

## MONTEREY COUNTY PLANNING COMMISSION

<b>Meeting:</b> November 9, 2011	Time: a.m.	<b>Agenda Item No.:</b> 7
<b>Project Description:</b> Consider an appeal of staff's General Plan consistency interpretation for a Combined Development Permit consisting of: 1) Standard Subdivision of a 7.92 acre property into 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate); and 2) Administrative Permit and Design Approval for development in the "D" (Design Control) and "S" (Site Review) Zoning Districts.		
<b>Project Location:</b> 15 and 26500 Val Verde Drive, Carmel Valley	<b>APNs:</b> 015-021-015-000; 015-021-020-000, and 015-021-021-000	
<b>Planning File Number:</b> GPZ090004	<b>Owners:</b> Carmel Rio Road, LLC <b>Agent:</b> Brian Clark	
<b>Planning Area:</b> Carmel Valley Master Plan	<b>Flagged and staked:</b> No	
<b>Zoning Designation:</b> : LDR/1-D-S-RAZ (Low Density Residential/Maximum Gross Density of 1 acre/unit-Design Control-Site Plan Review-Residential Allocation Zoning)		
<b>CEQA Action:</b> Not Required for General Plan Consistency Determination		
<b>Department:</b> RMA - Planning Department		

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

- 1) Deny the appeal and uphold staff's interpretation that the Combined Development Permit application is inconsistent with the 2010 General Plan; and
- 2) Provide direction to the applicant and staff relative to processing the application.

**PROJECT OVERVIEW:**

The Val Verde Subdivision is a proposed 42-unit subdivision on 7.92 acres at 26500 Val Verde Drive in Carmel Valley. The project includes 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate). The zoning of the site (LDR/1-D-S-RAZ) allows a maximum of density of one unit per acre, or a maximum of seven units. The project proposes an increase in the currently allowed density pursuant to Policy CV-1.10 of the Carmel Valley Master Plan and a separate and additional density bonus is requested pursuant to the State Density Bonus Provisions.

The Interim Ordinance (see **Exhibits E and E1**) establishes a process for determining General Plan consistency for discretionary projects pending the adoption of applicable programs and ordinances to implement the 2010 General Plan. The ordinance provides that staff shall make a recommendation regarding General Plan consistency to the decision making body. If a project is found to be inconsistent with the General Plan, the applicant is afforded a reasonable time to revise the proposed development to attain consistency. If the applicant fails to submit a revised development project within the allotted time, the application shall be denied.

Staff's consistency analysis of the application determined that the project is inconsistent with the General Plan. If the Planning Commission agrees with staff's General Plan consistency determination, the applicant should be afforded a reasonable time to revise the proposed development to attain consistency. If the applicant fails to submit a revised development project within the allotted time, the application should be denied.

See **Exhibit A** for a more detailed description of the proposed project and surrounding uses as well as a staff's General Plan consistency analysis.

**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ RMA-Office of Redevelopment and Housing
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Cypress Fire Protection District
- √ Parks Department
- √ Monterey County Sheriff's Department

Agencies that submitted comments are noted with a check mark. All reviewing agencies have deemed the application complete. The Environmental Health Bureau deemed the project complete with a recommendation for denial (see **Exhibit D**).

The Carmel Valley Land Use Advisory Committee reviewed the project on April 5, 2011 (see **Exhibit D**, minutes). No recommendation was made because the LUAC continued the item pending the submittal of additional information needed to undertake subdivision scoring as set forth in the Carmel Valley Master Plan.



Bob Schubert, AICP, Senior Planner  
(831) 755-5183 or e-mail: [schubertbj@co.monterey.ca.us](mailto:schubertbj@co.monterey.ca.us)  
November 2, 2011

cc: Front Counter Copy; Planning Commission; Cypress Fire Protection District; Public Works Department; Parks Department; Janna Faulk, Environmental Health Bureau; Jennifer Bodensteiner, Water Resources Agency; Marti Noel, Office of Redevelopment and Housing; Carl Holm, Acting Deputy Director of RMA Department; Wanda Hickman, Planning Services Manager; Bob Schubert, Project Planner; Carol Allen, Senior Secretary; Brian Clark, Applicant; Pam Silkwood, Attorney; Margaret Robbins; DeeAnne Howe; The Open Monterey Project; Landwatch; Planning File GPZ090004.

Attachments: Exhibit A Project Discussion  
Exhibit B Vicinity Map  
Exhibit C Minutes of Carmel Valley Land Use Advisory Committee Meeting on 4/5/2010  
Exhibit D Memorandum from Environmental Health Bureau dated 3/10/2011  
Exhibit E Ordinance No. 5171(Interim Ordinance)  
Exhibit E1 Ordinance No. 5172 (Extension of Interim Ordinance)  
Exhibit F Letter from Hydrogeologic dated October 24, 2011  
Exhibit G Comments  
Exhibit H Reduced Tentative Subdivision Map

This report was reviewed by Carl Holm, Acting Deputy Director of RMA Department

**EXHIBIT A**  
**PROJECT DISCUSSION**  
GPZ090004 (Val Verde Subdivision)  
November 2, 2011

**Project Overview**

The Val Verde Subdivision is a proposed 42-unit subdivision on 7.92 acres at 26500 Val Verde Drive in Carmel Valley. The project includes 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate). The site is located approximately 1.5 miles east of the mouth of the Carmel River and 0.25 miles north of the Carmel River channel. The property is relatively flat and drains toward the southwest corner. There is an existing house on one of the parcels and the other two are vacant and have been used for agricultural purposes. Access would be from Val Verde Drive, a non-exclusive privately held easement, which is adjacent to the eastern boundary of the site. Commercial buildings along Carmel Rancho Boulevard are to the west of the site.

The underlying zoning of the site (LDR/1-D-S-RAZ) allows a maximum of density of one unit per acre, or a maximum of seven units. The project proposes an increase in the currently allowed density pursuant to Policy CV-1.10 of the Carmel Valley Master Plan (CVMP) and the applicant is also requesting a separate and additional density bonus pursuant to Section 65915 of the California Government Code (State Density Bonus Provisions). Policy CV-1.10 states:

*“The Val Verde Drive area is planned for residential use at a basic density of one (1) unit per acre. With suitable clustering, up to two (2) units per acre may be allowed. However, a density of up to four (4) units per acre may be allowed provided that at least 25% of the units are developed for individuals of low and moderate income or for workforce housing. This policy is independent from Policy CV-1.11, and not counted in conjunction with the density bonus identified in that policy.”*

Since the project has been designed to cluster the development, up to up to 15 units (2 units/acre) are allowed under Policy CV1.10. Since the project meets the requirement of at least 25% of the units for individuals of low and moderate income or for workforce housing, up to 31 units (4 units/acre) are allowed. Since CVMP Policy CV-1.10 does not preclude the application of a State Density Bonus in addition to the increased density that it allows with at least 25% affordable units, both of these requests can be considered as part of the application.

The project is also required to comply with the County’s inclusionary housing requirements pursuant to the Monterey County Inclusionary Housing Ordinance. Therefore, the Redevelopment and Housing Office will likely recommend that all the affordable units be developed as rental units instead of for sale units, in order to meet the needs of the area.

**Ordinance No. 5171 (Interim Urgency Ordinance)**

The Interim Urgency Ordinance (Ordinance No. 5171 (**Exhibit E**), as modified and extended by Ordinance No. 5172 (**Exhibit E1**), establishes a process for determining General Plan consistency for discretionary projects pending the adoption of applicable programs and ordinances to implement the 2010 General Plan. The ordinance provides that staff shall make a recommendation regarding General Plan consistency to the decision making body. If a project is found to be inconsistent with the General Plan, the applicant is afforded a reasonable time to revise the proposed development to attain consistency. If the applicant fails to submit a revised

development project within the allotted time, the application shall be denied. No permit shall be issued if the proposed development does not conform to General Plan policies.

General Plan Consistency Determination

The 2010 General Plan was adopted on October 26, 2010 and went into effect on November 27, 2010. Pursuant to Board of Supervisor’s action on October 16, 2007 and General Plan Policy LU-9.3, subdivision applications that are deemed complete after October 16, 2007 are subject to the ordinances, policies and standards that are enacted and in effect as a result of the 2010 General Plan. The subject application was submitted on September 3, 2009 and deemed complete as of December 9, 2010 and is subject to the ordinances, policies and standards that are in effect as a result of the 2010 General Plan.

In conducting the General Plan consistency analysis of the subject application, it is important to understand it in the context of how the development potential of Carmel Valley evolved as the General Plan was updated over the past several years. In 2000, GPU3 envisioned three community areas in Carmel Valley: the Mouth of the Valley, Mid Valley and the Village. That development potential was reduced in GPU4 which envisioned Carmel Valley from Highway 1 to the eastern end of Rancho Canada Village as a Rural Center. After the General Plan referenda, the Rural Center was replaced with an Affordable Housing Overlay (AHO) for Mid Valley and a Special Treatment Area (STA) for Rancho Canada Village.

Staff reviewed the subject application’s consistency with applicable policies in the 2010 General Plan and the Carmel Valley Master Plan. Policies that staff found the application to be either inconsistent with or additional information is required to determine consistency are as follows:

Policy #	Summary of Policy	Consistency Determination
C-3.6	<u>Proof of Access</u> - Requires the County to establish regulations for new development that would intensify use of a private road or access easement. Proof of access is required as part of any development application when the proposed use is not identified in the provisions of the applicable agreement.	<b>Inconsistent.</b> To demonstrate consistency with this policy, documentation is required, such as an agreement among all of the easement holders or a final determination by a court, that the easement allows the addition of new lots on Val Verde Drive beyond the density that was allowed when the easement was created.
PS-3.1, PS-3.2	<u>Long Term Sustainable Water Supply</u> – Development shall be prohibited without proof, based upon specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development. A determination of Long Term Sustainable Water supply shall be made upon the advice of the General Manager of the Water Resources Agency. The following factors shall be used in developing the criteria for proof of a long term sustainable water supply and an adequate water supply system: a. Water quality. b. Production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity.	The factors to be used in developing the criteria for proof of a long term sustainable water supply as they relate to this project are as follows: a. <b>Inconsistent.</b> See PS-3.9 and PS-3.13 below. b. <b>Inconsistent.</b> This project requires a water system which has two water sources that meet all of the required regulations. Although there are two existing wells on the property, one of the wells (Travers) does not meet the well control zone requirements due to the lack of an easement with the neighboring property and the sewer main location in Val Verde Drive. The replacement well would need to be applied for, drilled and tested to provide the required information in regard to “ <i>production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity</i> ”. Rather than

