

MONTEREY COUNTY PLANNING COMMISSION

Meeting: January 25, 2012	Time: 9:30 a.m.	Agenda Item No.: 4
Project Description: Public Hearing to consider denial of 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.		
Project Location: 15 and 26500 Val Verde Drive, Carmel Valley	APNs: 015-021-015-000; 015-021-020-000, and 015-021-021-000	
Planning File Number: GPZ090004	Owners: Carmel Rio Road, LLC Agent: Brian Clark	
Planning Area: Carmel Valley Master Plan	Flagged and staked: No	
Zoning Designation: : LDR/1-D-S-RAZ (Low Density Residential/Maximum Gross Density of 1 acre/unit-Design Control-Site Plan Review-Residential Allocation Zoning)		
CEQA Action: Statutorily Exempt from CEQA per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the CEQA Guidelines		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a resolution (**Exhibit B**) to:

- 1) Find action statutorily exempt per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the CEQA Guidelines; and
- 2) Deny the application for the Combined Development Permit based on the findings and evidence (**Exhibit B**).

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). Policy CV-1.10 designates land use of Val Verde Drive as LDR/1 (one unit per acre); however, a density of up to four units per acre *may be allowed* (discretionary) provided at least 25% of the units are *developed* (affordable by design) for low and moderate income or workforce housing. The project proposes to apply the four units per acre density plus a separate and additional density bonus is requested pursuant to the State Density Bonus Provisions.

An Interim Ordinance (see **Exhibits E, E1 and E-2**) 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. In accordance with this ordinance, staff prepared a consistency analysis of the application and determined that the project is inconsistent with the General Plan. On November 9, 2011, the Planning Commission agreed with staff's General Plan consistency determination and afforded the applicant 60 days to request a General Plan Amendment or revise the application to attain consistency. The applicant subsequently waived the 60-day period in order to be heard as soon as possible by the Planning Commission (see **Exhibit J**, e-mail message from Brian Clark dated December 9, 2011).. The applicant has not revised the application since the Planning Commission last reviewed the project. However, on January 6, 2012, the applicant submitted an application to the Environmental Health Bureau to replace one of the existing wells on the site.

At the November 9, 2011 Planning Commission hearing, the applicant submitted what was represented as an EIR for the project. Staff review of the document found that it does not meet Val Verde Subdivision (GPZ090004)


our standards for a Draft EIR and does not reflect the County's independent judgment. If the application is denied, the project is exempt pursuant to Section 15270 (Projects Which Are Disapproved) of the California Environmental Quality Act (CEQA) Guidelines. If the project is determined to be consistent with the General Plan, staff would seek a consultant (applicant's expense) to assist in peer review and preparation of a draft EIR. 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
January 11, 2012

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, Economic Development Department; 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 E2	Ordinance No. 5193 (Extension of Interim Ordinance)
	Exhibit F	Letter from Hydrogeologic dated 10/24/2011
	Exhibit G	Comments
	Exhibit H	Memorandum from Housing and Redevelopment Office dated 12/17/2011
	Exhibit I	E-mail message from Brian Clark dated 12/9/2011
	Exhibit J	Reduced Tentative Subdivision Map

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

EXHIBIT A
PROJECT DISCUSSION
GPZ090004 (Val Verde Subdivision)
January 11, 2012

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.

Proposed Density

The underlying zoning of the site is LDR/1-D-S-RAZ which allows one unit per acre. The project requests consideration of an increase in the density pursuant to Policy CV-1.10 of the Carmel Valley Master Plan (CVMP) plus 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.”

There are three components to this project:

1. There is an underlying allowed land use of one unit per acre (LDR/1). For the subject project, that would allow a maximum of seven units.
2. Policy CV-1.10 states that up to four units per acre *may be allowed* if at least 25% of the units for individuals of low and moderate income or for workforce housing. Staff interprets the *italic* language as being at the discretion of the County – not an allowed use. If the County wishes to permit this density, up to 31 units would be allowed on this site.
3. Section 65915 of the State Government Code allow for an increase in density above what would *normally be allowed with existing zoning and general plan designations*, without requiring a re-zoning and/or General Plan amendment, for qualified projects. To apply a density bonus in addition to CV-1.10 requires an interpretation that CV-1.10 is “normally allowed.” The application proposes to apply the State Density Bonus to the 4 unit per acre density. If the Commission does not agree with the interpretation that CV-1.10 is what is “normally allowed,” then the Density Bonus would only apply to the base land use designation of one unit per acre.

