



HUACHUCA
AUDUBON
SOCIETY

November 25, 2015

Benson Planning and Zoning Commission
City Hall
120 W. 6th Street
Benson, Arizona 85602

Re: Public Comment on Villages at Vigneto Final Community Master Plan

Dear Benson Planning and Zoning Commission,

Established in 1949, the Tucson Audubon Society (Tucson Audubon) is a 501(c)(3) non-profit conservation organization. We are the third largest local Audubon chapter in the nation and write to you on behalf of our membership in excess of 4,000 citizens. Tucson Audubon promotes the protection and stewardship of southeast Arizona's biological diversity through the study and enjoyment of birds and the places they live. Tucson Audubon advocates statewide for the sustainability, resilience, preservation, restoration and connectivity of habitats utilized by birds and other wildlife, with special emphasis on riparian habitats and their associated uplands.

Huachuca Audubon Society is a 501(c)(3) non-profit organization. The goal of its members is to conserve and restore eco-systems so that birds and other wildlife can flourish and enrich the Earth's diversity. Members enjoy observing wildlife and seek its protection through efforts to advance public understanding of the relationships of all life forms and the consequences of interfering with these relationships. Huachuca Audubon Society members are concerned conservationists who work to extend the public awareness of the value of conservation. They also seek to inform and influence lawmakers so that their work may reflect this value.

El Dorado Benson, LLC has submitted a “Final Community Master Plan and Development Plan for The Villages at Vigneto” to Benson officials, and has requested public comment. We provide the following comments and ask that Benson officials consider them carefully.

It is Tucson Audubon and Huachuca Audubon’s position that the approval of the Final Community Master Plan for the Villages at Vigneto is very much premature at this juncture.

The following Federal permitting processes have yet to be completed for the entire proposed Villages at Vigneto development: Clean Water Act Section 404 Permit, National Environmental Policy Act (NEPA) analysis and public process, and Endangered Species Act (ESA) and Migratory Bird Treaty Act consultations with the US Fish and Wildlife Service.

The fact that the Villages at Vigneto has yet to fully comply with the Clean Water Act Section 404 is illustrated in Exhibit 5 on page 18 of the Final CMP. Additional acreage proposed for development located west of State Route 90 and adjacent to the Whetstone Mountains were not evaluated by, nor included in, the 2006 Section 404 permit for Whetstone Ranch. On page 19, the proposed Final CMP states: “In the event of a conflict between the Final CMP and the 404 Permit, the 404 Permit shall control.” Given this, it is only logical that the Final CMP should avoid any and all conflicts with Section 404 by waiting until the 404 permitting process has been completed and fully integrated into the Final CMP. Given the existing 404 Permit covering the 8,200 acre Whetstone Ranch does not cover approximately 4,124 acres of the Villages at Vigneto planning area, and is now almost 10 years old, it can no longer be relied upon. Also, given that this yet to be permitted additional acreage very likely contains jurisdictional waters, it must be permitted separately, or combined with the Whetstone 404 Permit. Either way, a re-evaluation of the Clean Water Act Section 404 permit for the Villages at Vigneto needs to occur.

Since the “Whetstone Ranch 8,200-acre Property Revised Biological Evaluation” was completed by Westland Resources, Inc. in October of 2005, additional threatened and endangered species in the area of concern have been listed under the Endangered Species Act, and new critical habitat has been proposed and/or designated. For example, the expanded Villages at Vigneto planning area overlaps (by approximately 650 acres) designated critical habitat for the endangered jaguar (*Panthera onca*), and proposed critical habitat for both the threatened Northern Mexican Gartersnake (*Thamnophis eques megalops*) and the threatened Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*) may be directly and/or indirectly impacted by the proposed development. Through a contract with Coronado National Forest, the

Tucson Audubon Society recently concluded a survey for the threatened Western Yellow-billed Cuckoo in major drainages of 8 sky island mountain ranges in southeast Arizona. This survey resulted in detections of active Western yellow-billed Cuckoo territories located in close proximity to the Village at Vigneto's planning boundary. Therefore, the 2005 Biological Evaluation is clearly outdated and can no longer be relied upon.