	<ul style="list-style-type: none"> <li>c. Technical, managerial and financial (TMF) capability of the water system operator.</li> <li>d. The source of the water supply and the nature of the rights to water.</li> <li>e. Cumulative impacts of existing and projected future demand for water from the source, and the ability to reverse trends contributing to an overdraft condition or otherwise affecting supply.</li> <li>f. Effects of additional extraction or diversion of water on the environment.</li> <li>g. Completion and operation of new projects, or implementation of best practices, to renew or sustain aquifer or basin function.</li> </ul>	<p>drilling the replacement well and conducting the required testing, the applicant has requested that the requirement to drill the replacement well be imposed as a condition of project approval. At the request of Mr. Clark, the Environmental Health Bureau deemed the application complete with a recommendation for denial because the information that had been requested was not submitted, including the information from the replacement well (see <b>Exhibit D</b>).</p> <p>c. <b>Additional information required to determine consistency.</b> Documents and preliminary TMF has been submitted for the proprietary treatment system. Further information and specific examples of existing systems utilizing this treatment with pre and post filter data over time will be required (see memo from Janna Faulk dated August 9, 2010).</p> <p>d. <b>Consistent.</b> The Monterey Peninsula Water Management District (MPWMD) requires demonstration of water rights for the required Water Distribution System (WDS) permit. The water rights for this property have been demonstrated to the satisfaction of MPWMD (see e-mail from MPWMD dated January 10, 2011).</p> <p>e., f. &amp; g. <b>Additional information required to determine consistency.</b> Supplemental hydrogeologic studies/information is required to address these factors. In particular, the General Manager of the Water Resources Agency cannot make a determination of a Long Term Sustainable Water Supply in this area without a supporting hydrogeologic report, prepared by a licensed professional geologist that analyzes the factors outlined in these general plan policies.</p>
<p>PS-3.9, PS-3.13</p>	<p><u>Water Yield and Quality</u> - A tentative subdivision map shall not be approved until the applicant provides evidence of a long-term sustainable water supply in terms of yield and quality for all lots that are to be created through subdivision.</p>	<p><b>Inconsistent.</b> This project requires a water system which has two water sources that meet all of the required regulations. Although there are two existing wells on the property, one of the wells (Travers) does not meet the well control zone requirements. Unless an easement is obtained from the adjacent property owner, the "replacement well would need to be applied for, drilled and tested to provide the required information in regard to water quality. Both of the existing wells tested high in secondary constituents, Iron, Manganese, turbidity and TDS (see memorandum from Environmental Health dated August 9, 2010). These constituents do not pose a health concern and thus the water quality is consistent with this policy if treatment is utilized. The applicant submitted documents and TMF data for the proposed treatment system. Further information</p>

		and specific examples of existing systems utilizing this treatment with pre and post filter data over time will be required. See PS-3.1 and PS-3.2 above.
CV-5.4	<u>Limit Development to Vacant Lots of Record</u> The County shall establish regulations for Carmel Valley that limit development to vacant lots of record and already approved projects, unless additional supplies are identified. Reclaimed water may be used as an additional water source to replace domestic water supply in landscape irrigation and other approved uses provided the project shows conclusively that it would not create any adverse environmental impacts such as groundwater degradation.	<b>Inconsistent.</b> Unless and until additional water supplies are identified, subdivisions in Carmel Valley need to show how they are meeting this policy. No information has been submitted demonstrating that the proposed project includes any water reclamation or conservation components.

Additional information would be required to determine consistency with several other General Plan policies. It should also be noted that the application would become inconsistent with General Plan Policy CV-1.6 if and when the Carmel Valley buildout potential (i.e., 266 new units) is met prior to approval of the proposed project. As of the date the application was deemed complete (December 9, 2010), there were several other subdivisions in Carmel Valley with complete applications containing units that exceed the Carmel Valley buildout potential (i.e., 266 new units). Thus, in order for the project to be found consistent, a General Plan Amendment would be required to modify Policy CV-1.6 to increase the buildout potential of Carmel Valley if the project approval would result in exceedance of the unit cap. Since CEQA requires that the cumulative effects of a project be assessed, the potential for exceedance of the 266 units and need for a General Plan amendment would need to be addressed in any environmental review of the proposed project.

### Conclusion

If the Planning Commission agrees with staff's General Plan consistency determination that the application is inconsistent, the applicant should be provided an opportunity to amend the application to include a General Plan Amendment (GPA). The project description would need to be revised to include a GPA. One approach would be to designate the site as a Special Treatment Area. If that is the case, staff suggests that the applicant be afforded an allotted amount of time (e.g., 60 days) to revise the proposed development application consistent with the adopted General Plan. If the applicant applies for a GPA, General Plan Policy LU-9.6 identifies the need to provide an early assessment of the suitability of the request and provide early feedback to applicants before embarking on an extensive, expensive GPA process. If the applicant fails to submit a consistent development application within the allotted time, staff should be directed to return with findings for denial of the application.

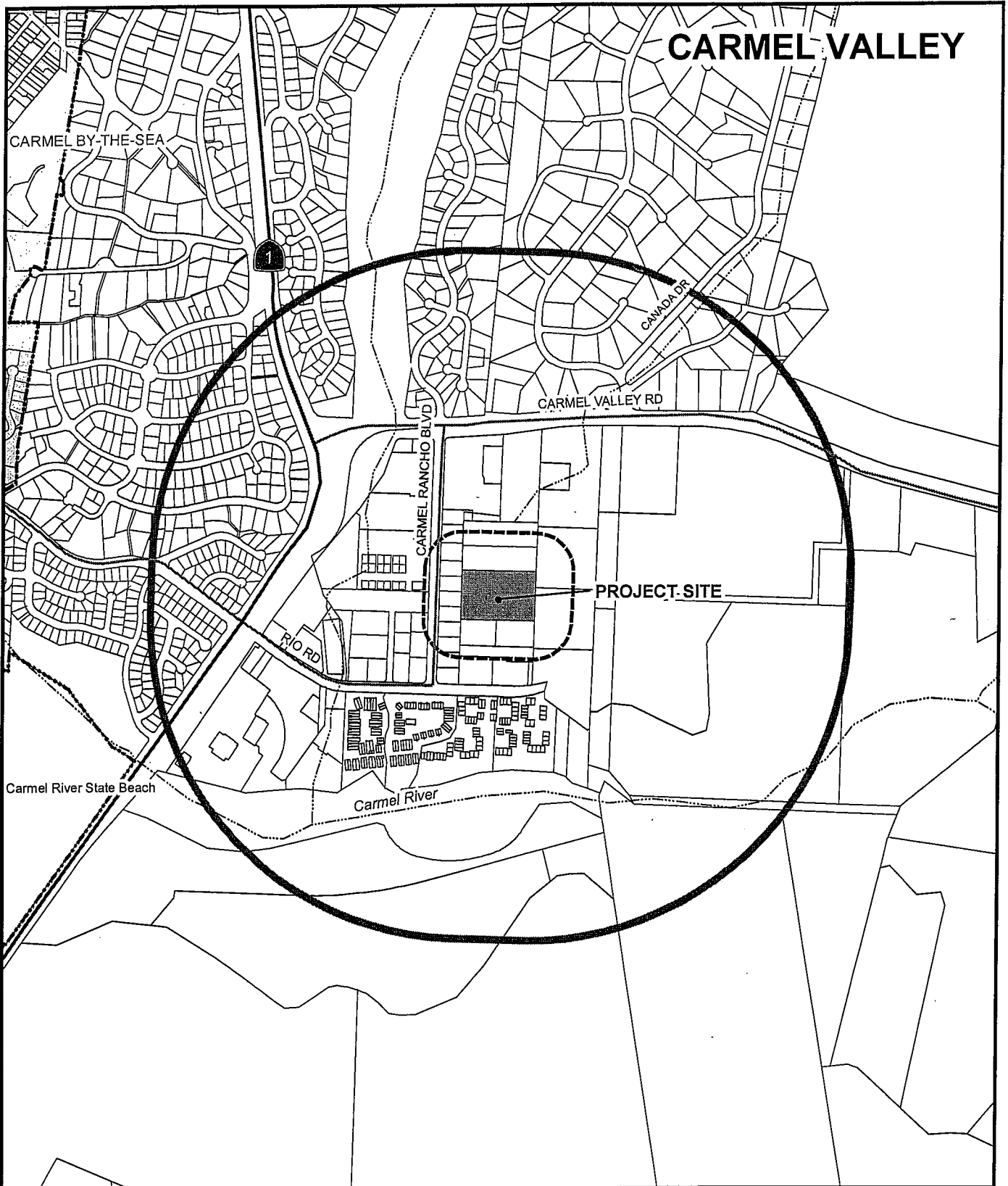
If the Planning Commission determines that the proposed project is consistent with the General Plan without the need for a GPA, staff should be directed to move forward with environmental review. Before that could occur, the applicant would need to drill a secondary well as required by the Environmental Health Bureau and provide the requested information regarding water quality and quantity (see discussion above regarding General Plan Policies PS-3.1 and 3.2). This is necessary in order to fully evaluate potential impacts.

In conclusion, staff recommends that the Commission take action that the County is not willing to consider a GPA based on the history and analysis noted above. The applicant should be afforded a reasonable opportunity to revise the proposed development to attain consistency as set forth in the Ordinance No. 5171 (Interim Ordinance). If the applicant fails to submit a revised development project within the allotted time, the application should be denied.








# EXHIBIT B

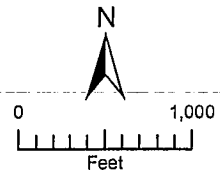


APPLICANT: CARMEL RIO ROAD LLC

APN: 015-021-015-000

FILE # PLN060647

 300' Limit     2500' Limit     City Limits



PLANNER: OSORIO

EXHIBIT C

MINUTES

Carmel Valley Land Use Advisory Committee  
Monday, April 5, 2010

- 1. Site visit at 5:00 PM at 26500 VAL VERDE DR CARMEL (CARMEL RIO ROAD LLC)

ATTENDEES: Charles Franklin, John Anzini, Doug Pease, David Burbidge, and Janet Brennan

- 2. Meeting called to order by Janet Brennan at 6:30 pm

- 3. Roll Call

Members Present: Charles Franklin, John Anzini, Doug Pease, David Burbidge, Janet Brennan

Members Absent: Neil Agron, Judy MacClelland

- 4. Approval of Minutes:

A. March 1, 2010 minutes

Motion: John Anzini (LUAC Member's Name)

Second: Doug Pease (LUAC Member's Name)

Ayes: 5

Noes: 0

Absent: 2

Abstain: 0

- 5. Public Comments: The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

None

- 6. Scheduled Item(s)

RECEIVED

APR 12 2010

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

7. **Other Items:**

A) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

B) Announcements

None

8. Meeting Adjourned: 8 pm

Minutes taken by: Charles Franklin

Minutes received via email April 12, 2010

**RECEIVED**

APR 12 2010

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

# Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Planning Department  
168 W Alisal St 2<sup>nd</sup> Floor  
Salinas CA 93901  
(831) 755-5025

RECEIVED

APR 12 2010

Advisory Committee: Carmel Valley

Please submit your recommendations for this application by: April 5, 2010

**Project Title:** CARMEL RIO ROAD LLC  
**File Number:** GPZ090004  
**File Type:** BOS  
**Planner:** SIDOR  
**Location:** 26500 VAL VERDE DR CARMEL

**MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.**

**Project Description:**

Combined Development Permit consisting of: 1) Standard subdivision of an existing 5.2 acre lot into 30 Market Rate lots and 1 Inclusionary Housing lot containing 12 Inclusionary units; 2) Use Permit for development within the floodway fringe of the Carmel River; 3) potential Rezoning and or General Plan Amendment; 4) Administrative Permit and Design Approval for development in the "S" (Site Review) Zoning District. The properties are located at 26500 Val Verde Drive, Carmel (Assessor's Parcel Numbers 015-021-015-000 [No address assigned], 015-021-020-000 and 015-021-021-000 [No address assigned]), Carmel Valley Master Plan Area.

