impacts raised by the public). After some deliberation the Planning Commission ultimately agreed to apply such a condition to the project, which was encouraging from the public point of view. However, it was extremely disappointing to have the Planning Commission then make light of the condition for putting the parking lot lights on a timer. Members of the Planning Commission made reference to the condition requiring them to install timers, but then jokingly noted that nothing in the condition stated that the timers actually had to be used, or what the hours of use would be on the timers. Upon recognizing that a proposed condition of theirs was unclear and vague, a reasonable expectation would have been for the Planning Commission to suggest additional language so that the condition had greater purpose and meaning. Why the Planning Commission made no such effort was disconcerting, but it is hopeful that the Board of Supervisors can strengthen this condition language in a way that makes it more meaningful.

Parking lot lighting is required by Code, and operates at night to provide safety and security. The purpose of timers is not to turn the lights off at night, but rather ... at sunrise to reduce energy consumption when the parking lot lights are not needed. No revisions to the condition are required.

CONCLUSION

As stated above, we believe that the issues raised on appeal do not have legal merit, and therefore request that the Board of Supervisors affirm the November 12, 2009 decisions of the Planning Commission on the St. Joseph Marelo Project. We are grateful for the efforts of the Board and County Staff in their review of these comments and our responses prior to the hearing, and look forward to addressing these matters further at the hearing if necessary.

Very truly yours,



Kevin M. Kemper

cc: Michael Johnson, Planning Director
Scott Finley, Deputy County Counsel
Dave Cook, RCH Group
Fr. Arnold Ortiz, St. Joseph Marelo Parish

KD Anderson & Associates, Inc.

Transportation Engineers

January 15, 2010

Mr. Kevin Kemper
2306 Garfield Avenue
Carmichael, CA 95608

DATE 1/28/10
 Board of Supervisors - 5
 County Executive Office
 County Counsel
 Mike Boyle
 Planning

RECEIVED
JAN 28 2010
CLERK OF THE
BOARD OF SUPERVISORS

RE: ST JOSEPH MARELLO CHURCH: RESPONSE TO ISSUES RAISED IN APPEAL OF PLANNING COMMISSION APPROVAL.

Dear Mr. Kemper:

As requested, I have reviewed the Gaugler Appeal letter dated December 16, 2009 and have the following responses to the comments made therein regarding the project's traffic study.

Comment 1.1. According to the Traffic Impact Analysis conducted by KD Anderson & Associates, on June 22, 2009, there are significant errors and omissions. Traffic counts were made in December 2005. This data is stale, being four years old and not reflecting current traffic load(s).

Response. The traffic study preparer does not agree that any errors and omissions were made. The traffic study notes that traffic counts were made in December 2005, which would make the data 3 1/2 years old when the final report was prepared in June 2009. However, the age of the traffic counts does not by itself make the count data invalid. The extent to which traffic volumes change over time relates to many factors, including the changing level of local development, the overall economy and potential changes to the area circulation system. In this case, current economic conditions have limited development in the Granite Bay area such that trip generation from new development has been limited. In addition, the economic slow down has limited traffic growth on a regional basis.

Where we have had the opportunity to compare data, we have seen a reduction in background traffic volumes throughout Northern California over the last few years, primarily due to the change in gasoline prices and the slow economy. Because Caltrans provides annual count summaries for a consistent set of count locations, their data is an indication of overall trends. For example, Caltrans traffic counts on I-80 west of Douglas Blvd for the most recently available year (i.e., 2008) are 2% lower than counts made in 2005 for that location.

Comment 1.2. This is in stark contrast to traffic data compiled for Del Oro Estates Draft EIR which includes data that is as recent as one year.