Section 65915 of the State Government Code, implemented by Chapter 21.65 of the Monterey County Code, allows for an increase in density above what would normally be allowed with existing zoning and general plan designations, without requiring a re-zoning and General Plan

amendment, for qualified projects. In order to qualify, the project must supply certain levels of very low and low income housing (or moderate income in specific circumstances) within the proposed development. The amount of increased density allowed is based on a sliding scale ranging from 20% to 35% above what would normally be permitted, depending on the percentage of units that are at the different affordability levels.

Eight of these units would need to be “affordable” under the Carmel Valley Master Plan’s definition, in order to meet the 25% requirement. Thus, 31.68 units would be the total number of units permissible under existing zoning at the time of application. At that point, a State Density Bonus could be calculated. In order for the project to qualify for the maximum 35% State Density Bonus (an additional 11.09 units), appropriate amounts of affordable housing must be provided. This would result in a total of 42.77 (rounded down to 42) units being allowed. The amounts of affordable housing required under the State Density Bonus law under this combined scenario would be: 2 very low income, 5 low income, and 1 moderate income unit. For additional information regarding the density bonus calculations, see the attached memorandum from the Redevelopment and Housing Office (see **Exhibit H**). The subsequent adoption of Chapter 21.65 implementing Section 65915 of the State Government Code does not change the analysis contained in **Exhibit H**.

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**) and Ordinance No. 5193 (**Exhibit E2**), 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 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 2010 General 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	<i>Proof of Access</i> – This policy states: “ <i>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</i>	Inconsistent. 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. The

	<p><i>provisions of the applicable agreement.”</i></p>	<p>applicant provided an easement document showing a non-exclusive, private easement for access and utilities. The ability to intensify the land use beyond the LDR/1 density has been contested by other parties to the easement. When the Gamboa project (now Cottages of Carmel) was processed in 2004, the County drafted a condition that required resolution via an agreement or court order – the applicant opted to obtain an easement via the Brinton’s parking lot.</p>
<p>PS-3.1, PS-3.2</p>	<p><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:</p> <ol style="list-style-type: none"> 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. c. Technical, managerial and financial (TMF) capability of the water system operator. d. The source of the water supply and the nature of the rights to water. 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. f. Effects of 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. 	<p>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:</p> <ol style="list-style-type: none"> a. Additional information required to determine consistency. See PS-3.9 and PS-3.13 below. b. Additional information required to determine consistency. 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. When the project was last reviewed by the Planning Commission (November9, 2011), the applicant had not applied for the replacement well and staff found the project to be inconsistent with these policies. On January 6, 2012, the applicant submitted an application to the Environmental Health Bureau to replace the Travers well. The replacement well would need to be 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 drilling the replacement well and conducting the required testing, the applicant had previously requested that the requirement to drill the replacement well be imposed as a condition of project approval. At the request of the applicant, 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 Exhibit D). c. Additional information required to determine consistency. Documents and preliminary TMF has been submitted for the proprietary treatment system. Further

		<p>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. Consistent. 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. & g. Additional information required to determine consistency. 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 hydrogeologist 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>Additional information required to determine consistency. This project requires a water system which has two water sources that meet all of the required regulations. Although one of the existing wells (Travers) does not meet the well control zone requirements, the applicant recently submitted an application to the Environmental Health Bureau for a replacement well (see discussion above regarding Policies PS-3.1 and PS-3.2). 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 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.</p>
<p>CV-5.4</p>	<p>Requires the County to establish regulations for Carmel Valley that limit development to vacant lots of record and already approved projects, unless additional water supplies are identified.</p>	<p>Consistent. Since the Planning Commission hearing on November 9, 2012, staff has determined that the project is consistent with Policy CV-5.4. This determination was based on the fact that the project has established water rights and information was submitted demonstrating that the proposed project includes water reclamation and conservation components.</p>

Finally, 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 rural centers in Carmel Valley: the Mouth of the Valley (Tier II), Mid Valley (Tier III) and the Village (Tier III). 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 – removing the Mouth of the Valley from being an identified future growth area.