Was the Owner/Applicant/Representative Present at Meeting? Yes  No

Bill McLeod and Brian Clark

**PUBLIC COMMENT:**

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Margaret Robbins	X		Flooding problems- history of flooding Not infill but expansion of urban uses Traffic service & emergency access especially in flood situation Levee to be built adjacent to site by CSA 50 Existing burden already exceeds capacity of Carmel Rancho drain See attached submittals
Richard Stolt	X		Impervious surfaces will impact neighboring wells Increase in noise will be exacerbated by raised roadway on new levee
Deanne Howe	X		Access is from a private road that will be overburdened by subdivision
			Preservation of equestrian uses

**LUAC AREAS OF CONCERN**

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
Janet Brennan	Traffic report	Traffic report conclusions are based upon standards that are inconsistent with CV Master Plan
Charles Franklin	Flooding	Package needs flood maps & drainage analysis
		Impact on adjacent middle school

**ADDITIONAL LUAC COMMENTS**

Project will need to be returned to LUAC for subdivision scoring

**RECOMMENDATION:**

Motion by: Charles Franklin (LUAC Member's Name)

Second by: John Anzini (LUAC Member's Name)

Support Project as proposed

Recommend Changes (as noted above)

Continue the Item

Reason for Continuance: Project and committee are not prepared for subdivision scoring, more information and environmental documents are needed to undertake subdivision scoring.

Continued to what date: To be determined

AYES: 5

NOES: 0

ABSENT: 2

ABSTAIN: 0

**RECEIVED**

APR 12 2010

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

*mas*

To: Carmel Valley Land Use Advisory Committee  
From: Margaret Robbin  
Date: April 5, 2010  
RE: GPZ090004

This project is not in-fill. In my opinion it is an invasion into a rural single family residential neighborhood. An in-fill location would be the vacant lot on Rio Road next to the Kline mixed use commercial. This may be a good looking project, but it's in the wrong location.

It is not next to Carmel Rancho Blvd --it's access is Val Verde Drive, a private road. It's not fair to burden the homeowners with the maintenance that will be required on the road if this project goes forward.

Val Verde Drive is not a natural evolution of growth into the Valley. In fact, people in Carmel Valley fought and defeated proposed rural center for the Val Verde Drive area. That's why the sign entering Carmel Valley is in it's present location. We do not want any intensification

As for Traffic, there will be much more traffic on Rio Road unless all the residents of the 42 units work at home. The traffic impact will be Highway One which already is at an unacceptable level of service.

As someone who lives at Arroyo Carmel, and whose home office looks out on Carmel Rancho and Rio Road, my concern is getting an ambulance arrive at CHOMP quickly. And anytime there is a fender-bender on Highway one or Rio Road, traffic comes to a halt. Anymore traffic on Rio Road will endanger the life, health and safety of the 179 homeowners at Riverwood and Arroyo Carmel.

All infrastructure is not in place. Two studies -- the Nolte Report and the Philip Williams Report-- state that a levee must be built from the eastern end of Riverwood continuing up Val Verde Drive to the driveway entrance of the Clark property. This levee is recommended to be at 39.5 feet in elevation. Easements will be required from Val Verde Drive owners. According to the Water Resources Agency, developers in the flood plain will be responsible for the costs of the levee.

I also want to look carefully at the drainage plan, check on what happens to when the property is covered with impervious surfaces to the present aquifer recharge and make sure that running the drainage through the Carmel Rancho drains, which will greatly decrease the time that run-off will reach the Carmel River will not cause more flooding down stream.

Margaret Robbins

*Margaret Robbins*

RECEIVED

APR 13 2010

PS Ignore all typos.

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

MONTEREY COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

LOWER CARMEL RIVER  
FLOOD CONTROL PROJECT

*Started in 1981  
Revised in 1984  
Revised in 1988*

ENGINEERING REPORT

July 1989



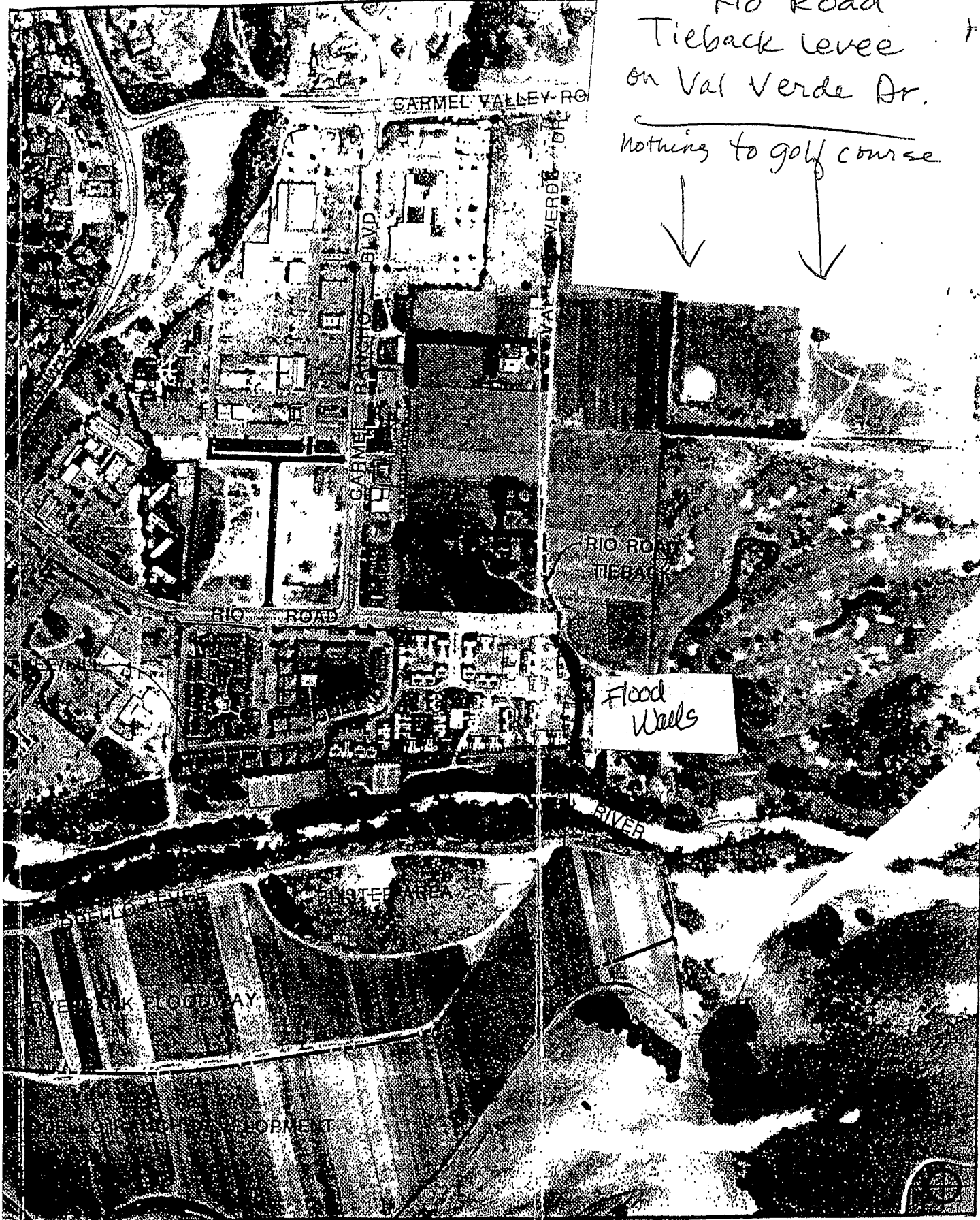
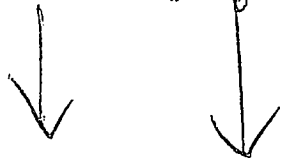
RECEIVED

APR 13 2010

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

Proposed  
Rio Road  
Tieback levee  
on Val Verde Dr.

Nothing to golf course



PROJECT COMPONENTS



# Lower Carmel River Flood Control Project Final Report

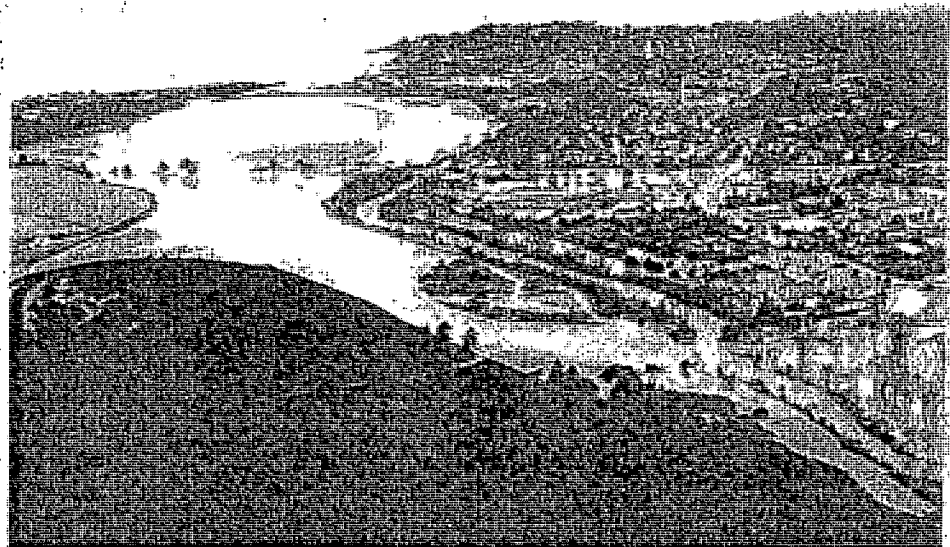
August 9, 2002

5/25/09 - Tom Moss, Water Resources Agency Flood Plain Manager:  
"considering the new Carmel River Flood Insurance study, work  
proposed by the Big Sur Land Trust (Carmel River Parkway) and  
other developers (Remero Canada Village) - I believe that the  
FWA Report will need to be re-analyzed before  
a large scale CSA50 project is constructed".  
E-mail from Moss to Robbins

Prepared for:

**Monterey County  
Water Resources Agency**

County Services Area 50 (CSA 50)