Response. The comment notes that a traffic study for a project in another Placer County location conducted traffic counts. Review of that document indicated that traffic counts were made at various times from 2007 to 2009. However, none of the Del Oro Estates study locations were common to the St Joseph Marello traffic study, and therefore the reference provides no indication of any change in traffic volume in the area of St Joseph Marello Church. Absent any data to the contrary presented by the comment, it is appropriate to regard the traffic counts contained in the traffic study as representative of current conditions on the roadways and intersections analyzed

Comment 1.3. Traffic on Auburn Folsom Road has dramatically increased in the last two years. The completion of the new bridge connecting Auburn Folsom Road to Folsom (bypass for the Folsom Dam Road) is a major contributor to north and south traffic on Auburn Folsom Road.

Response. The comment suggests that the volume of traffic on Auburn Folsom Road has increased over the last two years due to the completion of the new Folsom Bridge located 4 miles to the south of the St Joseph Mareello Church site. Because Auburn Folsom Road remains a route to El Dorado County with and without the new bridge, it is unlikely that the bridge would have an appreciable effect at conditions 4 miles away. In addition, the comment offers no evidence that the volume of traffic on Auburn Folsom Road has in fact increased, when a slight decrease would appear to be likely consistent with recent trends.

Comment 1.4. By 2010 or 2011 when the proposed project would be completed, the situation will be worse.

Response. The comment suggests that traffic volumes will be higher in 2010 or 2011 than the volumes observed in 2005. This comment is speculative and offers no evidence to support the claim. As stated above, the 2005 data is considered accurate to represent existing conditions, absent substantial evidence to the contrary.

Comment 1.5 The traffic data should be updated and used for the recent analysis rather being based on the old data.

Response. The background data employed for the traffic study remains valid, and no additional analysis is required.

Comment 2.1 Traffic counts and Level of Service (LOS) already appear to violate LOS C (Table 2). Based on Analysis data and personal experience at the intersection of Auburn Folsom Road and Cavitt Stallman Roads, I believe LOS D or E is appropriate due to capacity, unstable flow, and typical queue time of one to two minutes, especially when turning left onto Auburn Folsom Road from Cavitt Stallman Road.

Response. The St. Joseph Mareello Church traffic study notes that the Level of Service at one location exceeds the Granite Bay Community Plan's minimum LOS C standard. During the weekday a.m. and p.m. peak hour Eastbound traffic stopped at the Auburn Folsom Road / Cavitt Stallman Road intersection operates at LOS D. However, traffic volumes are lower on Sundays when the church holds Mass, and the intersection operates at LOS B.

Comment 2.2 Therefore, there is a high probability of LOS F along the project site and at the intersection of Auburn Folsom Road and Cavitt Stallman Road. Reference 4. Table 8-1 highlights this condition for an un-signalized intersection.

Response. St Joseph Mareello Church will add a small amount of traffic on weekdays, estimated in the traffic study at 22 trips in the a.m. and p.m. peak hour at full buildout. This traffic will primarily use the project's Auburn Folsom Road access, and its contribution to the Auburn Folsom Road / Cavitt Stallman Road intersection is too small to have any appreciable affect on the weekday Level of Service.

The traffic study identified Levels of Service occurring on Sundays before and after church services. The traffic study noted that the Auburn Folsom Road / Cavitt Stallman Road intersection would operate at LOS C during both time periods under "existing Plus Project" conditions.

KDA
282

The comment's reference is simply a table in the Rancho Del Oro EIR describing typical Level of Service characteristics and offers no information regarding specific intersections near St Joseph Marelo Church, none of which were analyzed in the Rancho Del Oro EIR.

As noted in the traffic study, signalization of the Auburn Folsom Road / Cavitt Stallman Road intersection is included in the current Placer County traffic fee program / CIP. Thus, although the church does not create the need for improvements, it will contribute its fair share to the cost of improving the intersection by paying adopted fees.

St Joseph Marelo Church Traffic study assumptions and conclusions are valid.

