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Case #26CV503751

*Attorneys for Petitioner and Plaintiff, CITIZENS FOR RESPONSIBLE AND EQUITABLE
DEVELOPMENT*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CITIZENS FOR RESPONSIBLE AND
EQUITABLE DEVELOPMENT, a California
non-profit corporation;

Petitioner and Plaintiff,

v.

CITY OF SARATOGA; SARATOGA CITY
COUNCIL; DOES 1-10

Respondents and Defendants

CHATEAU MASSON, LLC, a California
Limited Liability Company; WILLIAM FRANK
HIRSCHMAN, an individual; ROES 1-10

Real Parties in Interest

Case No.: 26CV503751

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

*ACTION BASED ON CALIFORNIA
ENVIRONMENTAL QUALITY ACT*

C.C.P. §§ 1085; 1060; 1094.5; California
Environmental Quality Act, Pub.
Res. Code § 21000, *et seq.*, California Planning
and Land Use Law, Subdivision Map Act, Govt
Code § 66410, *et seq.*; Saratoga Municipal Code §
14-20.070; California Constitution, Art I, Sec. 1,
Sec. 28.

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INTRODUCTION

1. Petitioner Citizens for Responsible and Equitable Development (“Petitioner” or “CRED”) challenges Respondents City of Saratoga and the City Council of the City of Saratoga’s (together “City”) approval of the Masson Estates Project (“Project”) and certification of an Environmental Impact Report (“EIR”) for the Project, and related findings. The Project is a new residential development located in a wildfire hazard zone and the entitlements include a vesting tentative tract map to subdivide the property for 25 residential single-family houses.¹

2. The Project is proposed on an undeveloped site within a state-designated Very High Fire Hazard Severity Zone. The Project site is on a wooded hillside and contains hundreds of native trees, 53% of which will be destroyed by the development. The City determined that the Project site and surrounding area contains predominantly “very high load, dry climate forest-shrub” which is the type of fuel that is “associated with extreme fire behavior, producing torching fires with flame lengths greater than 12 feet.”

3. As the record demonstrates, the Project presents a dangerous situation, as it will subject current hillside residents to severe wildfire risks, including residents’ ability to safely evacuate in the event of a wildfire given the narrow, curving mountain road (Pierce Road) that is the foothills’ main ingress and egress. Even today, without the Project, Pierce Road does not have the capacity to handle the City’s current evacuation demand in the event of a wildfire.

4. Despite overwhelming evidence of public health and safety hazards arising from the proposed Project, the City Council approved it nevertheless, with some council members indicating on the record that they were approving the Project for fear of legal retribution by the state Housing and Community Development (“HCD”) and/or the Project applicant developer for disapproving a housing project. In approving the Project, the City Council adopted findings purporting that the benefits of the

¹ “The State Fire Marshal shall identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.” (Government Code, § 51178.)

Project (such as providing housing, a public trail, a retaining wall, providing a “cohesive development consisting of high-quality...urban design”, and other aesthetic platitudes) outweigh the documented risk to human life caused by the Project.

5. Ironically, on September 4, 2026, just two weeks after the City Council had heard public comment after public comment opposing the Project due to fears of the development’s impact on residents’ ability to evacuate in the event of a wildfire, a brush fire broke out just over a mile away from the Project site. Luckily, winds were light and the fire was put out before it got out of control.

6. In approving the Project, the City failed to comply with the California Environmental Quality Act (Public Resources Code, cited as “Pub. Res. Code” § 21000 et seq., herein “CEQA”), the Subdivision Map Act (“SMA”) (Government Code, cited as “Govt. Code” §§ 66410, et seq; Saratoga Municipal Code § 14-20.070.) The City’s actions constitute a public nuisance and an infringement on Petitioner’s and the public’s right to safety guaranteed in the California Constitution. Petitioner petitions this Court for a writ of mandate under Code of Civil Procedure section 1085 and/or 1094.5 directing Respondents to vacate and set aside their approval of the Project and certification of the EIR and related findings, and for declaratory and injunctive relief.

THE PARTIES

7. Petitioner and Plaintiff, CITIZENS FOR RESPONSIBLE AND EQUITABLE DEVELOPMENT (“CRED”) is a non-profit, public benefit corporation comprised of concerned community members and residents of Saratoga. CRED’s mission is to ensure the responsible, equitable and legal implementation of state and local housing legislation affecting the local community of Saratoga, and to encourage active enforcement of local requirements and regulations regarding land development, with the goal of protecting wildlife and the environment, maximizing safety from fire and other hazards and environmental risks, and ensuring any new housing built is truly affordable. Given the realities of frequent wildfire emergencies and evacuations, CRED seeks to protect the safety of current and future residents, including those residents of lower incomes who may rely solely on public transit and do not possess their own vehicle putting them in even greater danger of being unable to flee a coming wildfire. CRED’s members’ life safety will be impacted by the City’s actions at issue in this case.



8. Respondent and defendant CITY OF SARATOGA (“City”) is a local government agency with the authority to regulate and administer land use and planning within the City of Saratoga, in Santa Clara County, California, but only in compliance with the duly adopted provisions of its zoning ordinances, General Plan, Community Plans, and all applicable provisions of state law, including but not limited to the California Environmental Quality Act (“CEQA”), the California Government Code, and the California Constitution.

9. Respondent and defendant SARATOGA CITY COUNCIL (“City Council” or, collectively with City, “Respondents”) is the legislative body and highest administrative body in the City. The City Council has the authority to approve or disapprove proposed General Plan Amendments and changes to the City’s General Plan Safety Element to include accurate evacuation route capacity analysis. The City Council also has the authority to approve discretionary development projects under CEQA. Petitioner does not know the identity of DOES 1 to 10 but will amend the Petition as required to specifically identify each such person or entity as a respondent and defendant if the identity, interest, and capacity of such party, if any, becomes known.

10. Real Party In Interest CHATEAU MASSON, LLC, is a limited liability company organized under the law of California and, on information and belief, is doing business in the County of Santa Clara.

11. Real Party In Interest WILLIAM FRANK HIRSCHMAN, is an individual residing in Los Gatos, California and doing business in Saratoga, California. Real Party Hirschman is an agent of Real Party in Interest Chateau Masson, LLC.