**RECEIVED**

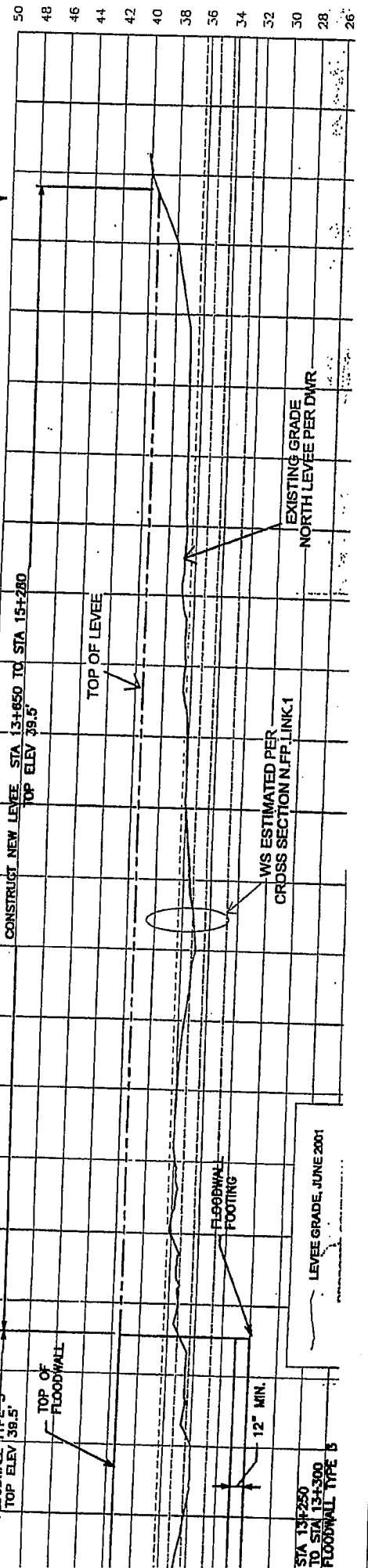
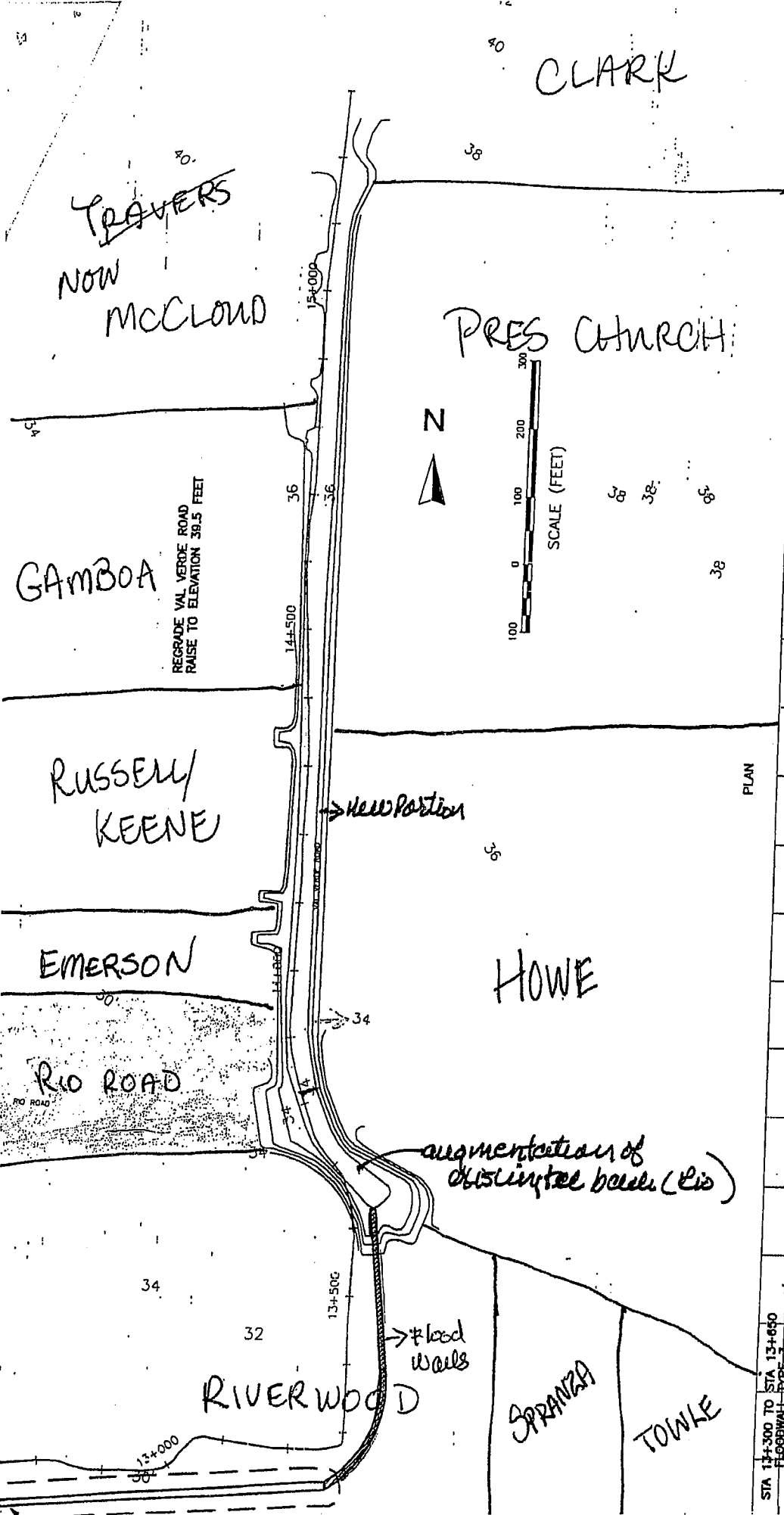
APR 13 2010

Prepared by



**Philip Williams & Associates, Inc.**

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT





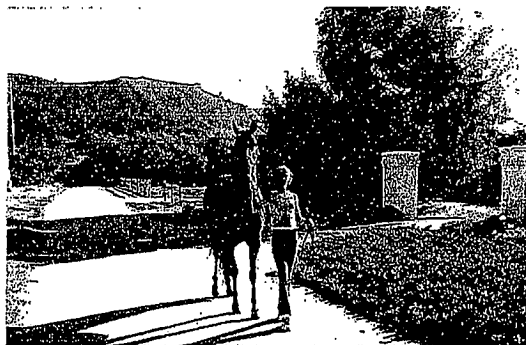
VAL VERDE DRIVE AND RIO ROAD

## PRESERVE OUR EQUESTRIAN COMMUNITY

OUR FAMILY CAME TO LIVE ON VAL VERDE DRIVE FOR THE WONDERFUL, RURAL ATMOSPHERE OF PEACE AND QUIET, AND TO DEVELOP A SAFE AND HEALTHY ENVIROMENT FOR OUR CHILDREN AND THEIR POSITIVE, CONSTRUCTIVE ACTIVITIES.

VAL VERDE DRIVE IS NOT ONLY A HOME TO FAMILIES WITH CHILDREN AND HORSES, IT IS ALSO A NESTING GROUND FOR THE WILD LIFE DRIVEN OUT OF SURROUNDING AREAS. WE SEE BOBCATS, COYOTES, HERON, EGRETS, QUAIL, RABBITS AND YES, RED-LEGGED FROGS, NEARLY EVERYDAY. TRAFFIC IS SLOW, SCARCE AND AWARE OF HORSES AND YOUNG RIDERS. VAL VERDE IS A FLOURISHING EQUESTRIAN COMMUNITY (SOMETHING CITED FOR PRESERVATION IN THE CARMEL VALLEY MASTER PLAN). IT IS THE LAST REMAINING ROAD OF ITS KIND IN CARMEL; WHERE THE SIGHT OF FAMILIES ON HORSEBACK IS SEEN EVERYDAY, AND QUAIL AND THEIR YOUNG CAN STILL BE SEEN SCURRYING DOWN THE SAFE DIRT ROAD, INTO NEARBY BUSHES. THIS PROPOSED DEVELOPMENT WILL COMPLETELY CHANGE THE RURAL QUALITY WE PRESENTLY ENJOY MAKING IT UNSAFE FOR MY FAMILY AND HORSES AND THE HISTORICAL USES OF THE NEIGHBORHOOD. THIS IS NOT DEVELOPMENT WANTED BY THE SURROUNDING PROPERTY OWNERS AND WE DO NOT SANCTION THE INTENSIFICATION OF USE ON OUR SLEEPY PRIVATE ROAD-VAL VERDE DRIVE!

PLEASE DO NOT LET THIS BE YET  
ANOTHER PICTURE OF THE PAST



RECEIVED

APR 13 2010

MONTEREY COUNTY  
PLANNING & BUILDING  
INSPECTION DEPT.

SINCERELY, MAXINE KEENE AND FAMILY 26520 VAL VERDE DR CARMEL CA 93923

# EXHIBIT D



## COUNTY OF MONTEREY HEALTH DEPARTMENT

### MEMORANDUM

ENVIRONMENTAL HEALTH BUREAU

MARCH 10, 2011

**To: Bob Schubert, Project Planner**

**From: Janna L Faulk  
Environmental Health Review**

**Subject: GPZ090004, CARMEL RIO ROAD LLC**

This is an update to EHB August 2010 memo.

This project is considered Complete with a recommendation for **DENIAL** per the applicant's request and based on the following:

Pursuant to California Code of Regulations, Titles 17 and 22, all new water systems over 14 connections must have **two** existing water sources that meet ALL required regulations (Article 2. Water Works Standards Section 64554. 4.c). **Please note that both of the wells must be in place, functioning, tested and meet all regulations for EHB to recommend approval of this project.**

One such regulation is for a Well Control Zone (Article 3. Water Works Standards Section 64560. a.2). Each well must maintain a well control zone that is at a minimum 100 feet by 100 feet around the well (50 feet radius around the well). The purpose of the well control zone is to protect the source from contamination. This can be done by "*protecting the source from vandalism, tampering, or other threats at the site by water system ownership, easement, zoning, lease, or an alternative approach approved by the Department based on its potential effectiveness in providing protection of the source from contamination;*"

- The Gamboa well easement has been re-configured per the Bestor Engineers Inc Plans Dated 7/19/2010 sheet C-4. The plans indicate that a 6" Sanitary Sewer line does not meet the required 50 foot setback to the well(s). Additionally, the Well Easement A does not encompass the entire well control zone (measured as a 50' radius from the well). The well must be protected from contamination which includes the setbacks to sanitary sewer and road ways. Thus, the well easement must be changed to include these areas.
  - Additionally, please note that pages C-1, 2 and 3 do not indicate the change of the well easement on page C-4.
- The Travers Well is located on the edge of the property (about 10' feet from the property line). A well control zone is required to provide assurance no contaminating activities will occur within the 50' radius of this well. This is not just a backup well for this property, it is the second source and all Titles 17 and 22 requirements apply to this well as well. The applicant has not acquired an "*easement, zoning, lease, or an alternative approach approved by the Department*" to verify that this well will be protected.
- The "replacement well" has not yet been applied for, drilled or tested and thus can not be used as the secondary source of water for this project.

# EXHIBIT E

ORDINANCE NO. 5171

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ESTABLISHING A GENERAL PLAN CONSISTENCY DETERMINATION PROCESS FOR CERTAIN PERMITS PENDING COMPLETION OF APPLICABLE ORDINANCES AND PROGRAMS TO IMPLEMENT THE GENERAL PLAN.

## County Counsel Summary

*This ordinance requires a determination by a decision-maker that approval of certain permits would be consistent with the policies set forth in the 2010 Monterey County General Plan. This consistency determination would be required until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 Monterey County General Plan. This interim ordinance is an urgency measure to protect the public health, safety and welfare and will expire in 45 days after adoption unless extended following noticed public hearing pursuant to law.*

The Board of Supervisors of the County of Monterey ordains as follows:

### SECTION 1. Findings and Declarations

1. On October 26, 2010, the Monterey County Board of Supervisors (hereinafter "Board") adopted the 2010 Monterey County General Plan (hereinafter "General Plan") following the certification of a Final Environmental Impact Report (hereinafter "EIR") and adoption of findings and a Statement of Overriding Considerations pursuant to the California Environmental Quality Act (CEQA).
2. The General Plan is an update of the 1982 Monterey County General Plan for the non-coastal unincorporated area of Monterey County and includes some changes to land use classifications and also includes new policies not contained in the 1982 Monterey County General Plan.
3. Pursuant to Government Code Section 65356, the General Plan was adopted by resolution, and it took effect on November 26, 2010.
4. To ensure consistency between the non-coastal zoning ordinance (Title 21 of the County Code) and the General Plan, the County must update the zoning ordinance to be consistent with the General Plan land use designations.
5. Additionally, the General Plan modified some policies, deleted other policies, and added new policies to those found in the 1982 Monterey County General Plan. To implement

and ensure consistency with the policies in the General Plan, the County will need to revise a number of Titles of the Monterey County Code, including but not limited to Zoning (Title 21), Subdivisions (Title 19), Buildings and Construction (Title 18), and Environment (Title 16).