Policy CV-1.6 limits buildout under the Carmel Valley Master Plan to 266 new lots/units. Up to 24 units are set aside for consideration at the former airport site in Carmel Valley Village – leaving a potential of 240 units/lots. Consistency with General Plan Policy CV-1.6 would be determined at the time a project is considered for approval. 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. If other projects are approved prior to this application that use the allocation, a General Plan Amendment may be required to modify Policy CV-1.6 to increase the buildout potential of Carmel Valley. Since CEQA requires that the cumulative effects of a project be assessed, the potential to exceed the 266 units and need for a General Plan amendment would need to be addressed in any environmental review of the proposed project.

Environmental Review

If the application is denied, the project is exempt pursuant to Public Resources Code Section 21080(b)(5) and Section 15270 (Projects Which Are Disapproved) of the California Environmental Quality Act (CEQA) Guidelines. If and when it is determined that the project is consistent with the General Plan, staff would proceed with environmental review.

At the Planning Commission hearing on November 9, 2011, the applicant submitted a document entitled “*Val Verde Drive, Carmel, California, Minor Sub-Division, Draft Environmental Impact Report*” prepared by Brian Clark (the applicant). CEQA requires that, before using a draft EIR prepared by another person, the lead agency must “*subject the draft to the agency’s own review and analysis,*” and the Draft EIR which the agency releases for public review “*must reflect the independent judgment of the lead agency*” (CEQA Guidelines Section 15085(e)). CEQA further provides that the lead agency “is responsible for the adequacy and objectivity of the EIR” (Section 15841(e) of the CEQA Guidelines).

Staff review of the document submitted by the applicant finds that it does not meet Monterey County standards for a Draft EIR and does not reflect the County’s independent judgment. Essentially, the document consists of a compilation and summary of technical reports that have been previously submitted by the applicant, and these reports were prepared for the applicant by consultants without consultation of County staff. The Initial Study in the Appendix does not identify any potentially significant impacts and concludes that a Mitigated Negative Declaration (not an EIR) is required. Furthermore, the information contained in the document is not clearly referenced. Rather, several references are listed at the end of each chapter so the source of the specific information that is summarized in each chapter is unclear. Furthermore, much of the information that CEQA requires to be contained in a Draft EIR is absent from the document such as an analysis of the alternatives that are identified and the identification of the “Environmentally Superior Alternative.”

It also is premature to start work on an EIR until the General Plan consistency determination has been made. If and when an EIR consultant is hired for this project, the document that was submitted by the applicant at the November 9, 2011 Planning Commission meeting may be useful as a summary and compilation of the technical reports that have been submitted by the applicant. All of the applicant's technical reports would need to be peer reviewed by the EIR consultant.

**EXHIBIT B
DRAFT RESOLUTION**

**Before the Planning Commission in and for the
County of Monterey, State of California**

In the matter of the application of:

CARMEL RIO ROAD, LLC

RESOLUTION NO. -----

Resolution by the Monterey County Planning
Commission:

- 1) Finding that the project is Statutorily Exempt from CEQA pursuant to CEQA Guidelines Section 15270(a).
- 2) Denying an application 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.

(GPZ090004, Carmel Rio Road, LLC Subdivisión, 15 and 26500 Val Verde Drive, Carmel Valley Master Plan (APNs: 015-021-015-000; 015-021-020-000, and 015-021-021-000)

The Carmel Rio Road, LLC Subdivisión application (GPZ090004) came on for public hearing before the Monterey County Planning Commission on November 9, 2011 and January 25, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission finds and decides as follows:

FINDINGS

1. **FINDING:** **Background** – The project application consists of 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.
EVIDENCE a) The application was deemed complete as of December 9, 2010, which is 30 days from November 9, 2010 which is the date the applicant submitted the last of the materials requested on the County's checklist.
EVIDENCE b) 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 Policy LU-9.3, subdivision

applications that are deemed complete after October 16, 2007 are subject to the 2010 General Plan.