12. Petitioner is ignorant of the true names or capacities of the Real Parties in Interest sued herein under the fictitious names ROES 1 through 10, and will seek leave to amend this petition to identify them in their true names and capacities when and if identified.

13. On information and belief, DOES 1 through 10 and ROES 1 through 10 are or were the agents, employees, contractors and/or entities acting under the authority of each Respondent/Defendant, Real Party in Interest and each performed acts on which this action is based within the scope of such agency and/or employment.

Jurisdiction and Venue

14. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure sections 1085 and 1094.5, and Pub. Res. Code section 21167. This Court has the authority to issue a writ of mandate directing Respondents to vacate and set aside their approval of the Project under the Code of Civil Procedure sections 1085 and 1094.5.

15. Jurisdiction over the Respondents and Real Parties in Interest, and each of them, exists because they operate within the jurisdictional limits of the county of Santa Clara or do business within the county of Santa Clara.

16. Jurisdiction over the subject-matter of this lawsuit exists because Petitioner's claims arise under California state law and the claims are not one of the types of cases listed as a limited civil case in Code of Civil Procedure Code §§ 85 or 86.

17. This Court has jurisdiction over Petitioner's claim for declaratory relief under Code of Civil Procedure §1060.

18. Venue for this action properly lies in the Superior Court of Santa Clara County because Respondents are the City of Saratoga, a municipality located within the County of Santa Clara, and the City Council of Saratoga, and because the action concerns the approval of a Project located in the City of Saratoga and the City's failure to perform its duties concerning land use development within the City of Saratoga.

PROCEDURAL ALLEGATIONS

19. Petitioner CRED and its members have performed any and all conditions precedent to filing the instant action and have exhausted any and all administrative remedies to the extent required by law, by inter alia, opposing the Project in written comments prior to the City's approval.

20. Petitioner CRED and its members have no plain, speedy, or adequate remedy in the ordinary course of law unless this Court grants the requested writ of mandate to require Respondents to comply with their duties and set aside the City's unlawful approval of the Project. In the absence of such remedies, Respondents' approval will remain in effect in violation of CEQA and other state and local

laws and violate Petitioner's rights and threaten the health and safety of area citizens, constituting a nuisance.

21. There is an actual, clear and present controversy as to the substantive and procedural legality of the City's actions.

22. If Respondents and Real Parties in Interest are not enjoined from undertaking and/or permitting acts in furtherance of the Project, Petitioner, its members, and the residents of Saratoga and adjoining communities, particularly those who depend on Pierce Road and other evacuation routes, will likely suffer irreparable harm from which there is no adequate remedy at law.

23. In pursuing this action, which involves enforcement of important rights affecting the public interest, Petitioner will confer a substantial benefit on the general public, including citizens of Santa Clara County, as well as the State of California.

24. Petitioner brings this action in part pursuant to Pub. Res. Code sections 21167, 21168, and/or 21168.5, Code of Civil Procedure section 1085, and/or Code of Civil Procedure section 1094.5, which require that an agency's approval of a project be set aside if the agency has prejudicially abused its discretion. Prejudicial abuse of discretion occurs either where an agency has failed to proceed in a manner required by law, or where its determination or decision is not supported by the findings, or the findings are not supported by substantial evidence. Respondents have prejudicially abused their discretion because the City failed to proceed in the manner required by law and/or the City's determinations are not supported by the findings and/or the City's findings and/or factual conclusions are not supported by substantial evidence.

STATUTORY BACKGROUND

California Environmental Quality Act (CEQA)

25. CEQA, codified in Pub. Res. Code section 21000, et seq., requires state and local agencies to identify the potentially significant environmental impacts of their actions, and then to avoid or mitigate those impacts if feasible.

26. "CEQA is a comprehensive scheme designed to provide long-term protection to the environment." (*Mt. Lion Found. v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.) "In enacting CEQA,



the Legislature declared its intention that all public agencies responsible for regulating activities affecting the environment give prime consideration to preventing environmental damage when carrying out their duties.” (Ibid.) “CEQA is to be interpreted to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Ibid.*)

27. The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq, are regulatory implementing guidelines for the statutory provisions of CEQA. (Pub. Res. Code § 21083; 14 Cal. Code of Regs., 15000 et seq., [hereinafter “CEQA Guidelines”].)

28. CEQA requires agencies to analyze the potential environmental impacts of its proposed actions in an environmental impact report (“EIR”) (except in certain limited circumstances). The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Cmtys. for a Better Env’t v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109.)

29. CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (CEQA Guidelines § 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1354.)

30. Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines, §15002, subd. (a).) The EIR serves to provide agencies and the public with information about the potentially significant environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (*Ibid.*)

31. Once a significant effect has been identified, the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified. (Pub. Res. Code § 21100, subd. (b)(3); CEQA Guidelines, § 15126, subd. (e).) Mitigation measures must be feasible and enforceable. (CEQA Guidelines, § 15126.4, subds. (a)(1) & (a)(2).) “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Pub. Res. Code § 21061.1.)

32. A lead agency may not approve a project if that project may have a significant effect on the environment unless it has first adopted all feasible mitigation measures to eliminate or substantially lessen all significant impacts of the project. (Pub. Res. Code §21002.1 subd. (a), (b).) If the project may have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Res. Code § 21081; CEQA Guidelines § 15092 subd. (b)(2)(A), (B).)

33. In enacting CEQA, the legislature expressly contemplated that a project’s effects on human beings are per se an effect on the environment that must be addressed in a lead agency’s CEQA document. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.’” (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 800.) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.* [citing e.g., Pub. Res. Code §§ 21000, 21001].)

34. California courts have confirmed that risks of building in wildland areas must be considered as part of the CEQA analysis for a proposed project. (*People ex rel. Bonta v. County of Lake*, (2024) 105 Cal. App. 5th 1222 [hereinafter “County of Lake”])[court ruled a final EIR for a mixed-use planned development project failed to comply with CEQA because its conclusory discussion of wildfire risks lacked meaningful information about significant effects; see also *California Building Industry Assn. v. Bay Area Air Quality Management Dist.*, *supra*, 62 Cal.4th 369, 388 [CEQA requires analysis of the

project's impacts when it brings development and people into an area of existing environmental hazards].)