6. Pursuant to General Plan Policy LU-9.1, the Director of Planning will bring to the Board of Supervisors for their approval a work program to update the County's land use regulations to ensure their consistency with the General Plan. Staff has presented to the Board a draft five-year implementation program. Because this work program and revisions of the zoning, subdivision, and other ordinances are projected to take several years, this interim ordinance is necessary because it ensures that development inconsistent with the General Plan does not occur pending the adoption of ordinances and programs implementing the General Plan.

7. Government Code section 65858 authorizes the Board of Supervisors to protect the public health, safety, and welfare by adopting an interim ordinance as an urgency measure to prohibit uses that may be in conflict with zoning and other land use regulations that are under consideration. The Board of Supervisors finds that this interim ordinance is necessary to protect the public health, safety and welfare by prohibiting the issuance of permits unless such permits are subject to review and consistency with the General Plan.

8. It is the intent of the Board of Supervisors to require such a consistency determination as part of the permit decision-making process until applicable implementing ordinances/programs of the General Plan have been adopted. Consistency determinations shall be made by the Appropriate Authority as currently required in the County Code and as outlined in Section 4 of this ordinance.

9. Since certification of the EIR, none of the conditions described in Public Resources Code section 21166 or CEQA Guidelines sections 15162 or 15163, calling for preparation of a subsequent or supplemental EIR, have occurred. The interim ordinance establishes a General Plan consistency determination process for discretionary and ministerial permits, pending adoption of applicable programs and ordinances to implement the 2010 Monterey County General Plan. As such, it has no potential to result in any incremental direct or indirect physical changes in the environment beyond those disclosed and analyzed in the certified General Plan EIR. Accordingly, the County prepared an Addendum to the previously certified EIR in compliance with Section 15164 of the CEQA Guidelines. The determination that no subsequent EIR is required is based on substantial evidence in the record of proceeding, including the Addendum. The Board considered the Addendum with the previously certified EIR prior to approving this interim ordinance.

## **SECTION 2. Consistency Determination Required**

In accordance with the authority granted to the County of Monterey under the general police power, and specifically pursuant to Government Code section 65858, the issuance of discretionary permits, design approvals, building permits, grading permits and all other land use entitlements to which this ordinance is made applicable, pursuant to Section 3 below, is hereby prohibited unless said permits are determined to be consistent with the 2010 Monterey County

General Plan, pursuant to the procedures set forth in Section 4 below.

### SECTION 3. Applicability

A. Unless exempt under Section 3.C below, this ordinance shall apply to all of the following permits and actions:

1. Administrative Permits issued pursuant to Chapter 21.70 of the Monterey County Code.
2. Use Permits issued pursuant to Chapter 21.74 of the Monterey County Code.
3. Design Approvals issued pursuant to Chapter 21.44 of the Monterey County Code.
4. Combined Development Permits issued pursuant to Chapter 21.76 of the Monterey County Code.
5. Restoration activities approved pursuant to Chapter 21.84 of the Monterey County Code.
6. Minor Subdivisions approved pursuant to Title 19 of the Monterey County Code.
7. Subdivisions approved pursuant to Title 19 of the Monterey County Code.
8. Lot Line Adjustments approved pursuant to Title 19 of the Monterey County Code.
9. Emergency Permits issued pursuant to Chapter 21.75 of the Monterey County Code.
10. Variances approved pursuant to Chapter 21.72 of the Monterey County Code.
11. Conditional Certificates of Compliance, processed pursuant to the requirements of Chapter 19.14 of the Monterey County Code.
12. Tree Removal Permits issued pursuant to Chapter 21.64 of the Monterey County Code.
13. Building Permits issued pursuant to Title 18 of the Monterey County Code.
14. Grading Permits issued pursuant to Title 16 of the Monterey County Code.
15. Recommendations to the Airport Land Use Commission pursuant to Chapter 21.86 of the Monterey County Code.
16. General Development Plans associated with a Commercial or Industrial zoning designation and approved pursuant to Title 21 of the Monterey County Code.
17. Reclamation Plans approved pursuant to Title 16 of the Monterey County Code.
18. Other actions or permits as determined appropriate by the Director of Planning.

B. Amendments, extensions or renewals to permits listed in Section 3.A, above, that were approved prior to November 26, 2010, shall be subject to a consistency determination conducted by the Planning Director and shall not be subject to Section 4 of this ordinance. A consistency determination does not guarantee approval of permits and entitlements, and such permits and entitlements shall remain subject to all other applicable laws and, to the extent not inconsistent with the General Plan, County regulations. If a proposed development is found to be inconsistent with the adopted General Plan, the determination on the development application shall not be final, and the applicant shall be afforded a reasonable time, as determined in the sole discretion of the Appropriate Authority, to revise the proposed development application to attain consistency. If the applicant revises the project within the time allowed, the revised project shall be reviewed for consistency and the Appropriate Authority shall make a final determination on

the application. If the proposed development is again found to be inconsistent with the General Plan, the application shall be denied. If the applicant fails to submit a revised development project within the allotted time, the application shall be denied.

C. This ordinance shall not apply to 1) subdivision applications for which the application was filed and determined complete, pursuant to Government Code section 65943, on or before October 16, 2007, 2) permits for which the rules in effect are specified by a recorded Development Agreement between a property owner and the County, if such Development Agreement was in effect as of Nov. 26, 2010, and continues in effect, or 3) permits issued pursuant to vesting tentative maps deemed complete prior to October 17, 2007, except as permitted by law.

D. Ministerial permit applications without a discretionary permit submitted prior to November 26, 2010, and decided after that date, shall be subject to the requirements of the 2010 General Plan, except as provided herein. Ministerial permit applications that meet both of the following criteria are exempt from the requirement for consistency with the 2010 General Plan and shall be analyzed for consistency with the 1982 General Plan:

1) Architectural and structural plans sufficient for a complete plan check for a permit for such development have been submitted by the applicant and accepted by the RMA – Building Services Department prior to November 26, 2010 and applicant has paid the plan check fee prior to November 26, 2010; and

2) No subsequent changes are made to those plans which change the height, floor area, occupant load, number of dwelling units, or setbacks.

E. For a discretionary permit approved prior to November 26, 2010, any associated ministerial permit decided after that date shall be analyzed for consistency with the 2010 General Plan, except as provided herein.

If the ministerial permit is determined inconsistent with the General Plan, and an amendment is required for the discretionary permit, the Planning Director, after providing notice pursuant to Monterey County Code Section 21.70.040.A - C, shall have the authority to amend the discretionary permit to bring it into conformance with the 2010 General Plan. If evidence of public opposition is received during the noticing period, as defined in Monterey County Code Section 21.70.060.A, the amendment shall be referred to public hearing before the Appropriate Authority in the manner outlined in Section 3.B above. Ministerial permit applications that meet both of the following criteria are exempt from the requirement for consistency with the 2010 General Plan and shall be analyzed for consistency with the 1982 General Plan:

1) Architectural and structural plans sufficient for a complete plan check for a permit for such development have been submitted by the applicant and accepted by the RMA – Building Services Department prior to November 26, 2010 and applicant has paid the plan check fee prior to November 26, 2010; and

2) No subsequent changes are made to those plans which change the height, floor area, occupant load, number of dwelling units, or setbacks.



#### **SECTION 4. Consistency Review Process**

A. County staff shall prepare a General Plan policy consistency checklist. Staff may amend said checklist from time to time as new standards and/or ordinances are developed. The purpose of the checklist is to allow for a review to determine whether the proposed project is consistent with the policies of the 2010 Monterey County General Plan that are not reflected in the current Monterey County Code.

B. All applications for development subject to this ordinance shall include a policy consistency checklist completed by the applicant and submitted with the application.

C. Staff shall review the completed checklist against adopted General Plan policies and land use designations prior to issuance of any permit or entitlement subject to this ordinance and shall make a recommendation regarding General Plan consistency to the Appropriate Authority. The Appropriate Authority shall make the determination as to General Plan consistency and shall make an appropriate finding as part of the determination on the development application. A consistency determination does not guarantee approval of permits and entitlements, and such permits and entitlements shall remain subject to all other applicable laws and, to the extent not inconsistent with the General Plan, County regulations. If a proposed development is found to be inconsistent with the adopted General Plan, the determination on the development application shall not be final, and the applicant shall be afforded a reasonable time, as determined in the sole discretion of the Appropriate Authority, to revise the proposed development application to attain consistency. If the applicant revises the project within the time allowed, the revised project shall be reviewed for consistency and the Appropriate Authority shall make a final determination on the application. If the proposed development is again found to be inconsistent with the General Plan, the application shall be denied. If the applicant fails to submit a revised development project within the allotted time, the application shall be denied.

D. No permit or entitlement shall be issued if the proposed development does not conform to General Plan policies or to the land use designation.

#### **SECTION 5. Severability**


If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

#### **SECTION 6. Effective Date**

Pursuant to findings and declarations set forth in this ordinance, the Board declares that this ordinance is necessary as an urgency measure for the protection of public health, safety and welfare and shall take effect immediately upon its passage for the reasons set forth herein. This ordinance shall expire 45 days thereafter unless extended pursuant to law.

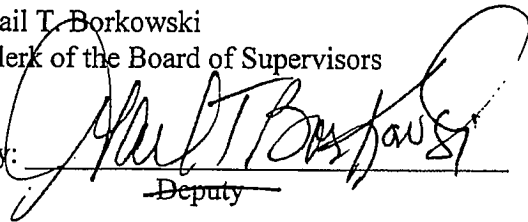
**PASSED AND ADOPTED** this 14<sup>th</sup> day of December, 2010 by the following vote:

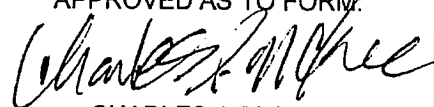
AYES: Supervisors Armenta, Calcagno, Salinas, Parker, Potter  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
Simón Salinas, Chair  
Monterey County Board of Supervisors

ATTEST:

Gail T. Borkowski  
Clerk of the Board of Supervisors

By:   
~~Deputy~~

APPROVED AS TO FORM:  
  
CHARLES J. McKEE  
County Counsel

# EXHIBIT E1

ORDINANCE NO. 5172

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 5171 WITH MINOR MODIFICATION FOR 10 MONTHS, 15 DAYS, UNTIL AND THROUGH DECEMBER 14, 2011, ESTABLISHING A PROCESS TO DETERMINE 2010 GENERAL PLAN CONSISTENCY FOR SPECIFIED DISCRETIONARY AND MINISTERIAL PERMITS, PENDING THE ADOPTION OF APPLICABLE PROGRAMS AND ORDINANCES TO IMPLEMENT THE 2010 MONTEREY COUNTY GENERAL PLAN.