EVIDENCE c) The Interim Urgency Ordinance (Ordinance No. 5171, as modified and extended by Ordinance No. 5172 and Ordinance No. 5193, 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.

2. **FINDING:** **CEQA (Exempt)** - The project is statutorily exempt from environmental review because the County is denying the application.

EVIDENCE: A project that will be disapproved by the lead agency is statutorily exempt from CEQA. (Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a). The project is exempt from CEQA because the County is disapproving the project.

3. **FINDING:** **SUBDIVISION** – Section 66474 of the California Government Code (Subdivision Map Act) and Title 19 (Subdivision Ordinance) of the Monterey County Code requires that a request for subdivision be denied if any of the following findings are made:

1. That the proposed map is not consistent with the applicable general plan and specific plans.
2. That the design or improvement of the proposed subdivision is not consistent with the applicable general plan and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

EVIDENCE: a) **General Plan Consistency.** The application is inconsistent with the 2010 General Plan. The 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 2010 General Plan.

Proof of Access – The project is inconsistent with General Plan Policy C-3.6 which 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 the applicable agreement.*” To demonstrate consistency with General Plan Policy C-3.6, 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. The applicant provided an easement document showing a non-exclusive, private easement for access and utilities. The ability to intensify the land use beyond the LDR/1 density has been contested by other parties to the easement. When the Gamboa project (now Cottages of Carmel) was processed in 2004, the County drafted a condition that required resolution via an agreement or court order – the applicant opted to obtain an easement via the Brinton’s parking lot.

- b) The application, tentative map and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File GPZ090004.

4. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors.

EVIDENCE: Section 19.16 and 21.80 of the Monterey County Code.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Planning Commission does hereby:

- 1) Find the action statutorily exempt per Public Resources Code Section 21080(b)(5) and Section 15270(a) of the California Environmental Quality Act (CEQA); and
- 2) Deny the application for a Combined Development Permit based on the findings and evidence.

PASSED AND ADOPTED this 25th day of January, 2012 upon motion of _____, seconded by _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Secretary, Planning Commission