35. With the reality of global climate change and its effects, as well as the increasing wildfire hazards preeminent in California, the California Attorney General issued guidance to local and state government agencies in October 2022 for assessing and mitigating a project's impact on wildfire ignition risk, emergency access, and evacuation for both new and existing developments.² As the Attorney General Guidance states, "CEQA provides a critical process for local jurisdictions to understand how new developments will exacerbate existing wildfire risks, allowing them to consider project design features, alternatives, and mitigation measures that provide for smarter development and the protection of existing communities."³

36. Under CEQA, cities must ensure that new development facilitates emergency access and "ease[s] constraints on evacuation with this information in hand prior to project approval." "The ultimate objective is to allow for informed decision-making that minimizes the environmental and public safety hazards associated with new developments that increase the risk of ignition and impede evacuation in high wildfire prone areas."

37. The Attorney General noted that "many of the State's most destructive fires have been caused by human activity, such as downed powerlines or electrical sources associated with residential development."⁴

38. Most importantly, the Attorney General warned that "building housing units in the wildland-urban interface puts more people in harm's way," and that "[w]ildfires, particularly those that impact developments in relatively remote locations, may impede the evacuation of communities and

² Rob Bonta, Attorney General, *Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act*, (hereinafter "AG CEQA Guidance").

³ AG CEQA Guidance, *supra*, at p. 6.

⁴ *Id.* at p. 3; see CAL FIRE, Top 20 Largest California Wildfires (Jan. 13, 2022), available at https://www.fire.ca.gov/media/4jandlhh/top20_acres.pdf; CAL FIRE, Top 20 Most Destructive California Wildfires (Jan. 13, 2022), available at https://www.fire.ca.gov/media/t1rdhizr/top20_destruction.pdf

1 emergency access, making it more difficult to ensure public safety and to limit, control, or extinguish
2 wildfires.”⁵

3 39. Recent court rulings have echoed the Attorney General’s Guidance and underscore the
4 need under CEQA to fully evaluate, disclose and consider a project’s potentially significant adverse
5 impacts on evacuation routes located in high wildfire-prone areas. “The need for the FEIR’s disclosure of
6 the potentially substantial adverse risk of human-caused wildfire is uncontroversial given the context.”
7 (*People ex rel. Bonta v. County of Lake* (2024) 105 Cal. App. 5th 1222, 1231; see also *League to Save*
8 *Lake Tahoe Mountain v. County of Placer* (2022) 75 Cal. App. 5th 63, 136 [“Developing new homes and
9 stores in a very high fire hazard area risks exacerbating the hazard”]; *California Building Industry*
10 *Assoc. supra*, 62 Cal. 4th 369, 388 [“EIR should evaluate any potentially significant impacts of locating
11 development in other areas susceptible to hazardous conditions (e.g., ... wildfire risk areas)”];
12 see CEQA Guidelines, § 15126.2, subd. (a).)

13
14 **Government Code Section 65302.15**

15 40. California Assembly Bill 747 (2019) was enacted in the wake of catastrophic disasters –
16 most notably the 2018 Camp Fire – that exposed how limited evacuation route capacity can cost lives.
17 The bill’s author, Assemblymember Marc Levine, was alarmed by reports of gridlock in Paradise during
18 the Camp Fire and introduced AB 747 specifically to ensure local governments analyze whether their
19 road networks could handle mass evacuations.

20 41. Levine urged that AB 747 “will help save lives by requiring local governments to
21 preemptively plan their evacuation route capacity needs under a range of emergency scenarios.”

22 42. The immediate intent of AB 747 was to force cities and counties to scrutinize their road
23 networks’ capacity before a disaster strikes, so that emergency planners can identify bottlenecks and
24 improve evacuation plans in advance. The bill amended state planning law (Govt. Code §65302.15) to
25 require that upon the next update of a local hazard mitigation plan (or by 2022), the local jurisdictions’
26 general plan’s safety element must identify evacuation routes and evaluate their capacity, safety, and
27 _____

28 ⁵ *Id.* at p. 11.

viability under a range of emergency scenarios. This applied statewide, ensuring every city and county would address evacuation road capacity in its planning documents as a matter of public safety.

43. The intent of AB 747 was that road capacity analysis would influence both emergency planning and long-term land use development decisions in high-risk areas. The legislation's requirements inform long-term land use and development decisions in hazard-prone areas. Because the evacuation capacity assessment is embedded in the general plan, it must be considered in future planning and growth. Development proposals in wildfire zones or other high-risk regions can no longer be evaluated on housing and economic merits alone; officials are expected to weigh whether the road network can handle an evacuation of the increased population. The law's "capacity, safety, and viability" analysis is meant to highlight communities or neighborhoods that might face untenable evacuation times, thereby guiding planners either to strengthen the road network or to limit development appropriately.

The Subdivision Map Act

44. The Subdivision Map Act (Govt. Code sections 66410 et seq.) ("SMA") is the state law that governs creation of subdivisions and the division of property in California. Of importance to this case, the SMA requires certain findings be made before a public agency can approve a subdivision.

45. Pursuant to Govt. Code section 66474, a local government "shall deny approval of a tentative [subdivision] map" if it makes, inter alia, any of the following findings: (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451; (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans; (c) That the site is not physically suitable for the type of development; (d) That the site is not physically suitable for the proposed density of development; (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat; (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems; or (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. (Govt. Code § 66474.)



The Housing Accountability Act (“HAA”)

46. The Legislature adopted the HAA to “significantly increase the approval and construction of new housing for all economic segments of California’s communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters.” (Govt. Code §65589.5(a)(2)(K)).

47. The HAA does not take precedence over CEQA and specifically preserves CEQA’s mandates: “Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).” (Govt. Code § 65589.5(e).)

48. The HAA provides that a local agency may deny a qualifying project (or approve it on condition that it be developed at lower density) if the local agency finds that the project would have a specific, adverse, and unavoidable impact on public health or safety. (Govt. Code §§ 65589.5, subds. (d)(2) and (j)(1).)