## County Counsel Summary

*This ordinance extends Interim Urgency Ordinance No. 5171, for 10 months, 15 days, until and through December 14, 2011, with one minor modification. Adopted on December 14, 2010 pursuant to Government Code Section 65858, Interim Urgency Ordinance No. 5171 established a process to determine 2010 General Plan consistency for specified discretionary and ministerial permits, pending the adoption of applicable programs and ordinances to implement the 2010 Monterey County General Plan. This ordinance keeps the process in place, with one minor modification, through December 14, 2011. This ordinance is an urgency ordinance to protect the public health, safety, and welfare and requires a four-fifths vote for adoption.*

The Board of Supervisors of the County of Monterey ordains as follows:

### SECTION 1. FINDINGS AND DECLARATIONS.

A. On October 26, 2010, the Board of Supervisors (hereinafter "Board") adopted the 2010 Monterey County General Plan (hereinafter "General Plan") following the certification of a Final Impact Report (hereinafter "EIR") and adoption of findings and a Statement of Overriding Considerations pursuant to California Environmental Quality Act (CEQA)

B. On December 14, 2010, the Board adopted Interim Ordinance No. 5171 (hereinafter "Ordinance"), a 45-day interim urgency ordinance, pursuant to Government Code Section 65858. The Ordinance establishes a General Plan consistency determination process for specified discretionary and ministerial permits, pending the adoption of applicable programs and ordinances to implement the 2010 Monterey County General Plan. The Ordinance is attached hereto as Exhibit 1 and incorporated herein by reference. The Ordinance will expire on January 28, 2011, unless extended by the Board of Supervisors.

C. On January 11, 2011, pursuant to Government Code section 65858(d), the Board of Supervisors issued a report describing the measures taken to alleviate the

condition that led to the adoption of Interim Ordinance No. 5171. The measures taken include the preparation of a General Plan Policy Checklist and continued preparation of the General Plan Implementation Work Program to be brought to the Board for its consideration on January 25, 2011.

D. Pursuant to Government Code Section 65858(a), the Board may extend the Ordinance for 10 months and 15 days, following a noticed public hearing and finding that the current and immediate threat to the public health, safety, or welfare justifies extension of the Ordinance. December 14, 2011 is 10 months and 15 days from January 28, 2011, the date the Ordinance would expire absent an extension.

E. On January 25, 2011, prior to the expiration of the Ordinance, the Board of Supervisors held a duly noticed public hearing on the proposed extension.

F. There is a continuing need for the Interim Ordinance to protect the public health, safety, and welfare pending the preparation and consideration of the programs and ordinances to implement the 2010 General Plan. In enacting Interim Ordinance No. 5171, the Board made several findings and declarations constituting the grounds upon which the Ordinance is based. Among other findings, the Board found that there is a need to establish an interim consistency determination process to ensure that development inconsistent with the 2010 General Plan does not occur pending the adoption of ordinances and programs implementing the General Plan. The Board of Supervisors' findings and declarations contained in Interim Ordinance No. 5171 remain and continue to be true under the present circumstances and are incorporated herein in their entirety by this reference. The General Plan Implementation Work Program to be considered by the Board of Supervisors on January 25, 2011 outlines a three year program to complete the implementing ordinances and programs to implement the 2010 General Plan. Therefore, there is a continuing and immediate need for the consistency determination process established by Interim Ordinance No. 5171, as modified herein.

G. One modification is needed to clarify a procedural question that has arisen during the pendency of Interim Ordinance No. 5171 regarding the General Plan policy consistency checklist. Section 4 of the interim ordinance requires the checklist to be submitted with the application but does not make clear whether the checklist is required if the application was submitted prior to the adoption of Interim Ordinance No. 5171 and availability of the checklist. The modification made by this ordinance makes clear that applications submitted to the Planning Department prior to January 3, 2011 are not required to submit a General Plan policy consistency checklist, although a consistency determination would still be prepared by staff for such applications as specified in the ordinance. The checklist has only been available for applicants since January 3, 2011.

H. In light of the findings and declarations in Interim Ordinance No. 5171 and the findings and declarations contained herein, a current and immediate threat to the public health, safety, and welfare continues to exist, necessitating the extension of Interim Ordinance No. 5171, as modified herein, until and through December 14, 2011.

I. Since certification of the EIR, none of the conditions described in Public Resources Code section 21166 or CEQA Guidelines Sections 15162 or 15163, calling for preparation of a subsequent or supplemental EIR, have occurred. The extension to Interim Ordinance No. 5171 will extend the establishment of a General Plan consistency determination process with a minor modification for specified ministerial and discretionary permits, pending the adoption of an applicable programs and ordinances to implement the 2010 Monterey County General Plan. As such, it has no potential to result in any incremental direct or indirect physical changes in the environment beyond those disclosed and analyzed in the certified General Plan EIR. Accordingly, the County prepared an addendum to the previously certified EIR in compliance with Section 15164 of the CEQA Guidelines. The determination that no subsequent EIR is required is based on substantial evidence in the record of proceeding, including the Addendum. The Board considered the Addendum with the previously certified EIR prior to approving this ordinance.

## **SECTION 2. MODIFICATION**

Subparagraph B of Section 4 of Interim Ordinance No. 5171 shall be amended to read as follows (changes underlined):

B. All applications for development subject to this ordinance shall include a policy consistency checklist completed by the applicant and submitted with the application, except for applications submitted to the Planning Department prior to January 3, 2011. Applications submitted to the Planning Department prior to January 3, 2011 are not required to submit a General Plan policy checklist but remain subject to the consistency determination process as otherwise specified in this ordinance.

## **SECTION 3. EXTENSION.**

Based on all of the foregoing findings and declarations, the Board of Supervisors hereby extends Interim Ordinance No. 5171, as modified herein, until and through December 14, 2011.

## **SECTION 4. EFFECTIVE DATE.**

Pursuant to the findings and declarations set forth in this ordinance and set forth in Interim Ordinance No. 5171 and incorporated herein by reference, the Board declares that this ordinance extending Interim Ordinance No. 5171 is necessary for the protection of the public health, safety, and welfare, and shall take effect immediately. Interim Ordinance No. 5171, as extended and modified by this ordinance, shall be of no further force and effect upon its expiration pursuant to Section 3, unless extended pursuant to law.

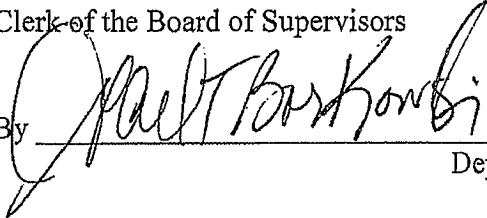
PASSED AND ADOPTED on this 25<sup>th</sup> day of January, 2011, by the following vote, to-wit:

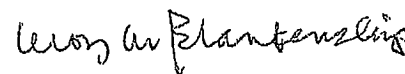
AYES: Supervisors  
NOES:  
ABSENT:



Jane Parker  
Chair, Monterey County Board of  
Supervisors

ATTEST:  
GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By  Deputy

APPROVED AS TO FORM:  
  
LEROY W. BLANKENSHIP  
Assistant County Counsel



Hydrogeologic Consulting & Water Resource Management  
 Office: (831) 888 8888 Call: (831) 334 2237 E-Mail: abierman@comcast.net  
 3153 Redwood Drive, Aptos, CA, 95003

October 24, 2011

Monterey County Planning and Building Inspection Department  
 c/o: Robert Schubert, AICP, Senior Planner  
 RMA- Monterey County Planning Department  
 168 West Alisal Street, 2<sup>nd</sup> Floor  
 Salinas, CA 93901

Subject: *Rio Road & Val Verde Subdivision, APNs: 015-021-015, 020 & 021*  
*File #: GPZ090004*

Bierman Hydro-Geo-Logic (BHgl) has prepared this letter for Applicants of Rio Road and Val Verde Subdivision in response to Monterey County Resource Management Agency (MCRMA) letter dated September 29<sup>th</sup>, 2011. Specifically, this letter provides responses to Policy #: PS-3.1, PS-3.2, PS-3.9, PS-3.13, CV-5.3 and CV-5.4

**Policy #: PS-3.1, PS-3.2; Long Term Water Supply:**

**a) *Water Quality (which refers to PS-3.9, PS-3.13).***

It is our understanding that the treatment manufacturer contact information was provided to MCEHB for obtaining further information in regards to existing systems utilizing the treatment method proposed for this project, including pre/post filtration data.

For reference, the treatment manufacturer contact information is provided as:

- *Filtronics; [www.filtronics.com](http://www.filtronics.com); (714) 630-5040.*

**b) *Production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity.***

In regards to the subdivisions proposed groundwater extraction, including the project wells' production capacity, production capability and whether or not there any adverse impacts to neighbor wells or Sensitive Environmental Receptors (SER), please reference Bierman Hydro-Geo-Logic Report<sup>1</sup>, Report Addendum<sup>2</sup>, and Bierman Hydro-Geo-Logic Responses<sup>3,4</sup> to MCWRA letters.

Regarding the Travers Well and lack of a 100-ft control zone. The Applicants are pursuing an well easement for the Travers Well. However, if the well easement cannot be established with the neighbor, the Travers Well will be replaced.

The "replacement" well will have similar production capacity (quantity and quality) as the 'replacement" well, as it will be constructed within the same aquifer (Carmel Valley Alluvial Aquifer). Therefore, although we understand drilling, well construction and production testing must occur prior to finalizing the permit, it is expected that there will be no production capacity (quality or quantity) issues with the new well.

<sup>1</sup> Bierman Hydro-Geo-Logic; *Two, 8-Hour Constant Rate Well Pumping & Aquifer Recovery Test With Pumping Impact Assessment for the Travers and Gamboa Wells, APN 015-021-015, 020 & 021*; dated January 30, 2009.

<sup>2</sup> Bierman Hydro-Geo-Logic; *Report Addendum to Val Verde Mutual Water Company*, dated September 24, 2009.

<sup>3</sup> Bierman Hydro-Geo-Logic Letter dated March 4, 2010, A Response to Monterey County Resource Management Agency letter dated September 17, 2009.

<sup>4</sup> Bierman Hydro-Geo-Logic Letter dated April 8, 2010, A Response to Monterey County Resource Management Agency letter dated April 1, 2010.

c) **Technical, Managerial and Financial (TMF) capability of the water system operator:**  
It is our understanding that the treatment manufacturer contact information was provided to MCEHB for obtaining further information in regards to existing systems utilizing the treatment method proposed for this project, including pre/post filtration data. For reference, the treatment manufacturer & contact information is provided in response (a) above.

d) **The Source of the water System and nature of the rights the water:**  
The groundwater rights for this property have been demonstrated to the satisfaction of MPWMD<sup>5</sup>

e) **Cumulative impacts of existing and projected future demand for water from the source, and the ability to reverse trends contributing to an overdraft condition or otherwise affecting supply:**

As per Bierman Hydro-Geo-Logic Report<sup>6</sup> and Response<sup>7</sup>, the 10-year historical combined average annual water demand is 11.47 af/yr which is greater than the proposed project average annual water demand after system and treatment losses for the project of 11.21 af/yr. Therefore, there is less than significant cumulative impacts to the Carmel Valley Alluvial Aquifer and Carmel River or other neighboring well users as less groundwater is being extracted than what has been documented historically.