Comment 3.1 The analysis failed to include the traffic from the north church location. It only considered traffic from the Granite Bay Junior High School location. As stated by the project planner, there are two separate church locations – a north and a south that would be consolidated at the proposed site. Thus, there is new traffic in a south direction on Auburn Folsom Road to the proposed site as well as new traffic in a north direction on Auburn Folsom Road to the proposed site.

Response. The comment appears to relate to a statement made at the Planning Commission meeting regarding current travel to the facilities used by St Joseph Marelo church members. Parishioners currently attend a variety of activities and meetings at the facility located on Wells, between Laird and Barton. The point made at the meeting was that by consolidating these activities into the proposed project at Cavitt Stallman / Auburn Folsom, the number of trips that might otherwise need to use the CS / AF intersection may in fact be reduced.

The traffic study correctly assumed that on Sundays trips to and from the church would originate at the residences of church members, and the distribution is based on the locations of church member residences, as indicated by the Parish. The majority of residences are to the south, but as noted in the study, some are to the north. St Joseph Marelo Church Traffic Study assumptions and conclusions are valid.

Comment 4.1 Widening Auburn Folsom Road to four lanes south of Douglas Blvd intersection serves no practical purpose with respect to the project. My assertion is that it will cause further congestion and queue times along the portion of Auburn Folsom Road north of Douglas Blvd because the road narrows to two lanes just north of Douglas Blvd.

Response. The Auburn Folsom Road widening project is a phased improvement being coordinated by Placer County. As noted in the comment, this construction project is limited to the area south of Douglas Blvd. Widening Auburn Folsom Road south of Douglas Blvd will improve the overall flow of traffic through areas that are today "constrained", especially the signalized Auburn Folsom Blvd / Eureka Road intersection. However, the locations of constraint are far south of the St Joseph Marelo Church site. The improvement project does not change the overall capacity of the signalized intersection closest to the church (i.e., Auburn Folsom Road / Douglas Blvd intersection). As a result, the effect of the improvement project on Sunday traffic conditions near the St Joseph Marelo site would not be appreciable. Traffic study assumptions and conclusions are valid.

Comment 5.1 Generation of an additional 2,100 daily trips is inconsistent with the physical characteristics of Auburn Folsom Road at and around the project site. The narrow lanes on Auburn Folsom Road leave little room for bicyclists to safely mix with traffic (see attached photos). Auburn

KDA
283

Folsom Road is a major bicycle route from Auburn to the American River at Greenback Lane and Auburn Folsom Road.

Response. The St Joseph Marello Church traffic study notes that while the church may generate 2,100 daily trip ends on Sunday at full occupancy, these trips may spread to many streets, and the contribution to Auburn Folsom Road south of Cavitt Stallman Road is 1,555 trip ends. However, with this increase the Sunday traffic volume on Auburn Folsom Road will continue to be far less than the current weekday volume, and on Sunday the road will continue to operate at LOS B, well within the minimum LOS C standard of the Granite Bay Community Plan.

Many of Placer County's rural roads are used by recreational and commuter bicycle cyclists. In most cases bicycle traffic is accommodated on paved shoulders that are 2 to 4 feet wide but are not standard Class II bike lanes. This is the current condition on Auburn Folsom Road in the area between Cavitt Stallman Road and the urbanized area near Douglas Blvd. While St Joseph Marello Church will increase the volume of automobile traffic in this area, the church is required to improve its Auburn Folsom frontage. This work will also include a multi-purpose trail along Auburn Folsom Road from the south property boundary to the church entrance and will widen the road for all transportation modes.

Development of St Joseph Marello Church will not result in an significant safety impact for cyclists on Auburn Folsom Road, and traffic study assumptions and conclusions are valid.

Comment 5.2 In particular, see Reference 4, page 8-13 "Existing Bicycle System" and Table 8-5 discusses the classifications of Granite Bay On-Road Bikeways. Neither Cavitt Stallman Road, Laird Road, nor Barton Road has any designated bikeways. Auburn Folsom Road has dual direction bikeways but in most areas, they fail to meet any of the listed CALTRANS classifications.