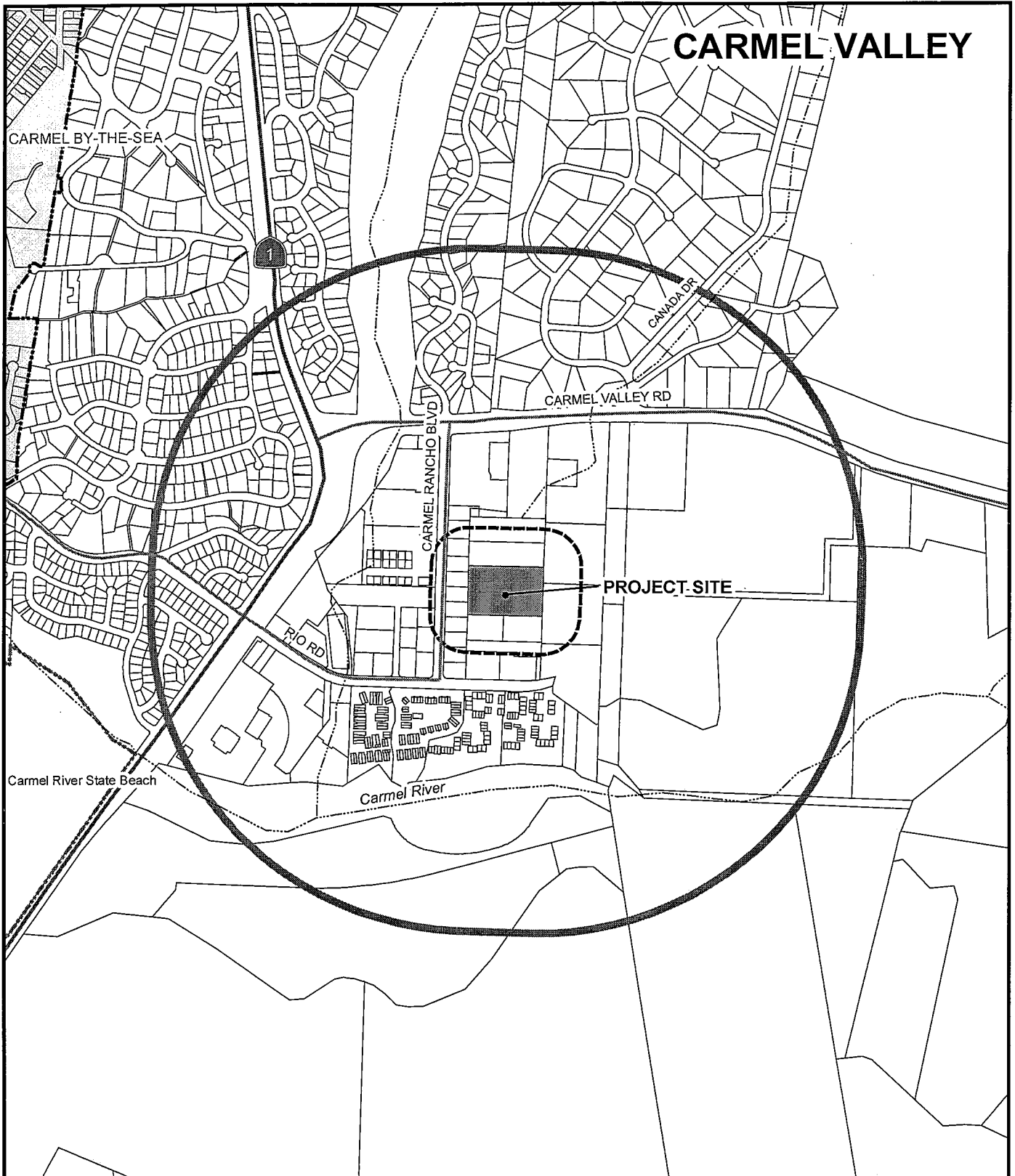
COPY OF THIS DECISION MAILED TO APPLICANT ON [DATE]

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.


EXHIBIT B



APPLICANT: CARMEL RIO ROAD LLC

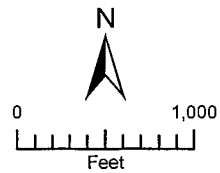
APN: 015-021-015-000

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 2nd 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

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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

PS Ignore all typos.

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MONTEREY COUNTY
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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