It is crucial that requirements and constructive suggestions of the Federal permitting agencies and the public be integrated into the CMP before a Final CMP is accepted and approved. For more detailed information on federal legal compliance shortcomings related to the proposed Villages at Vigneto development, please see Tucson Audubon's May 19, 2015 comments to the U.S. Army Corps of Engineers requesting a re-evaluation of the existing Section 404 permit for Whetstone Ranch based on changed circumstances and new information, as well as a request that the Corps consult with the U.S. Fish and Wildlife Service and conduct a full Environmental Impact Statement.¹ These legal requirements and associated public processes may result in significant changes to various aspects of the Final Community Master Plan. Below are examples of aspects of the Final CMP (and related considerations) that may change as a result of legal and regulatory compliance and the application of the best available science.

Configuration of Development and Open Space

- Configuration of the Proposed Development could include the location and configuration of all proposed development and infrastructure, including sites where infrastructure is proposed to impact or cross jurisdictional waters or would directly or indirectly impact designated/proposed critical habitat for threatened and endangered species or migratory birds.
- Configuration of Natural Undisturbed Open Space. This could involve site avoidance and minimization of impacts to threatened and endangered species and sensitive wildlife habitats, drainage buffers/setback distances, effective habitat connectivity/landscape permeability, water conveyance systems and ecosystem processes.
- Configuration of Developed Open Space, such as the design of storm water conveyance and detention, avoidance of sensitive wildlife habitats, considerations related to avoiding and minimizing disturbance to wildlife from recreational activities, landscaping plant palettes and vegetation management.

¹ Tucson Audubon's May 19, 2015 comments to the U.S. Army Corps of Engineers
http://tucsonaudubon.org/images/stories/conservation/2015_5_19_TAS_Vigneto_ACOE_Final.pdf

Ground Water Pumping

- The proposed Final CMP does not provide any numbers, statistics or projections related to water use and water planning. Detailed numbers and statistics are provided in other sections of the CMP, for example in the section on traffic. The lack of detail on water use is a shortcoming of the proposed Final CMP that must be rectified prior to its approval. Given the significant and internationally recognized ecological value and sensitivity of the landscape context in which the Villages at Vigneto is proposed, Tucson Audubon and Huachuca Audubon advocate strongly for requiring proactive water conservation and management measures. We urge the Benson Planning Department and the Benson City Council to require that the Final CMP adopt a goal of net-zero water use.
- Potential impacts to potable water supplies for the City of Benson and adjacent landowners' wells and numerous downstream water users.
- Potential impacts to water quantity, quality and biologically diverse riparian habitat² on conservation and mitigation properties located downstream from the proposed Villages at Vigneto development. These properties include: the Three Links Farm (2,156 acres purchased by The Nature Conservancy as part of their long-standing program to protect the San Pedro River and its riparian habitat), Bureau of Reclamation and Salt River Project mitigation properties on the lower San Pedro River (approx. 320 acres), Broken Hill Proprietary (BHP) Billiton conservation property, as well as the Section 404 mitigation property purchased to offset impacts from the Whetstone Ranch development (approx. 144 acres, with 115.3 acres of riparian woodland, 22 acres of irrigated agricultural land, and an estimated 6.7 acres of jurisdictional waters along the San Pedro River). This 404 mitigation property has restrictive covenants designed to protect the property's ecological values in perpetuity. Within the mesquite woodland on the abandoned floodplain of this property is an artesian spring and wetland complex.³
- Potential impacts to the Lower San Pedro River Important Bird Area.⁴
- Potential direct and indirect impacts to base flows and perennial reaches of the nearby San Pedro River ecosystem should be studied and considered in depth. There is an

² The San Pedro River Watershed supports significant biodiversity, especially avian, which surpasses even the Middle Rio Grande River in biodiversity. See: K. Boykin et al., 2012, **A national approach for mapping and quantifying habitat-based biodiversity metrics across multiple scales**. Online at:

http://www.researchgate.net/publication/256686287_A_national_approach_for_mapping_and_quantifying_habitat-based_biodiversity_metrics_across_multiple_spatial_scales

³ Whetstone Ranch Habitat Monitoring and Mitigation Plan, Westland Resources, Inc. ACOE file NO. 2003-00826-SDM, November 2005.