GENERAL ALLEGATIONS

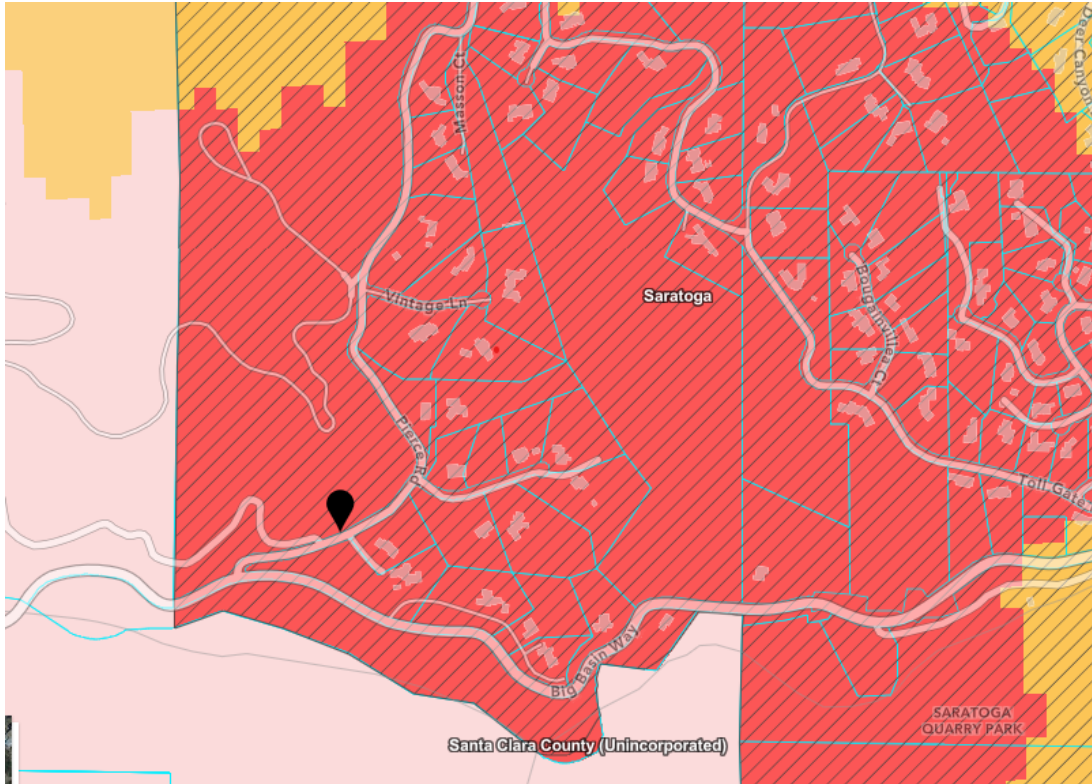
Background of Local Wildfire Evacuation Risk

49. The City of Saratoga is located in Santa Clara County at the foothills of the Santa Cruz Mountains. The City of Saratoga features residential neighborhoods, wooded hillsides, and open-space nature preserves. Saratoga sits west of Cupertino and southwest of Los Gatos. According to the 2020 census, the City has a population of about 30,418 residents.

50. At the time the project application was submitted to the City, the applicant developer claimed the project site was partially within the High Fire Hazard Severity Zone and partially within the Very High Fire Hazard Severity Zone. The entire Project site and surrounding area are currently in the Very High Fire Hazard Severity Zone.



51. Below is a graphic image taken from the CALFIRE Fire Hazard Severity Zone (“FHSZ”) online map on September 9, 2026, depicting the Very High FHSZ in red and the High FHSZ in yellow for Saratoga and surrounding environments.



52. Therefore, according to Cal FIRE, there is an extreme threat of wildfires in and around the City.⁶

53. Past wildfires in the Saratoga area include:

- a) The 2007 Stevens wildfire which burned approximately 151 acres.
- b) The 2017 Eden fire which burned 10 acres.
- c) The 2020 CZU Lightning Complex wildfire which burned 86,509 acres.

54. On September 4, 2026, just two weeks after the City Council approved the Project, a brush fire broke out on Mt. Eden Road, approximately 1.4 miles away from the Project site.

⁶ <https://experience.arcgis.com/experience/5065c998b4b0462f9ec3c6c226c610a9>

55. The following images show the September 4, 2026 brush fire in the area:





56. Saratoga and the Project site are part of California's Wildland-Urban Interface (WUI).

57. The combination of hot dry summers, conductive topography, flammable vegetation, urban development, limited firefighting access to wildland areas, and diablo winds pose significant risks to people and structures within the City's WUI.

Project Description

58. The Project applicant requested and was granted development entitlements from the City including the certification of an EIR, approval of a tentative subdivision map, design review approval, and tree removal permits. The Project as proposed and approved would subdivide the 72.45-acre site and include 25 homes and related infrastructure developed on the northern 18.38-acre portion of the parcel.

59. Related infrastructure would include new internal streets and driveways, parking spaces, landscaping, bioretention and drainage features, and utility improvements.

60. The southern 54.06-acre parcel would include an emergency access road.

61. The Project site is a part of the Upper Calabazas Creek Watershed. The proposed Project would include the construction of approximately 2,300 feet of new roadways and driveways, including two bridges built over existing on-site drainages.

62. The Project site currently contains 682 trees from 11 different protected species. The Project as proposed and approved will remove 367 trees, more than half of the trees onsite.

63. The 72.45-acre Project site is located at the cross streets of Pierce Road and Saratoga Heights Drive at 14791 Pierce Road (Assessor's Parcel Numbers [APNs] 503-46-005), west of Pierce Road and north of Vintage Lane.

64. Pierce Road runs along the east side of the Project site, down the mountain, and into the center of the City. Big Basin Way is located south of the Project site, connecting with Pierce Road once it intersects with Mount Eden Road to the west.

65. Pierce Road and Big Basin Way have been identified by the City as evacuation routes.

66. The Project as proposed would impact Pierce Road and Big Basin Way.

67. Pierce Road and Big Basin Way serve as evacuation connectors, conveying traffic from high-risk hillside areas to major evacuation routes.