Response. The comment is incorrect and is based on information from the Rancho Del Oro EIR that describes bicycle facilities in another area of Granite Bay. Table 8 of the Granite Bay Community Plan's Circulation chapter discusses planned bicycle facilities. This table notes that Barton Road from Douglas Blvd to the Loomis Town limits is the "top priority" for class II bike lanes. This work is included in the current County fee program / CIP. Cavitt Stallman Road from Barton Road to Auburn Folsom Road is a "high priority" for Class II bike lanes. This work is in the fee program/CIP. The community plan notes that class II bike lanes are a "lower priority" on Auburn Folsom Road from Douglas Blvd to Dick Cook Road, and class II bike lanes from Douglas Blvd to Joe Rogers Road are in the fee program / CIP. Finally, the fee program / CIP includes funding for class II bike lanes on Laird Road from Cavitt Stallman Road to the Loomis Town limits.

As noted under the response to Comment 5.1, existing facilities dedicated to bicycle use are limited in the rural areas of Placer County. There are many rural roads that lack shoulders, but regardless, bicycles mix with automobiles in many of those instances. The development of St Joseph Marello Church does not appreciably change the existing bicycle environment, and the church will contribute its fair share to the cost of regional bicycle facilities by installing identified improvements and paying adopted fees.

Development of St Joseph Marello Church will not result in an significant safety impact for cyclists on the rural roads near the church site, and traffic study assumptions and conclusions are valid.

Comment 5.3 Furthermore, the project's projected traffic would violate the Granite Bay Community Plan in Circulation Area, Goal 1, and its Policies 1,2,5,7 (increases load on Auburn Folsom Road).

KDA
284

Response. Circulation Goal 1 is "To provide a system of roadways that ensure safe and efficient movement of local and through traffic, accommodate area growth, retain the area's rural and scenic qualities, and accommodate pedestrian and bicycle traffic."

The referenced policies are noted below:

Policy 1 The County shall plan, design and regulate roadways in accordance with the functional classification system shown on the Circulation diagram and the typical cross sections included in the Community Plan.

Policy 2 – The rights-of-way for roadways shall be wide enough to accommodate appropriate road paving, trails, paths and bikeways, drainage, public utility services, and substantial trees and shrubs.

Policy 5 – Land development projects shall be approved only if LOS C (or the exception cited earlier) can be achieved on roads and intersections after:

- a) traffic from approved projects has been added to the system; and,
- b) improvements funded by the capital improvement program (CIP) have been constructed. (This will result in temporary slippage of the LOS below the adopted standards until adequate funding has been collected for the construction of CIP improvements.)

Policy 7 – "Through" traffic that must pass through the community shall be accommodated in a manner that will not encourage the use of residential or private roads. Through traffic shall be directed to Douglas Boulevard, Auburn Folsom Road and Sierra College Boulevard. These routes provide access to Folsom Lake from all directions, and provide a through north-south route as well as a west-south route.

The comment suggests that St Joseph Marello Church violates these policies because of increased traffic on Auburn Folsom Road. Project frontage improvements will be in accordance with the Granite Bay Community Plan's requirements (Policy 1), and right of way dedication along the project frontage will provide the space needed for paving, trails, utilities, etc (Policy 2). As noted in the traffic study the addition of project traffic to Auburn Folsom Road does not result in new conditions in excess of adopted standards, nor does the proposed church appreciably exacerbate conditions that may already exceed minimum standards on weekdays. Improvements to the Auburn Folsom Road / Cavitt Stallman Road intersection and to Auburn Folsom Road are already included in the adopted fec program (Policy 5). Primary project access is to Auburn Folsom Road, a regional facility, as suggested by Policy 7.

Development of the project is consistent with Policies 1, 2, 5 and 7.