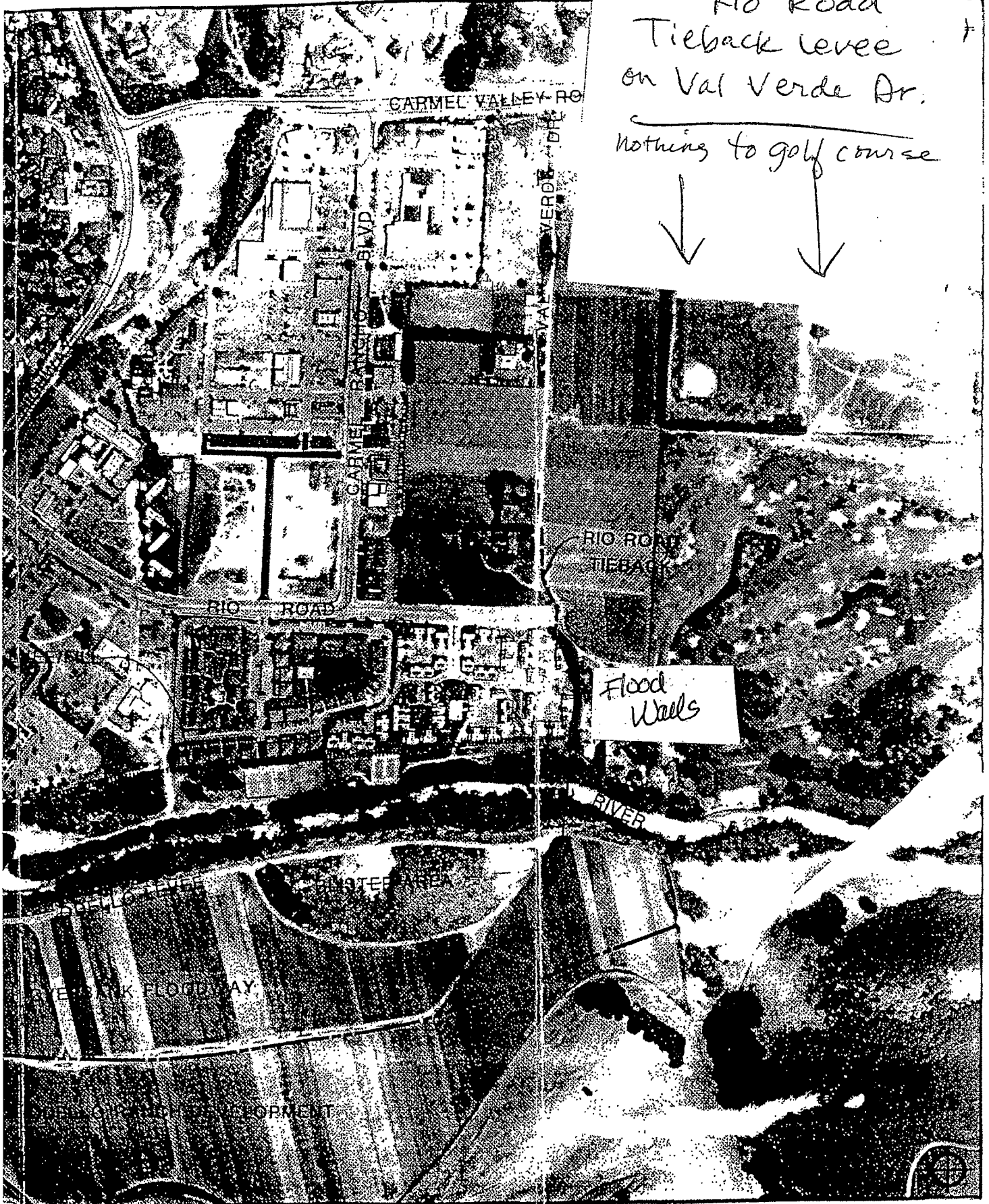
July 1989 →



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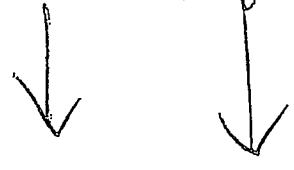
APR 13 2010

MONTEREY COUNTY
PLANNING & BUILDING
INSPECTION DEPT.



Proposed
Rio Road
Tieback levee
on Val Verde Dr.