68. The two routes are narrow, two-lane roads with steep grades and minimal shoulders, making them highly vulnerable to traffic blockages.

69. The following images are of Pierce Road, not far from the Project site:





70. The following image is a graphic of the Project site's location as seen on Google Maps:



71. The Project site is vacant and undeveloped, aside from an existing single-lane road, Vintage Lane, which intersects with Pierce Road.

72. The City has calculated that at a rate of 2.79 persons per household, the Project would result in an increase of approximately 70 residents who would have to use Pierce Road for evacuation in the event of a wildfire. Pierce Road is already overburdened as an evacuation route, as modeled by the City.

73. The Project EIR concluded the Project's wildfire evacuation impacts are significant and unavoidable.

74. The Project EIR found significant, unavoidable health and safety impacts on future project occupants.

75. The Project EIR found significant, unavoidable health and safety impacts of the Project on existing, current residents.

76. As nationally-recognized evacuation expert Rebecca Cohen, PE, PTOE, Program Director, Evacuation and Emergency Planning at KLD Associates (hereinafter "KLD Associates") stated in her comments on the Project, the City's own evacuation Study projected the Project would increase evacuation time by an additional 30 minutes representing a 13% increase over baseline conditions. As KLD Associates opined, an increase of 30 minutes "directly increas[es] the likelihood of vehicles

1 becoming trapped on constrained corridors like Pierce Road, creating a *critical life-safety hazard and*
2 *significantly elevating the potential for catastrophic loss of life.*” (emphasis added.)

3 77. The May 2026, Fehr and Peers Wildfire Evacuation Time Estimates: Existing and Future
4 Development Projections (hereinafter “ETE Study”) commissioned by the City demonstrates that the
5 Project presents a critically dangerous risk to public safety in the event of a wildfire evacuation.

6 78. The City Council approved the Project despite making the following finding:

7 “Finding: The proposed Project would cause irreversible environmental changes
8 associated with its significant and unavoidable impacts, namely: impacts related
9 to emergency response and evacuation, conflict with applicable plans, policies or
10 regulations, consistency with CEQA Guidelines Section 15064.5(b), emergency
11 access, emergency response and evacuation, wildfire hazards, consistency with an
12 emergency response/evacuation plan, and exposure of project occupants to
13 pollutant concentrations from wildfire.”

14 79. The Project as proposed and approved would cause significant impacts to biological
15 resources, due to the removal of 53% of trees on-site and impacts to wildlife.

16 80. The evidence in the record shows by more than a preponderance of the evidence that the
17 Project would have a specific, adverse impact upon the public health and safety.

18 81. The evidence in the record shows by more than a preponderance of the evidence that the
19 Project would have a significant, quantifiable, direct, and unavoidable impact, based on objective,
20 identified written public health or safety standards, policies, or conditions as they existed on the date the
21 project application was deemed complete.

22 82. The evidence in the record shows by more than a preponderance of the evidence that there
23 is no feasible method to satisfactorily mitigate or avoid the specific, adverse impacts without rendering
24 the development unaffordable to low- and moderate-income households.

25 **The Project’s Evolution Throughout the City’s Administrative Review Process**

26 83. On July 7, 2023, the Saratoga Community Development Department received a
27 preliminary application for the Project.

28 84. On December 20, 2023, the Project developer submitted a formal Project application to
the City.

1 85. On January 19, 2024 the Saratoga Community Development Department deemed the
2 application incomplete due to the Project's lack of an Environmental Impact Report (EIR) and
3 nonconformity with City Code, among other inconsistencies.

4 86. On June 25, 2024 the City received application revisions to the initial application filed in
5 December of 2023.

6 87. Following a meeting on February 3, 2024, with the Project applicant, the Saratoga
7 Community Development Department deemed the application complete for processing, on February 9,
8 2024. On March 8, 2024, the City sent another letter to the Project applicant, citing inconsistencies with
9 the City planning, engineering, arborist and public works requirements.

10 88. On May 10, 2024, the City prepared and published a Notice of Preparation (NOP) of the
11 Draft Environmental Impact Report (DEIR) for public comment.

12 89. On May 29, 2024, the City held a scoping meeting.

13 90. On December 29, 2025 the City published the Project DEIR, starting a 45-day public
14 comment period. The DEIR concluded that the Project's wildfire evacuation impacts would be significant
15 and unavoidable.

16 91. On or around January 14, 2026, CRED submitted a letter to the City requesting an
17 extension of the public comment period, due to the fact that the voluminous DEIR and technical
18 appendices required more time for the public to review and that the 45-day comment period was unfairly
19 and unnecessarily truncated by the DEIR's publication during the holiday season. The City granted a 7-
20 day extension on the comment period. CRED timely submitted comments on the DEIR, including
21 comments from evacuation expert, KLD Associates. KLD Associates pointed out that the DEIR failed to
22 include an Evacuation Time Estimate Study which KLD Associates asserted was required to truly
23 determine the full extent of the Project's impacts relating to wildfire evacuation.

24 92. On June 17, 2026 the City published the Project's Final Environmental Impact Report
25 (FEIR), including responses to the comments made on the DEIR. In response to KLD Associate's
26 observations, the City pointed to its May 2026 City-wide ETE study which was published after the DEIR
27 was circulated and the comment period had closed.

93. After KLD Associates reviewed the ETE study, KLD Associates provided a follow up letter report, observing that the City's ETE study demonstrates that the Project's impact on wildfire evacuation exceeds industry standards for evacuation safety. KLD Associates concluded:

"The results of the ETE study establish a specific, significant, quantifiable, and direct evacuation-safety impact from the Masson Estates Project. From a professional traffic and emergency planning perspective, expanding residential density along an inadequate evacuation route under the modeled fire conditions *creates a significant threat to human life*. KLD strongly recommends that the City of Saratoga treat these evacuation delays not merely as operational inconveniences, but as major, life-threatening impacts that must be fully addressed before any further development approvals are granted." (Emphasis added.)

94. On July 8, 2026, the City Planning Commission held a hearing on the Project and denied the Project on the grounds that the Commission could not make the finding that the environmental impacts of the Project in relation to emergency access, response and evacuation, were outweighed by the staff report's stated benefits of the Project.