Comment 5.4 Policy 9,11,13,16,17,18,19. (Cavitt Stallman Road is extremely dangerous after recent re-paving due to severe drop-off along the edges of each lane as well as a major blind spot [hill] west of the proposed Cavitt Stallman entrance to the project), and 24 (see §8-6).

Response: the noted policies are listed below.

Policy 9 – Street lights, traffic signals and signs should be used only where essential or practical for safety purposes or for efficient traffic flow.

KDA
285

Policy 11 – Scenic or conservation easements over properties adjacent to the roadway shall be a condition of approval of new development on designated scenic or country roadways to ensure preservation of a vista from the road and to preserve the natural, rural character of the community.

Policy 13 – Meandering paths, separated from the roadway, shall be used in lieu of sidewalks in all developments with a parcel size of 0.90 acres or more and shall be encouraged in developments with parcel sizes of 0.4 acres or more.

Policy 16 – Regional bikeways shall facilitate travel between communities and provide access to parks. Regional bikeways shall be located on or along collector or arterial roads. County, state or federal funds or private grants shall be sought for construction of regional bikeways

Policy 17 – Local bikeways shall supplement regional bikeways by linking developments and parts of the community for safe and enjoyable circulation within the community and to access the regional bikeway system.

Policy 18 – Designated scenic or country roadways shall be established and shall have specific development rules to maintain their scenic and country qualities

Policy 19 – Roadway surfacing shall be performed in accordance with accepted pavement management strategies within the guidelines for scenic and country roadways and the constraints of limited financial resources.

Policy 24 – The Community's desire to retain the character of the country roadways and the design guidelines for country roadways shall be earnestly considered when designing improvements to arterial or collector roads designated as country roadways. The County shall strive for a balance between local community desires and engineering solutions and shall present proposed designs to the community for review prior to approval. Upgrades made to minor arterial and collector roads designated as country roadways should be limited to critical safety issues and sufficient shoulder for cyclists and pedestrians.

The comment suggests that St Joseph Marelo Church will violate the referenced policies based on the conditions on Cavitt Stallman Road. However, the site access has been designed in consultation with Placer County staff to avoid the use of a traffic signal at the project access by making secondary use of an existing (private) access to Cavitt Stallman Road (Policy 9). The project does not affect designated scenic or country roads such as Auburn Folsom Road and Cavitt Stallman Road (Policy 11 and 18). A multipurpose trail will be provided along the site's Auburn Folsom Road frontage and LOD's are provided on other frontage (Policy 13). The project shall contribute to regional bicycle facilities by improving its Auburn Folsom Road frontage and paying adopted fees (Policy 16 and 18). New pavement will conform to Placer County requirements (Policy 19). Required improvements to Auburn Folsom Road and to the Laird Road/Cavitt Stallman Road have been presented to the Granite Bay Municipal Advisory Committee (MAC) and the Placer County Planning Commission and approved by each agency (Policy 24).

Specifically, the pavement work completed on Cavitt Stallman Road by Placer County is generally consistent with the intent of the County's traffic fee program / CIP and does not represent a negative impact to safety in this area of the County. The sight distance limitation on Cavitt Stallman Road west of the Laird Road intersection was noted in the traffic study, and with perpetuation of the existing all-way stop, current conditions are not significantly impacted by the church. The existing Cavitt Stallman Road /

KDA
286

Laird Road intersection, which will provide secondary access to the church, will be improved when the church is constructed. Improvements to Cavitt Stallman Road, to the Cavitt Stallman Road / Laird Road intersection, and to the Cavitt Stallman Road / Auburn Folsom Road intersection, are all included in the existing fee program.

Development of the project is consistent with Policies 9, 11, 13, 16, 17, 18, 19 and 24.

Comment 5.5 Also violated is Goal 2 and its Policies 14 and 17.

Response: Goal 2 is as follows: "A naturally scenic community trails system for non-motorized multiple use shall be funded, constructed and maintained. It shall foster safe, pleasant, and convenient commuting and recreational opportunities".