Nothing to golf course



Flood
Walls

PROJECT COMPONENTS

Lower Carmel River Flood Control Project Final Report

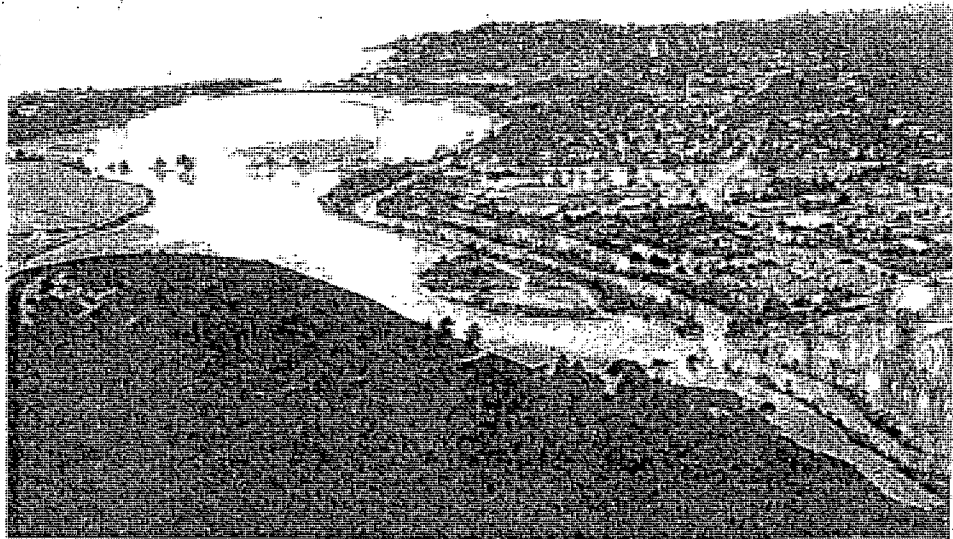
August 9, 2002

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 (Famers Canada Village) - I believe that the
SWA Report will need to be re-analyzed before
a large scale CSA50 project is constructed".
E-mail from Moss to Forbers

Prepared for

**Monterey County
Water Resources Agency**

County Services Area 50 (CSA 50)



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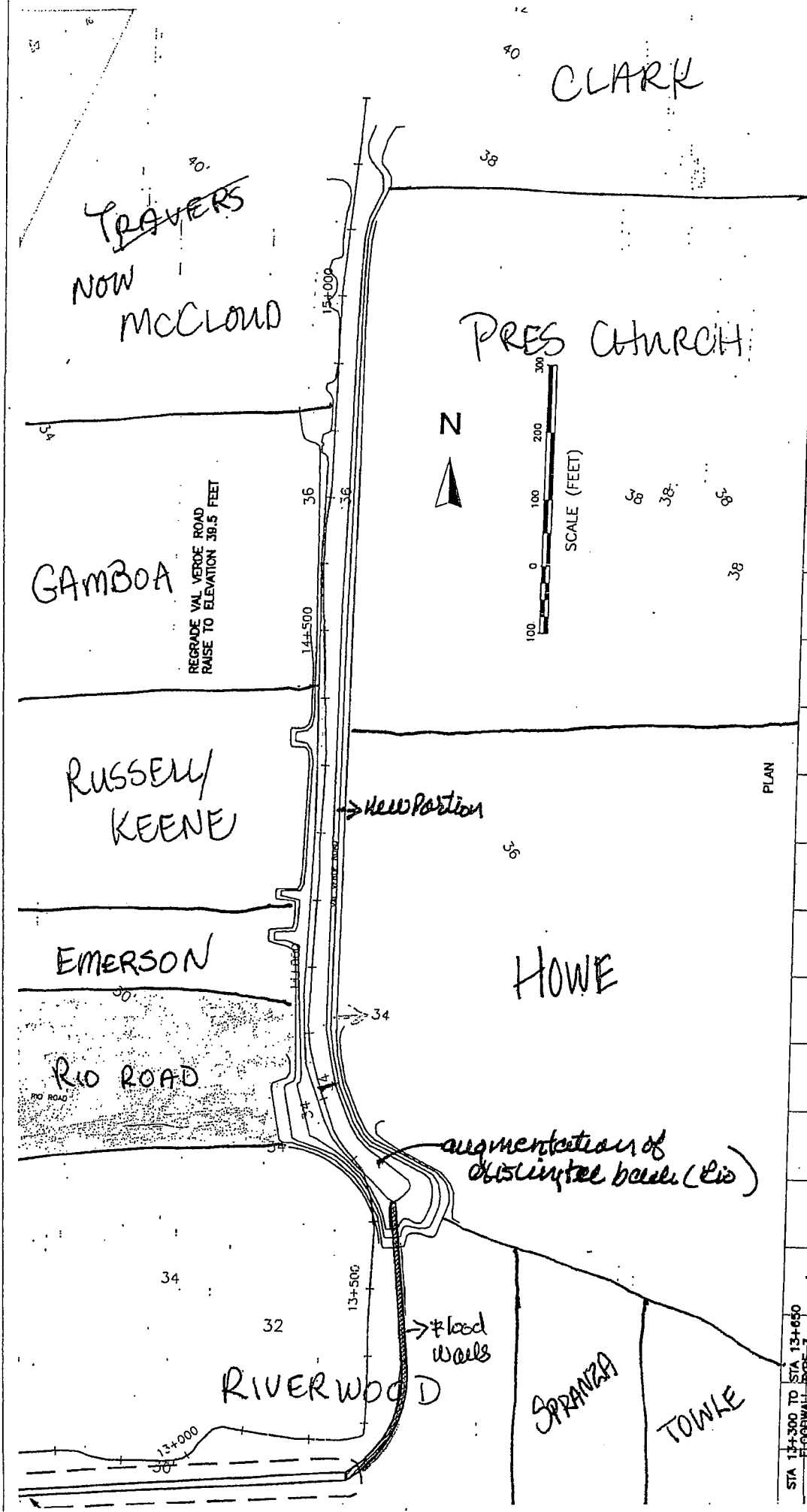
APR 13 2010