95. On July 13, 2026, the Project applicant appealed the City Planning Commission's decision to the City Council.

96. On August 19, 2026, the City Council heard the appeal of the City Planning Commission's decision to deny the Project. The City Council voted to grant the appeal and approve the Project and certify the EIR.

FIRST CAUSE OF ACTION

Violation of CEQA

97. Petitioner hereby realleges and incorporates all the above paragraphs as if fully set forth herein.

98. CEQA mandates that the lead agency analyze and adopt feasible and enforceable mitigation measures that would reduce or avoid any of a project's significant environmental impacts. If any of the project's significant impacts cannot be mitigated to a less than significant level, then CEQA bars the lead agency from approving a project if a feasible alternative is available that would meet the project's objectives while avoiding or reducing its significant environmental impacts.



99. CEQA requires that the lead agency make a good faith attempt at informing the public and decisionmakers about a project's potentially significant environmental impacts.

100. CEQA requires that substantial evidence in the administrative record support all of the agency's findings and conclusions, including those contained in the EIR, and that the agency explain how the evidence in the record supports the conclusions the agency has reached.

Biological Resources

101. The EIR fails to adequately disclose, analyze, and/or mitigate the Project's significant direct and cumulative impacts to biological resources, including numerous special status plant species affected by the Project and their habitat. The EIR's biological resources analysis is also inadequate because, inter alia, the EIR: fails to include and fully analyze all biological resources impacts resulting from the Project; relies on mitigation measures that are vague, ineffective, deferred, unenforceable, unsupported by substantial evidence, and/or otherwise inadequate, fails to incorporate all feasible mitigation or avoidance measures, fails to adequately disclose, analyze, and/or mitigate the Project's significant impacts on habitats and features. The EIR fails in the following ways relating to biological resources:

102. The EIR fails to treat the trees designated for removal as special status species under Impact BIO-1, despite the trees having protected status under the local ordinance. (Saratoga Municipal Code §§ 15-50.040 and 15-50.020(p)-(q), (s).) Alternatively, the EIR fails to analyze potentially significant impacts arising from the loss of non-sensitive species of vegetation, such as impacts arising from the overall loss of tree canopy, including but limited to impacts on all avian and mammal species, both individually and cumulatively.

103. The EIR's analysis of biological impacts related to the loss of trees is limited to the loss of their value as nesting areas for wildlife, rather than their value as nesting and foraging habitats for all birds.

104. The EIR fails to analyze impacts to birds on the Project site, unless the birds are categorized as a special status species.

105. The EIR fails to analyze the short-term and long-term impacts of any tree replacements on all bird species with respect to nesting and foraging habitat.

106. The EIR fails to address how the removal of 53% of the trees on the Project site would affect bird foraging and nesting within the area.

107. The EIR states Project construction has the potential to impact wildlife, riparian habitat, “native trees”, and wildlife movement prior to mitigation, resulting in a potentially significant impact under CEQA. Yet, the proposed mitigation measures for the Project only address special status species, meaning tree removal impact within the Project site was not analyzed, as the trees within the site had not been classified as special status species.

108. The EIR fails to mitigate impacts on protected trees, the overall tree canopy and special status wildlife.

109. The EIR fails to adequately respond to comments relating to the EIR’s failure to analyze impacts from the loss of tree canopy, both individually and cumulatively.

110. The EIR fails to adequately respond to comments relating to the EIR’s failure to analyze impacts on all bird species and to adequately mitigate impacts relating to the loss of tree canopy.

Defective Findings on Project Alternatives

111. The City made the following unsupported findings regarding the feasibility of environmentally-superior alternatives:

Finding: Environmental Superior Alternative – The No Project Alternative is the environmentally superior alternative. However, the No Project Alternative is infeasible because it would not meet any of the Project Objectives and denial of the proposed Project on the ground that an alternative is available under CEQA would violate the HAA. Since the No Project Alternative was determined to be the environmentally superior alternative, pursuant to Section 15126.6(e)(2) of the CEQA Guidelines, Alternative 2 – Consistency with Land Use and Zoning Alternative has also been identified as the environmentally superior alternative. However, this alternative is rejected because it does not meet the objective related to provision of affordable housing consistent with State law, including the HAA and SB 330, and denial of the proposed Project on CEQA grounds would violate the HAA.

112. The evidence in the record conclusively demonstrates that the Project would have a specific, adverse, and unavoidable impact on public health or safety such that the City had the legal authority to deny the Project under the HAA. (Govt. Code §§ 65589.5, subds. (d)(2) and (j)(1).) The City's interpretation of its police power to adopt a no project alternative or a reduced density alternative under CEQA was legally erroneous and not supported by substantial evidence. Thus, the City's findings supporting its rejection of Alternatives 1 and 2 are erroneous and not supported by substantial evidence.

Inadequate Findings and Statement of Overriding Considerations

113. Respondents' Findings of Fact and Statement of Overriding Considerations violate the requirements of CEQA and the CEQA Guidelines.

114. A Statement of Overriding Considerations, like an EIR, must make a good faith effort to inform the public.

115. The purposes of a Statement of Overriding Considerations are undermined if its conclusions are based on misrepresentations of the contents of the EIR or it misleads the reader about the relative magnitude of the impacts and benefits the City has considered. Respondents' Statement of Overriding Considerations was based in part on the Community Development Department staff report which misrepresented and downplayed the evacuation safety impacts caused by the Project.

116. Respondents' findings fail to identify the changes or alterations that are required to avoid or substantially lessen the Project's significant environmental effects, and do not provide adequate reasoning or disclose the analytic route from facts to conclusions, as required by law. The purported benefits of the Project cited in the Statement of Overriding Considerations objectively do not outweigh the Project's substantial costs to public health, safety and the environment. Respondents' Findings and Statement of Overriding Considerations are not supported by substantial evidence in the record.

117. When an EIR concludes that a project would result in significant environmental effects, but where mitigation measures and alternatives identified in the EIR are deemed infeasible, the CEQA findings must identify the specific economic, legal, social and technological and other considerations that make infeasible the adoption of mitigation measures or alternatives. All CEQA findings must be supported by substantial evidence in the record and must disclose the analytical route by which approval

of a project is justified. Here, Respondents' findings regarding the public health and safety impacts, mitigation measures, and alternatives relied upon by Respondents' approval of the Project are not supported by substantial evidence in the record, and do not disclose the links between evidence and conclusions.