The noted policies are listed below:

Policy 14 - All designated scenic and country roads shall have sufficient right of way to accommodate a trail.

Policy 17 - The County shall develop a plan to implement trail, bike lane and sidewalk improvements along scenic and country roadways where gaps in those facilities exist as a result of piecemeal development and where the likelihood of development of the gaps is remote, or the need to complete the amenities ahead of development is identified.

As noted under the response to Comment 5.2, St Joseph Marelo Church is required to construct a multi-purpose trail along Auburn Folsom Road from the south property boundary to the church entrance. The church will also make an irrevocable offer of dedication (IOD) for the area along its eastern boundary north to Cavitt Stallman Road, and along the Cavitt Stallman Road frontage for use by the County, including a future trail (Policy 14 and 17).

Development of St Joseph Marelo Church is consistent with Policies 14 and 17.

Comment 5.6 - Also violated is Goal 3 and its Policy 7 (as stated in Reference 4, "Existing Transit System", Dial-A Ride would appear to be the only available public transit provider. However, it serves six days a week and excludes Sundays.

Response: Goal 3 states: "Local and inter-area public and private transit shall be encouraged and transportation systems management strategies shall be applied to reduce peak-period traffic, total vehicle miles traveled, reduce impact on air quality, improve level of service, and improve safety."

The noted policy is listed below:

Policy 7 - During the development review process, the County shall require that land development projects meet adopted trip reduction ordinance requirements.

The existing church sites used by the parish do not have regular transit service, and as noted are not served by Dial-A-ride on Sundays. There is no expectation that an appreciable demand for transit services will accompany the project.

The church will adhere to all adopted Placer County ordinances; however, Placer County has no adopted trip reduction ordinance requirements for churches.

KDA
287

Development of St Joseph Marelo Church is consistent with Policy 7.

Comment 5.7 *Goal 4 and its Policies 3 through 8 are also not followed.*

Response: Goal 4 states: "A Capital Improvement Program (CIP) and other funding mechanisms shall be developed to provide for the transportation system."

The noted policies are listed below:

Policy 3 – Capital improvements shall be undertaken in response to development of the area.

Policy 4 – On-site and "frontage" improvements of land development projects shall be required as conditions of approval for all land development projects.

Policy 5 – Traffic mitigation fees to fund the CIP described in this Plan shall be required as a condition of approval for all land development projects within the Plan area.

Policy 6 – Improvements that enhance safety shall be given a high priority. After considering community recommendations, the Placer County Board of Supervisors shall determine priority and scheduling of projects from the CIP.

Policy 7 – All new traffic signals or modifications to existing traffic signals shall incorporate emergency vehicle preemption.

Policy 8 – The County shall develop and administer a CIP that implements the prioritized trails and Class 1 paths included in the Community Plan.

As noted previously, the existing County CIP / fee program addresses roads, intersections, traffic signals and bike lanes in the area of the church (Policy 3). St Joseph Marelo is making frontage improvements to Auburn Folsom Road (Policy 4) and paying adopted fees (Policy 5). The County's fee program was just updated in 2009 and reflects development of facilities that are needed based on anticipated development (Policy 6). St Joseph Marelo Church will pay for a new emergency traffic signal at the South Placer Fire District Station (Policy 7). As noted in the response to Comment 5.1 the updated Placer County fee program includes bicycle facilities (Policy 8).

Development of St Joseph Marelo Church is consistent with Policies 3, 4, 5, 6, 7 and 8.

Thank you for your attention to this information. Please feel free to contact me if you have any questions or need more information.

Sincerely,

KD Anderson & Associates, Inc.