In regards to the ability to reverse trends to an overdraft aquifer condition, the Project is evaluating the installation of a comprehensive rain water harvesting, conveyance, and storage system to offset the wells' groundwater withdraw for irrigation use.

f) **Effects of additional extraction or diversion of water on the environment:**  
As noted in (e) above, there water demand for the project is less than the historical use, and therefore there will be No '*additional extraction or diversion of water on the environment*'.

g) **Completion and operation of new projects, or implementation of best practices, to renew or sustain aquifer or basin function:**

As per Bierman Hydro-Geo-Logic Report<sup>8</sup> and Response<sup>9</sup>, the water for the project has been determined to not only have the appropriate water rights, it has been established that there is more than a sufficient Long Term Water Supply that will not disrupt aquifer or basin functions (also as noted in (e, f) above).

More so, as discussed above, the project is evaluating the installation of a comprehensive rain water harvesting, conveyance, and storage system to offset the wells' groundwater withdraw for irrigation use, which, would allow recharge to the aquifer system versus that rain becoming storm-water run-off and lost recharge.

**Policy #: PS-3.9, PS-3.13; Water Yield and Quality:**

a) ***A Tentative Map will not be approved until the Applicant provides evidence of a Long Term Sustainable Water Supply in terms of yield and quality for all lots that are to be created through subdivision.***

Refer to Bierman Hydro-Geo-Logic Report<sup>10</sup> and above Response for Policy #: PS-3.1, PS-3.2.

<sup>5</sup> MPWMD E-Mail dated January 10, 2011.

<sup>6</sup> Bierman Hydro-Geo-Logic; *Two, 8-Hour Constant Rate Well Pumping & Aquifer Recovery Test With Pumping Impact Assessment for the Travers and Gamboa Wells, APN 015-021-015, 020 & 021*, dated January 30, 2009.

<sup>7</sup> Bierman Hydro-Geo-Logic Letter dated March 4, 2010, A Response to Monterey County Resource Management Agency letter dated September 17, 2009.

<sup>8</sup> Bierman Hydro-Geo-Logic; *Two, 8-Hour Constant Rate Well Pumping & Aquifer Recovery Test With Pumping Impact Assessment for the Travers and Gamboa Wells, APN 015-021-015, 020 & 021*, dated January 30, 2009.

<sup>9</sup> Bierman Hydro-Geo-Logic Letter dated March 4, 2010, A Response to Monterey County Resource Management Agency letter dated September 17, 2009.

<sup>10</sup> Bierman Hydro-Geo-Logic; *Two, 8-Hour Constant Rate Well Pumping & Aquifer Recovery Test With Pumping Impact Assessment for the Travers and Gamboa Wells, APN 015-021-015, 020 & 021*, dated January 30, 2009.



**Policy #: CV-5.3; Water Reclamation and Conservation:**

- a) *Development shall incorporate designs with water reclamation, conservation and new source production.*

Although the Applicant is evaluating the installation of; 1)A comprehensive rain water harvesting, conveyance, and storage system to offset the wells' groundwater withdraw for irrigation use, 2)An on-site storm water retention system with sophisticated oil/water separators and infiltration basins for groundwater recharge and , 3)A per-structure gray-water infiltration system, no volume calculations or design drawings have been completed.

**Policy #: CV-5.4; Limit Development to Vacant Lots of Record:**

- a) *The County shall establish regulations for Carmel Valley that limit development to vacant lots of record and already approved projects, unless additional water supplies are identified.*

The additional water supplies "identified" for this project are; 1)A comprehensive rain water harvesting, conveyance, and storage system and, 2)An on-site storm water retention system with sophisticated oil/water separators and infiltration basins which will promote groundwater recharge and groundwater quality with lack of adverse groundwater degradation.

A few links for stormwater management and rain harvesting concepts and storage manufactures have been included below:

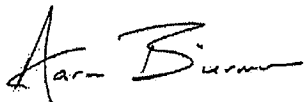
- <http://www.armtec.com/en-ca/products-and-services/drainage-solutions-and-water-treatment.aspx>
- <http://www.rainharvest.com/stormwater-management.asp>
- <http://www.xerxes.com/>
- <http://www.darcoinc.com/poly-specifications.html>
- <http://www.brentwoodindustries.com/water/stormtank.html>
- <http://www.tritonsws.com/>

In addition to the links, attached to this document are:

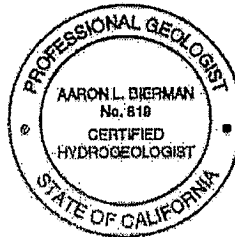
- Rainwater Catchment Design and Installation Standards, adopted by American Rainwater Catchment Systems Association (ARSCA) and American Society of Plumbing Engineers (ASPE).
- ARMTEC Stormwater Treatment, Detention, Infiltration Brouchure

This concludes our response to MCRMA Letter dated September 29, 2011.

Respectfully submitted,



Aaron Bierman  
Certified Hydrogeologist #819



Cc: Brian Clark - Applicant

Attachments: Rainwater Catchment Design and Installation Standards, January 20, 2009.  
ARMTEC Stormwater Treatment, Detention, Infiltration Brochure

# EXHIBIT G

**Schubert, Bob J. x5183**

---

**From:** Lorribigsur@aol.com  
**Sent:** Monday, October 31, 2011 12:11 PM  
**To:** margaretmike@aol.com  
**Subject:** Fwd: 42 units Val Verde Drive - Carmel

---

From: Lorribigsur@aol.com  
To: district5@co.monterey.ca.us, district4@co.monterey.ca.us, district3@co.monterey.ca.us, district2@co.monterey.ca.us, district1@co.monterey.ca.us  
Sent: 10/31/2011 12:07:11 P.M. Pacific Daylight Time  
Subj: 42 units Val Verde Drive - Carmel

Kind Supervisors,

Do we need more cars at the intersection of HWY 1 and Rio Road ?

Again, this project is ahead of the available infrastructure. Until HW 1 is widened I pray no multiunit projects are approved. Is there a safety ordinance limiting the length of the line of autos backed up at intersections? Summer week-ends the line extends from Highlands Inn on the South to Pebble Beach on ramp North. We residents join the parade and head for the ditch if needed to permit sheriff, ambulance passage.

I lived in Mission Fields near corner Hwy. 1-Rio Rd intersection 40 years ago. Daughter had a small Welsh pony which we boarded in the Val Verde area. During heavy rains, we loaded the pony into our VW camper and brought her home to our Mission Field lot which was a large pie shape area and sheltered her in our garage to protect her hooves. (Shared all the fertilizer with neighbors - great gardens and no one complained.) Water in-sewage out, paved widened road problems must be addressed also. Put any multi units on stilts but not until HWY. 1 widened. Where is the flood plane.? Thank you.

Sincerely,

Lorri Lockwood  
P>O> Box 264  
Big Sur, Ca. 93920  
831-667-2564?

**Schubert, Bob J. x5183**

---

**From:** Holm, Carl P. x5103  
**Sent:** Tuesday, November 01, 2011 2:25 PM  
**To:** Allen, Carol x5178  
**Cc:** Schubert, Bob J. x5183; Novo, Mike x5192; Strimling, Wendy  
**Subject:** FW: private road ordinance

Carol-Please forward to PC.

-----Original Message-----

**From:** Margaretmike@aol.com [mailto:Margaretmike@aol.com]  
**Sent:** Tuesday, November 01, 2011 2:12 PM  
**To:** Holm, Carl P. x5103  
**Subject:** private road ordinance

**Chair Getzelman and Commissioners,**

The 42-unit subdivision on Val Verde Drive is an excellent example of why Monterey County needs a strong private road ordinance. The County has long recognized that Val Verde Drive is a private road. A recent example: The June 14, 2009 letter to HUD that identifies Val Verde Drive as a private road. The letter is signed by Carl Holm who at that time was Assistant Director, Planning Department.

If a strong private road ordinance had been in place when Mr. Clark came into the Planning Department to apply for his 42 units, we would not be here today. His application would not have been accepted because he did not and still does not have an agreement to proceed from all the other owners on Val Verde Drive. That's why Planning has suggested several times that Mr. Clark withdraw his application. His project is on a private road and the access is in question.

Planning has made Mr. Clark aware, more than once, of the 2010 General plan policy C-3.6. It states: "The County shall establish regulations for new development that would intensify use of a private road or access easement. Proof of access shall be required as part of any development application when the proposed use is not identified in the provisions of that applicable agreement."

Mr. Clark was aware that new, strict regulations for private roads were coming. However, he did not meet with his Val Verde neighbors to show them what his project looked like. He did not ask for their approval or support. Instead he directed his "management team" to crank out report after glowing report on his 42 units. His "management team" not only wrote environmental documents showing his 42 units had no impact but they even did the scoring for the Carmel Valley Land Use Committee.

It is essential that a strict Private Road Ordinance be put in place as soon as possible. Almost 50% of the County roads are either totally or partially private. (I have the latest list from Public Works.) If the ordinance is not put in place quickly, you can expect other developers to follow Mr. Clark's lead.

November 1, 2011

Chair Getzelman and Commissioners,

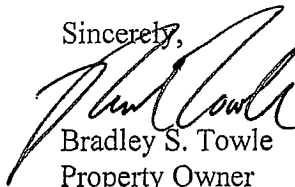
The Towle family (4072 Rio Road - corner of Val Verde drive) strongly oppose the proposed 42 unit subdivision on Val Verde Drive in Carmel. If built, it will produce over 400 new daily car trips and make it near impossible to access my driveway which is right at corner of Val Verde and Rio Road. This will be extremely inconvenient and certainly dangerous for my whole family.

We also have concerns about wells in the area and possibility this 42 home subdivision requiring daily water use will run our wells dry. We rely on Cal Am for drinking water however as water becomes increasingly more expensive, would rely more on the well for our water needs.

Regarding the 11 inclusionary units provided in this project, we do not see the immediate need in Carmel Valley as we already have a tremendous number of rentals plus another 41 units at the Preserve plus the mid-valley affordable overlay producing over 100 more. As a long time local Realtor (20+ years), I can truly say we have enough inventory right now in Carmel Valley with 10+ months worth on the market right now. This does not look to come down soon - many properties sit for very long time (year plus) unsold!

We ask you to support the Planning Department's findings that this project is inconsistent with the 2010 General Plan due to water and access and deny the project. As we live on a private road as well, please promptly pass the Private Road Ordinance.

Sincerely,



Bradley S. Towle  
Property Owner  
4072 Rio Road, Carmel

You will sit through more hearings like this one. Planning Staff time will continue to be wasted. And private owners will go to court to save the character of their neighborhoods and to avoid the undue financial burden of heavily increased road maintenance.

Patricia Bernardi and I have been working to get a Private Road Ordinance written and passed to eight long years. Please don't make us wait for another eight.

Thank you,

Margaret Robbins  
November 1, 2011



**Schubert, Bob J. x5183**

---

**From:** deeannehowe@aol.com  
**Sent:** Saturday, October 22, 2011 11:31 AM  
**To:** Novo, Mike x5192; Schubert, Bob J. x5183  
**Subject:** Section 21.64.320/ GPZ090004

Mr. Mike Novo and Mr. Bob Schubert  
Monterey County RMA-Planning Department  
68 W. Alisal St., 2nd Floor  
Salinas, CA 93901

Dear Mr. Novo and Mr. Schubert,

I have recently received a copy of the Ordinance, adding section 21.64.320 to the Monterey County Code, and scheduled to go to the Planning Commission and Board of Supervisors for their approval.