118. Respondents' Findings of Fact and Statement of Overriding Considerations fail to reflect the independent judgment of Respondents.

119. Respondents' Findings of Fact and Statement of Overriding Considerations fail to reflect the true reasons for the City Council's approval of the Project, namely to avoid legal and financial retribution by the developer and HCD.

120. As a result of the foregoing defects, Respondents abused their discretion in approving the Project and certifying the EIR.

SECOND CAUSE OF ACTION

Violation of the State Planning and Land Use Law and Saratoga Municipal Code (Subdivision Map Act, Govt. Code Sections 66410, *et seq.*, Saratoga Municipal Code § 14-20.070)

121. Petitioner hereby realleges and incorporates all the above paragraphs as if fully set forth herein.

122. Govt. Code section 66474 provides, in relevant part, that the following findings must be made in the negative in order for the City to approve a subdivision:

- e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage...; and
- f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

123. The Saratoga Municipal Code requires the same findings as those in Govt. Code section 66474, subdivisions (e) and (f). (Saratoga Municipal Code § 14-20.070(b)(5) and (6), respectively.)

124. The City abused its discretion by approving the Project's subdivision map in violation of Section 66474 and Saratoga Municipal Code § 14-20.070(b)(5) and (6).



125. The City failed to make the required findings in subdivision (e) and (f) of Section 66474, and related findings in Saratoga Municipal Code § 14-20.070(b)(5) and (b) (6).

126. The City was required to affirmatively address all of the matters covered by Government Code section 66474 before approving the subdivision map. (*Spring Valley Lake Assn. v. City of Victorville* (2016) 248 Cal. App. 4th 91, 106.)

127. The City did not make all of the findings enumerated in Govt Code Section 66474 before approving the Project's subdivision map.

128. Therefore, the City abused its discretion by approving the Project's subdivision map without making all the required findings enumerated in Govt Code Section 66474.

129. Furthermore, if the City had attempted to make the required findings, the evidence would have required the City to disapprove the Project under the SMA.

130. The SMA requires disapproval of a subdivision map where substantial environmental damage from the subdivision is identified. (68 Ops. Cal. Atty. Gen. 108, 111.)

131. The City's Statement of Overriding Considerations pursuant to Pub. Res. Code § 21081(c) as addressed above is invalid and therefore the City was required to deny the subdivision map under the SMA.

132. The City's Statement of Overriding Considerations pursuant to Pub. Res. Code § 21081(c) (even if valid), did not excuse the City's obligation to make the required finding and deny the subdivision map under the SMA, section 66474(e). Having determined significant adverse environmental impacts would be caused by the Project, the City's lack of finding pertinent to section 66474(e) is in error and the City abused its discretion in approving the subdivision map in violation of the SMA and the City's Municipal Code.

133. The City's approval of the Project was an abuse of discretion because the City did not and could not make the required finding under Govt. Code section 66474(f) and Saratoga Municipal Code section 14-20.070(b)(6). The Legislature has declared that "Wildfires pose a serious threat to the preservation of the public peace, health, or safety." (Govt. Code § 51175.) The subdivision as proposed is "likely to cause serious public health problems," because the EIR, the ETE Study and the KLD Associates Report, among other evidence in the record, demonstrates unequivocally that the Project



threatens public safety. Thus, the City was required by the SMA and local ordinance to deny the Project's subdivision map. (Govt. Code § 66474 and Saratoga Municipal Code § 14-20.070(b).)

134. The SMA requires denial of a subdivision design that is likely to cause serious public health and safety problems. (Govt. Code § 66474(f).)

THIRD CAUSE OF ACTION

Public Nuisance

135. Petitioner hereby realleges and incorporates all the above paragraphs as if fully set forth herein.

136. Under the provisions of Civil Code section 3479 a nuisance is anything injurious to health or indecent or offensive to the sense, or an obstruction of the free use of property; and under Civil Code section 3480 any such nuisance which affects at the same time an entire community or neighborhood is a public nuisance, even though individuals may be affected unequally.

137. Zoning is an exercise of a local government entity's police power over land uses and development intended to protect health, safety and welfare.

138. Fire hazard clearly constitutes nuisance within provisions of Civil Code, § 3479, defining nuisance. (*Bakersfield v. Miller*, (1966) 64 Cal. 2d 93.) As one court put it, "No one is naive enough not to understand that the constant pressure of serious fear can and often does destroy all happiness in life and property. All sane adults are aware of the latent danger of fire, and their fears are quickly aroused by the unnecessary creation of extremely hazardous situations. The presence in a settled residential community of an unnecessarily extreme fire hazard can well create and maintain that fear in the lives of the people of that community and make of the hazard a public nuisance. No one has the right to inflict unnecessary and extreme danger to the life, property and happiness of others. The greater the number of people threatened, the greater becomes the need for abatement correction. (*County of San Diego v. Carlstrom*, (1961) 196 Cal. App. 2d 485, 491.)

139. The City's approval of the Project is a threat to the health and safety of the public.



140. The City's approval of similar over-density development projects along evacuation routes without full public review of impacts and without an evaluation and provision of adequate evacuation capacity threatens the health and safety of the public.

141. The City has provided no mitigation of the Project's evacuation impacts or alternatives that would avoid them.

142. As addressed above, the City is in violation of codes meant to protect the health and safety of its citizens, including but not limited to, the City's own municipal code, the SMA, and CEQA.

143. The City and Real Parties in Interest, approving and pursuing the Project respectively, are creating a condition to exist that is harmful to the health and safety of the public and is creating a fire safety hazard, affecting a substantial number of people who will need to flee during a wildfire, that the Project will cause an obstruction to area evacuation routes. The City's and Real Parties in Interest's actions constitute a public nuisance.

144. An ordinary person would be disturbed by the condition caused by the City and Real Parties in Interest and the seriousness of the harm far outweighs the social utility of the Project.

145. Petitioner, its members, and members of the public did not consent to this nuisance, as evidenced by oral and written objections to the City.

