LL-6
Latham & Watkins LLP
on behalf of the Golden Door Properties, LLC
Dated: December 21, 2017

1. Introduction

The comment letter submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated December 21, 2017, is a late letter that does not require a written response from County.

Under CEQA Guidelines Section 15105, the County was legally required to provide a 45-day public review period on the Draft EIR. In order to provide additional time, the County instead afforded 60 days for public review and comment. The public comment period for the Draft EIR began on June 15, 2017, and ended on August 14, 2017. All comment letters received after expiration of the public review and comment period ending on August 14, 2017, are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Resources Code, §21091(d); CEQA Guidelines, §15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters, including the December 21, 2017, letter from Latham & Watkins. (See, CEQA Guidelines, §15088(a)).

Nonetheless, for information purposes, the County has elected to respond to this late letter, but without waiving its position that written responses to late comment letters are not required by law.

2. The Newland Sierra Fire Protection Plan analyzed a Santa Ana wind-driven wildlife event.

The letter provided by the commenter focuses on a perceived lack of Santa Ana wind-driven wildfire event analysis within the Newland Sierra's Fire Protection Plan (FPP). The comment is inaccurate as the FPP did conduct fire behavior analysis using Santa Ana weather and wind conditions, which focuses on wind, humidity, and fuel moistures. The fire behavior modeling conducted in support of the project's FPP utilized FlamMap which is a perfectly suited model for its intended purpose. The modeling included an evaluation of wildfire conditions during a Santa Ana wind-driven wildfire event, as discussed in Section 2.2.2 (page 29) of the FPP and in Section 2.8.1 of the Draft EIR (page 2.8-3). The FPP utilized the 'Peak' wind and weather input variables derived from the guidelines and standards established by the County of San Diego, Department of

Planning and Land Use[1] to model wildfire conditions during a Santa Ana wind-driven wildfire event. The County's guidelines and standards identify fire behavior model weather inputs to be used for development projects proposed in the County. The 'Peak' wind and weather variables identified in these guidelines and standards, and used in the FPP, represent low fuel moisture levels and high wind speeds expected during Santa Ana weather conditions and are the result of an extensive analysis of weather data recorded at remote automated weather stations (RAWS) located throughout the County. The 'Peak' weather variables also include wind speeds representing the highest recorded during the 2003 Cedar Fire, which burned during Santa Ana weather conditions.

The FPP's use of weather and wind variables consistent with Santa Ana weather conditions is confirmed by the comment letters referenced Reax Engineering report (Comment Letter Attachment A, Fire risk impacts of Proposed Newland Sierra Project on The Golden Door and Surrounding Area, Reax Engineering, December 19, 2017). The fire behavior modeling for Santa Ana conditions conducted for the Reax report "was conducted using the same basic assumptions as in Newland Sierra's Fire Protection Plan, i.e., 20-ft winds of 40 mph occurring concurrently with low dead and live fuel moistures (page 6)." The use of the same wind and weather variables in the Reax report to model Santa Ana conditions further confirms the applicability of the variables used in the FPP to model the same. Therefore, the County disagrees that there is a need to conduct additional modeling using Santa Ana conditions, as it has already been completed.

3. The FlamMap analysis presents worst-case fire behavior characteristics for all areas of the project Site.

The comment states that the FlamMap software does not simulate fire spread and that the FPP's fire behavior analysis using FlamMap only shows the change in fire behavior resulting from fuel treatments. The FlamMap analysis assumes that a fire will occur and presents worst-case fire behavior characteristics for all areas of the project Site. This analysis was conducted to characterize the project site's fuel hazard, evaluate the spatial variability of potential fire behavior across the project site, and to evaluate the effectiveness of proposed fuel modification (treatment) in mitigating wildland fire risk to the proposed project.

4. The Newland Sierra Project will not increase fire risk to the Golden Door property or other project neighbors.

Further, the comment letter indicates that the Golden Door has recently (following recent wildfires) undertaken updates to its emergency planning and asserts that the project will increase fire risks to the Golden Door and other project neighbors. This assertion is not supported by evidence, including the analysis provided in the referenced Reax Engineering report. In fact, the fire risk on site currently is arguably higher than it would be following the project's build out. For

[1] County of San Diego 2010. County of San Diego Report Format and Content Requirements – Wildland Fire and Fire Protection (August 31, 2010). On-line at: http://www.sandiegocounty.gov/dplu/docs/Fire-Guidelines.pdf

example, currently, the fuel bed on the project Site extends continuously from north to south with old, even aged fuels with no fire history. This unbroken fuel bed is adjacent to the I-15 freeway, which is a known ignition source, with this stretch of the I-15 subject to occasional fire ignitions. Additionally, there has been an issue on the Newland project Site with trespassers. Despite the project owner taking significant efforts to preclude illegal property use, trespassers on the site continue to include illegal target shooters, and people who light campfires, drive off-road vehicles, smoke cigarettes, and conduct other unwanted or illegal activities. These activities on the site with continuous, unmaintained fuels represents a threat of fire ignition and spread, particularly under Santa Ana wind conditions. It is prudent for the Golden Door to update its emergency plans, particularly based on the current, pre-development, unmaintained condition.