⁴ Arizona Important Bird Areas Program, Lower San Pedro River Important Bird Area webpage online at: http://aziba.org/?page_id=461

urgent need for the USGS Study Part III / Groundwater Flow Model to create and evaluate water use scenarios that can predict the likely effects of water use upon vital community resources. Scientifically rigorous scenarios should be developed to inform decisions regarding the intensity of development (e.g., number of housing units, allowable commercial uses, allowable agricultural and recreational uses), as well as water conservation measures (e.g., xeriscaping, water harvesting, water recharge plans). At a presentation given by Dr. Jim Leenhouts, Director of the USGS Arizona Water Science Center, at the Benson City Hall on 09/26/15, Dr. Leenhouts explained, “Water being available means you can get to it, means you can use it, and means when you use it you are not causing other things to have other consequences to happen in an aquifer that are not going to be acceptable. Now it’s up to a community to decide what is going to be acceptable and what’s not. But some of the consequences that can happen: you can impact streams and connected resources, springs, you can cause subsidence to happen. It’s happening very fast in Central Valley, California right now because they are developing the water resource at a very rapid rate”. Dr. Leenhouts also stated, “The reason you need a model is it’s not always as simple as you may think. Thinking the clay layer will slow a response is typically correct but if you pump underneath it, it will have a rapid response to the surrounding water source.”

- Potential negative impacts of groundwater pumping upon seeps and springs, which are particularly important ecological features in this arid desert environment.
- Potential negative impacts to the St. David Cienega and the San Pedro Riparian National Conservation Area.
- Potential negative impacts to the wet cave system of Kartchner Caverns State Park.
- Low-impact development, building and landscaping techniques should be required for the Villages at Vigneto and other proposed developments as a component that will help to achieve a goal of net-zero water use and to minimize Section 404, NEPA, and ESA issues. To this end, we strongly recommend the Benson Planning and Zoning Commission, the Benson Planning Department and the Benson City Council implement a key recommendation that came out of the recent Arizona Town Hall meeting on water issues, held November 15-18, 2015: ⁵

⁵ Report of the 107th ARIZONA TOWN HALL “Keeping Arizona’s Water Glass Full” Hilton Phoenix/Mesa, Arizona November 15-18, 2015. Available online at: <http://www.aztownhall.org/resources/Documents/107th%20Arizona%20Town%20Hall%20-%20Recommendations%20Report%20DRAFT.pdf>

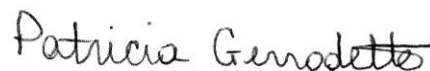
“There are several opportunities to improve our land use and development policies and planning with a view towards improving the balance among quality of life, preservation of natural resources, such as rivers and riparian areas, and the health of economies in our urban, rural and tribal communities. Some communities should consider implementing assured or adequate water supply programs or “net-zero” approaches to water use as a condition to approving new development. We should also create appropriate incentives for conservation of water resources, even in areas where water supplies are abundant. We should explore innovative strategies to make our urban communities lower-impact and less sprawling. Local governments and property owners should be incentivized to develop policies that link land use, economic development and water usage in ways that advance local priorities.”

In conclusion, the Benson Planning and Zoning Commission should recommend to the City Council that they not adopt the current Final Community Master Plan until such time that Federal permitting processes have been completed and integrated. Approval of the CMP at this time would be premature, as the intensity, configuration and design of the proposed development may be significantly modified as a result of eventual legal compliance, associated public processes and the application of the best available science. It is also our position that the Final CMP for Villages at Vigneto should not be approved until the USGS Part III Groundwater Flow Model has been created and associated water use scenarios have been developed and fully considered. Finally, we recommend the City of Benson adopt the Arizona Town Hall recommendation to implement “net-zero approaches to water use as a condition to approving new development” as a responsible, reasonable approach to development planning in an arid, increasingly water-stressed environment.

Sincerely,



Karen Fogas
Executive Director
Tucson Audubon Society



Tricia Gerrodette
President
Huachuca Audubon Society