The timing of the adoption of this ordinance, to create consistency with our governing general plan, has allowed for projects to move through the "pipeline" assuming consistency will be mandated by staff analysis. Because of this lack of "normal" process, I would like to presently and clearly file an objection to the use of the private road, Val Verde Drive, for access to the subdivision application GPZ090004.

I am an interested party, owning a portion of the road, Val Verde Drive, and being an easement holder on this road.  
DeeAnne Keyston Howe, 26525 Val Verde Drive, Carmel, CA 93923; APN 015-021-005-000.

I object to the intensification of use of the easement that was created to serve LDR-1 zoning. I do not believe the applicant has the right to burden us with intensified use to serve a much greater density, not envisioned in the creation of the original easement. We have no road agreement for maintenance or use; and I certainly relied on the present zoning and private road status at the time I purchased my parcel, assuming that the allowed uses would not exceed the existing zoning, without unanimous consent of the easement owners/holders approving this change. I would like to see that remain the case.

I will resubmit my objection should I be served with the notice required by the proposed ordinance. In the meantime, I wish the Planning Department, and the applicant, to definitively understand that vehement objection exists to their proposed use of Val Verde Drive and the applicants assertion that he has any right to burden me with his proposed rezoning/subdivision use.

Thank you, DeeAnne Howe









10/24/24

**UTILITY PLAN**  
 (APR. 019-021-019, 020 AND 021)  
 VAL VERDE  
 CHARTER OF MORTGAGE  
 (CAMPBELL)

**DEOTOR ENGINEERS, INC.**  
 1000 W. 10th Street, Suite 100  
 Fort Worth, Texas 76102  
 (817) 336-1111

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

**DATE:** 10/24/24  
**SCALE:** 1" = 40'  
**PROJECT:** VAL VERDE  
**LOT:** 1-32

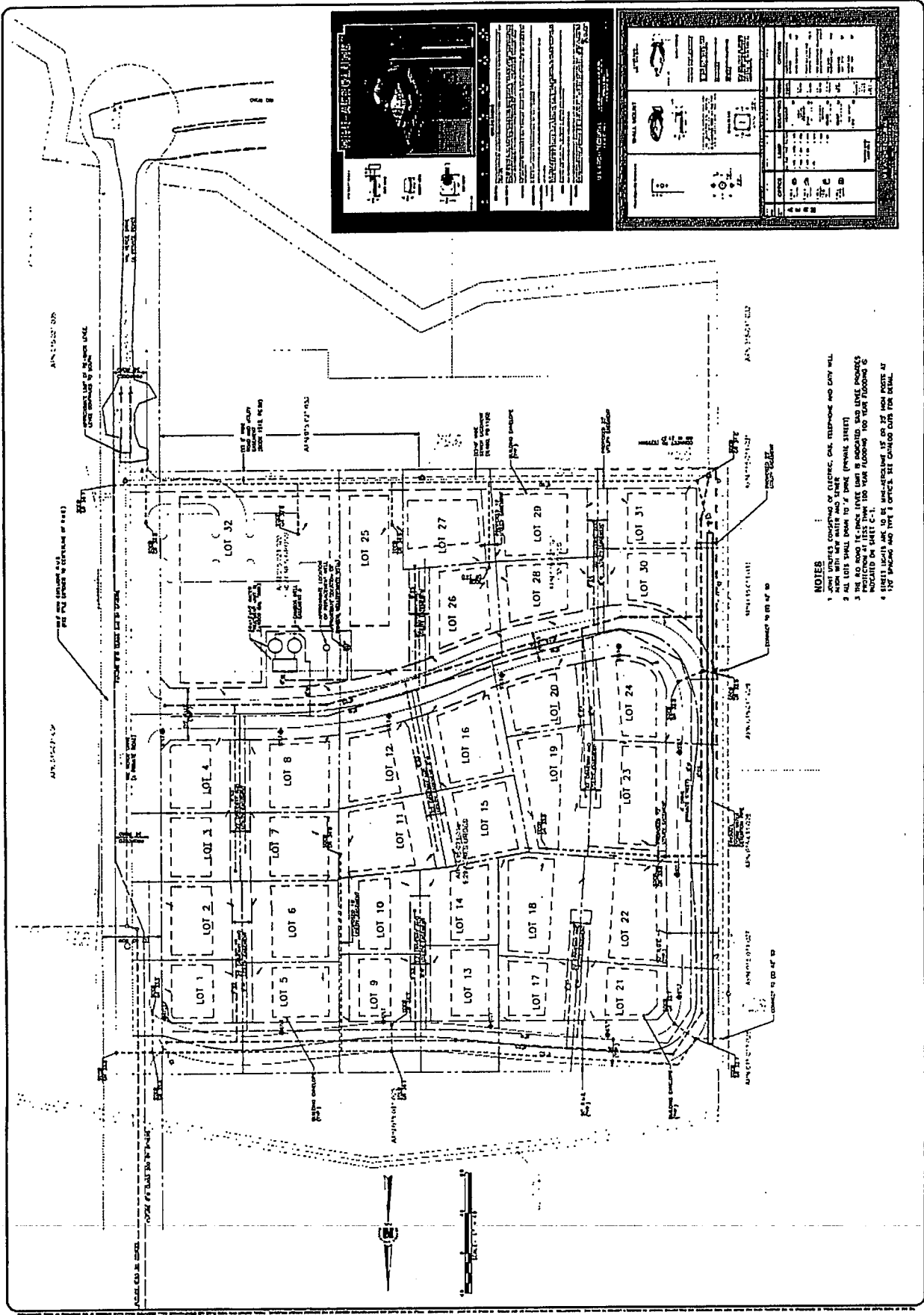
**NOTES**

1. ALL UTILITIES SHOWN ON THIS PLAN ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY.
2. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FORT WORTH UTILITY DEPARTMENT SPECIFICATIONS.
3. THE ROAD AND SIDEWALKS SHOWN ON THIS PLAN ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY.
4. THE ROAD AND SIDEWALKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF FORT WORTH SPECIFICATIONS.

**UTILITY PLAN**

**NOTES**

1. ALL UTILITIES SHOWN ON THIS PLAN ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY.
2. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FORT WORTH UTILITY DEPARTMENT SPECIFICATIONS.
3. THE ROAD AND SIDEWALKS SHOWN ON THIS PLAN ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY.
4. THE ROAD AND SIDEWALKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF FORT WORTH SPECIFICATIONS.

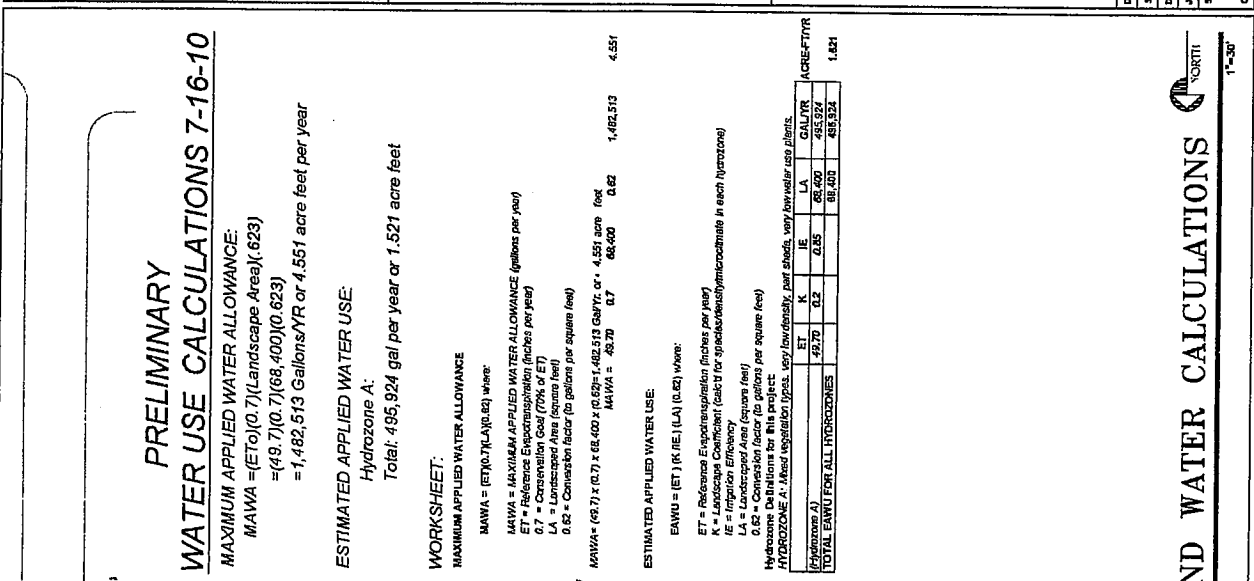




ANITA KANE  
 LANDSCAPE ARCHITECT  
 1000 W. San Antonio Street, Suite 100  
 San Antonio, CA 95070  
 Phone: (408) 451-1111  
 Email: anita@anitakane.com



# SITE PLAN AND WATER CALCULATIONS



**PRELIMINARY WATER USE CALCULATIONS 7-16-10**  
**MAXIMUM APPLIED WATER ALLOWANCE:**  
 $MAWA = (E \times 0.7) / (\text{Landscape Area}) \times (623)$   
 $= (49,710.7) / (68,400) \times (623)$   
 $= 1,482,513 \text{ Gallons/YR or } 4,551 \text{ acre feet per year}$

**ESTIMATED APPLIED WATER USE:**  
 Hydrozone A:  
 Total: 495,924 gal per year or 1.521 acre feet

**WORKSHEET:**

**MAXIMUM APPLIED WATER ALLOWANCE**

$MAWA = (E \times 0.7) / (LA \times 0.62)$  where:  
 MAWA = MAXIMUM APPLIED WATER ALLOWANCE (gallons per year)  
 E = Reference Evapotranspiration (inches per year)  
 0.7 = Reference Evapotranspiration (inches per year)  
 LA = Landscape Area (square feet)  
 0.62 = Conversion factor (to gallons per square foot)

$MAWA = (69.7) \times (0.7) \times (68,400) \times (0.62) = 1,482,513 \text{ GWPY or } 4,551 \text{ acre feet}$   
 $MAWA = 495,924 \text{ gal per year or } 1.521 \text{ acre feet}$

**ESTIMATED APPLIED WATER USE**

$EAUWU = (E \times T) \times (K \times IE) \times (LA)$  where:  
 E = Reference Evapotranspiration (inches per year)  
 T = Transpiration coefficient (factor for species/size/irrigation/soil in each hydrozone)  
 IE = Irrigation Efficiency (factor for species/size/irrigation/soil in each hydrozone)  
 LA = Landscape Area (square feet)  
 K = Conversion factor (to gallons per square foot)  
 0.62 = Conversion factor (to gallons per square foot)

Hydrozone A: Mixed vegetation types, very low density, poor shade, very low water use plants.

HYDROZONE A: Mixed vegetation types, very low density, poor shade, very low water use plants.

Hydrozone A	ET	K	IE	LA	GALLON	ACRE-FT/YR
TOTAL EAUWU FOR ALL HYDROZONES	49.70	0.2	0.85	68,400	495,924	1.521
				68,400	88,600	885,924

DATE: 07-19-10

SCALE: 1"=30'

DRAWN: ALK/ALJ

JOB: 08-112

SHEET: 1-1

OF: 1

# SITE PLAN AND WATER CALCULATIONS

1"=30'