With the project, the fuel bed would be interrupted by a large fuel break represented by the project's converted landscapes. This fuel break (the project) would enable firefighters several operational advantages over the existing condition by allowing firefighters to drive into the property for safe offensive and defensive positions, would enable anchor points for fire lines, and would augment the ability of air support to apply fire retardant strategically tying into the project's fuel modification zones. These actions would modify a fire's behavior, slow the spread of a wildfire, and heighten control efforts. Additionally, the project's open space areas would be managed by a preserve management entity to control trespass and other illegal activities in the preserve and separated from the project's development areas with two hundred and fifty feet (250') of Fuel Modification Zones. And a neighborhood of new residents is one of the most effective ways to catch illegal activity like trespass, off-roading, and campfires as anyone engaging in these activities would much more likely be spotted and reported to the Sheriff's Department whereas today these activities can occur on the 1,985-acre project site, which is over 3 square miles in size, undeveloped, and vacant, without being detected as quickly or at all.

5. <u>The Reax Engineering Report (Attachment A) contains inaccurate, unsupported statements about increased ignition risk as a result of the project and inaccurate modeling results.</u>

The comment letter's Attachment A, the Reax Engineering Report, provides an independent analysis of fire spread using a customized fire behavior model. The report appears to provide accurate information regarding general fire behavior, Santa Ana event description, fire history, and fire brand (ember) production and potential cast distances. However, the report includes references to increased ignition risk on the site with the project, inaccurate modeling results, and concludes that the project will result in increased probability of fire occurrences and essentially provides no mitigations. These are all inaccurate, unsupported statements that are remiss by not considering the site's current condition and potential risk. The County disagrees with the comment's assertion that the project greatly increases the probability of ignition occurring within its footprint and finds that the previously referenced studies used to support the assertion do not introduce any substantial evidence supporting the statement.

While it is true that humans are the cause of most fires in California, there is no data available that links increases in wildfires with the development of ignition resistant communities. This type of development with an unbroken landscape (as opposed to low density wildland urban intermix projects) has been found to perform well against wildfires (Syphard, et. al, 2015: Fires at the Wildland Urban Interface: Lessons from Southern California; Institute for Business and Home Safety: Mega Fires 2008). One study (Mann ML, et al. 2016: Human-started wildfires expand the fire niche across the United States) indicates that there can be initial increase in the "likelihood" of fires, but that it decreases over time as the built environment is constructed and increased suppression resources and efforts reduce it. Additionally, the project includes managed landscapes and wide fuel modification zones that will provide protection for the Newland Sierra project, but also act as a buffer between on-site fires and the natural vegetation areas. In fact, FMZs were originally established to prevent structure fires from spreading into the wildland areas. Therefore, the dual role of FMZs at Newland Sierra is designed to minimize the likelihood that on-site fires can move offsite. If an on-site fire were to result in a spot fire downwind (south and west) of the project site, there is a lack of continuous fuels to sustain wildfire spread and uncontrollable growth through the developed and semi-developed landscapes in the area. Wildfire could occur in the unmaintained portions of this area, but in contrast with the comment's assertion, the park and large irrigated, maintained areas associated with the San Marcos landscapes southwest of the project would provide a fuel break and reduce fire behavior to controllable levels.

Fires that start on site would not have the readily ignitable fuels to sustain or spread within the site's landscapes. Further, structure fires would be effectively contained or suppressed by provided automatic interior fire sprinklers to be fitted in every structure. Combined with the fast response from the nearby DSFPD station 2, it would be difficult for an on-site fire to spread to off-site areas before responding firefighters could begin their firefighting tactics. Further, because the project is within DSFPD and there are existing mutual and auto aid agreements in place, the entire wildland firefighting weight of CAL FIRE, including specialized apparatus, trained wildland firefighters, and aerial attack would all be available within a short timeframe should a fire ignite.

It is important to note that the project would also contribute approximately $4.5 million in fire fees to DSFPD, approximately $2 million more than the project's required mitigation fees and, at buildout, the project would generate approximately $1.4 million in annual revenues to DSFPD to support fire and emergency response services. These contributions and revenues to the DSFPD will significantly enhance the District's fire response and suppression capabilities in the event of a wildfire.

The fire spread modeling conducted in the Reax Engineering report appears to overstate ember cast and results. It concludes that wildfire would be burning within areas of San Marcos that are clearly irrigated and maintained turf, dirt lots, and landscapes. This is misleading, at best, as these types of landscapes would not represent receptive fuel beds to burning embers. Burning ember decay rates would exceed the ability of the embers to ignited hydrated and maintained landscapes.

6. The news article (Attachments B and C) are opinion-based and lack supporting data.

Attachments B and C to the comment letter provide a news article that provides a story on several projects that are being planned in the very high fire hazard severity zones of north San Diego County. The article provides several opinions with no substantiation or supporting data. The article is noted and will be made part of the public record.