Kenneth D. Anderson, P.E., President

cc: Dave Cook

St. Joseph Marelo Church RTC In

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**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

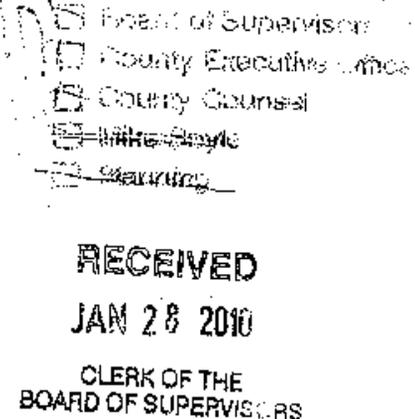
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August 24, 2009

In Reply Refer To: COE090727B

Nancy A. Haley
Chief, California North Section
Department of the Army
U.S. Army Engineer District
Sacramento Corps of Engineers
1325 J Street
Sacramento, California 95814-2922



Re: Continued Consultation; Section 404 of the Clean Water Act Authorization for the St. Joseph Mareello Parish Church Project, Placer County, California (Regulatory Division SPK-2006-00325).

Dear Ms. Haley:

Thank you for continuing consultation with me regarding the proposed St. Joseph Mareello Parish Church Project. The U.S. Army Engineer District, Sacramento Corps of Engineers, is seeking my comments on the effects that the subject undertaking will have on historic properties, pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act (NHPA). Earlier in this consultation (SHPO letter of August 3, 2009) I stated that I did not concur with your determination that CA-PLA-1980H was eligible for the National Register of Historic Places under criterion B, but that I did concur that it was eligible under criterion C. Additionally, I stated that I could not concur on your finding of No Adverse Effect since the supporting documentation stated that the buildings that comprise CA-PLA-1980H were going to be relocated by the project proponent.

At this time, in your current letter of August 17, 2009, you have agreed with my evaluation that the NRHP eligibility of CA-PLA-1980H is under only criterion C. Furthermore, you are informing me of a change in the project description regarding the treatment of the buildings that comprise CA-PLA-1980H. The applicant has redesigned the proposed undertaking, including roadways and utilities, and plans to have CA-PLA-1980H placed in a separate parcel. Based on this revised project description, the buildings and structures that comprise CA-PLA-1980H will not be adversely affected by the undertaking.

After reviewing your letter and considering the redesign of the St. Joseph Mareello Parish Church Project, I now have no objection to your finding of No Adverse Effect. Thank you for seeking my comments and for considering historic properties in planning your project. Be advised that under certain circumstances, such as unanticipated discovery

or a change in project description, the COE may have additional future responsibilities for this undertaking under 36 CFR Part 800. If you require further information, please contact William Soule, Associate State Archeologist, at phone 916-654-4614 or email wsoule@parks.ca.gov.

Sincerely,

Susan K. Stratton for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer



SANDRA HARRIS
Issues Coordinator

GRANITE BAY COMMUNITY ASSOCIATION

P.O. BOX 2704 * GRANITE BAY, CALIFORNIA 95746 * (916) 791-7427

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CLERK OF THE
BOARD OF SUPERVISORS

February 3, 2010

Board of Supervisors
175 Fulweiler Avenue
Auburn, CA 95603

Re: St. Joseph Marelo Parish - Appeal of Planning Commission's Approval
February 9, 2010 - 9:00 a.m.

Honorable Supervisors:

This project was presented to Granite Bay MAC as an information item and then in September as an action item. There was no negative input from the MAC audience or the MAC and the request for approval was unanimously supported by MAC. Applicant's representative also presented the item at a Board of Directors meeting of the South Placer Fire District and worked with that entity to solve some of the fire department's concerns.

The applicant has been sensitive to the area where the church will be located and the Granite Bay Community Plan. The project has been downsized and the school eliminated, and these revisions have made it a project that the Granite Bay Community Association can support.

Please support the Planning Commissions' approval of this Minor Use Permit/Minor Boundary Line Adjustment for St. Joseph Marelo Church and Revised Mitigated Negative Declaration.

Very truly yours,

Granite Bay Community Association