146. Petitioner requests that the Court issue an order enjoining Respondents from issuing any permits for the Project and enjoining Real Parties in Interest from taking any action to construct any portion of the proposed Project or develop or alter the proposed Project site in any way unless or until lawful land use approvals are obtained from Respondents.

FOURTH CAUSE OF ACTION

California Constitutional Right to Safety

(Cal. Const. Art I, Section 1; Section 28)

147. Petitioner hereby realleges and incorporates all the above paragraphs as if fully set forth herein.

148. The California Constitution expressly recognizes safety as a fundamental, inalienable right.

1 149. Article I, Section 1 of the California Constitution guarantees the right to safety and states,
2 in relevant part, as a “Declaration of Rights”:

3 150. "All people are by nature free and independent and have inalienable rights. Among these
4 are ... obtaining safety[.]"

5 151. Further, and independently, Article I, Section 28(c) of the California Constitution
6 guarantees a right to safety for school children.

7 152. Petitioner, its members, and the public have a constitutional right to safety from harm and
8 potential death from wildfires.

9 153. Despite the City’s longstanding knowledge of the dangers of placing high-density
10 residential projects in hazard zones on evacuation routes, the City approved the Project while admitting
11 that the Project will rely on and exacerbate an over-burdened evacuation route. Such actions and
12 inactions on behalf of the City unconstitutionally interfere with Petitioner’s right to safety and
13 Petitioner’s members’ right to safety.

14 154. The City’s adopted Statement of Overriding Considerations is unconstitutional since it
15 declares that the public’s right to safety is overridden by such things as the cost to the City of a retaining
16 wall that would not be necessary but for the Project; the purported benefit in obtaining a public trail; and
17 other such objectively relatively-insignificant “benefits” articulated in the Statement of Overriding
18 Considerations. Moreover, the City’s failure to exercise its police power to prevent the Project’s risk to
19 human life was not preempted by the HAA, as addressed above: the evidence in the record conclusively
20 establishes that the City had the power to deny the Project due to its public health and safety hazards.

21 155. The City’s conduct dangerously deprives citizens’ rights under Article I, Section 1 to live
22 in a safe environment because it exposes Petitioner and its members and other members of the public to
23 death, physical injury, and serious psychological harm and trauma.

24 156. Pursuant to, and in furtherance of the City’s approval of the Project along an already
25 overburdened evacuation route in a Very High Fire Hazard Severity Zone, the City has acted and
26 continues to act affirmatively to place Petitioner and its members in a position of foreseeable danger,
27 with deliberate indifference to their safety and health.

157. The City continues to place Petitioner and its members and members of the public in a position of danger, violating their rights to safety, by failing to implement readily available laws, policies, plans and any other remedial measures that would protect their safety. Although the City has longstanding, actual knowledge of the substantial risk of harm to Petitioner and the public, the City has not taken necessary or feasible steps to address, ameliorate, and/or reduce the risk of such harm, including but not limited to, denying approval of the proposed Project when the City has the legal ability and obligation to deny the proposed Project to protect the public and Petitioner and its members.

158. There is no interest, compelling or otherwise, that justifies the City's deprivation of Petitioner's and its members' fundamental rights to a safe environment, nor is the City's conduct narrowly tailored to effectuate any such interest.

159. Petitioner has no adequate speedy remedy to obtain full legal redress other than to seek declaratory and injunctive relief in this Court.

160. Petitioner requests that the Court declare the City's approvals of the proposed Project are unconstitutional, issue a writ of mandate ordering Respondents to overturn the unlawful approvals of the proposed Project, and issue an order enjoining Respondents and Real Parties in Interest from taking any action to construct any portion of the proposed Project or develop or alter the Project site in any way unless or until lawful land use approvals are obtained from the City that do not endanger the safety of Petitioner or its members.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for judgment as set forth below:

1. For alternative and peremptory writs of mandate directing Respondents to vacate and set aside certification of the EIR, adoption of the Findings and Statement of Overriding Considerations, and approval of all associated Project permits, entitlements, and approvals;
2. For alternative and peremptory writs of mandate directing Respondents to comply with CEQA and the CEQA Guidelines and take any other action as required by Pub. Res. Code section 21168.9;



3. For a temporary stay, temporary restraining order, and preliminary and permanent injunctions restraining Respondents and Real Parties in Interest, and their agents, servants, and employees, and all others acting in concert with them or on their behalf, from taking any action to implement, fund or construct any portion or aspect of the Project, pending full compliance with the requirements of CEQA, the CEQA Guidelines, the Subdivision Map Act, and Saratoga Municipal Code;
4. For a declaration that Respondents' actions in certifying the EIR and approving the Project violated CEQA, the CEQA Guidelines, the Subdivision Map Act, and Saratoga Municipal Code, and that the EIR certification and Project approvals are invalid and of no force or effect, and
5. For a declaration that the Respondents' actions in approving the Project constitutes a public nuisance, and that the approval violated CEQA, the State Planning and Zoning Law, the Saratoga Municipal Code, and the California Constitution.
6. For injunctive relief enjoining Respondents and/or Real Parties in Interest from perpetuating a public nuisance;
7. For injunctive relief enjoining Respondents and/or Real Parties in Interest from violating the California Constitution, Art I, Sec. 1 and/or Sec. 28;
8. Costs of suit and reasonable attorney's fees;
9. Such other and further relief as is just and proper.

Dated: September 17, 2026

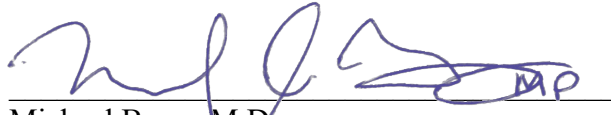
VENSKUS & ASSOCIATES, A.P.C.

Sabrina Venskus,
Attorney for Petitioner and Plaintiff,
CRED

VERIFICATION

I am the President of Citizens for Responsible and Equitable Development, a California non-profit corporation, and I am authorized to make this verification on its behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and am familiar with its contents. The matters stated therein are true to my own knowledge and belief except as stated on information and belief, and to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Buenaventura, California on September 15, 2026.



Michael Burry, M.D.,
President of CRED