Prepared by



Philip Williams & Associates, Ltd.

MONTEREY COUNTY
PLANNING & BUILDING
INSPECTION DEPT.



CLARK

~~TRAVERS~~
NOW
MCCLLOUD

PRES CHURCH

GAMBOA

REGRADE VAL VERDE ROAD
RAISE TO ELEVATION 39.5 FEET

RUSSELL/
KEENE

→ NEW PORTION

EMERSON

HOWE

RIO ROAD

augmentation of
obsolescent base (EIS)

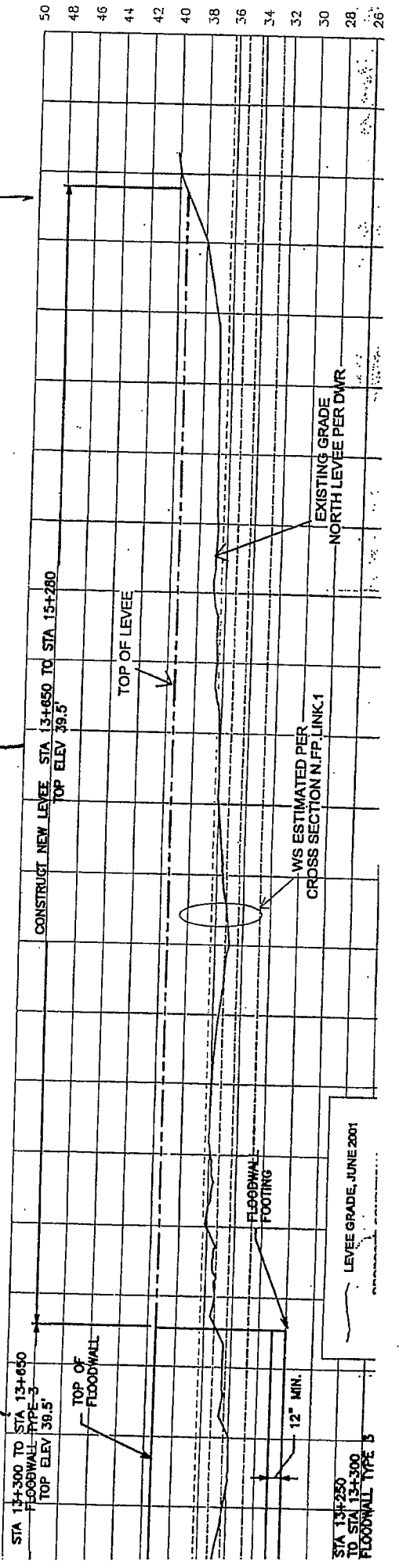
RIVERWOOD

→ flood
walls

SPRANZA

TOWLE

PLAN



CONSTRUCT NEW LEVEE STA 13+650 TO STA 15+280
TOP ELEV 39.5

TOP OF LEVEE

WS ESTIMATED PER
CROSS SECTION N.F.P. LINK 1

EXISTING GRADE
NORTH LEVEE PER DWR

STA 13+300 TO STA 13+650
FLOODWALL TYPE 3
TOP ELEV 39.5

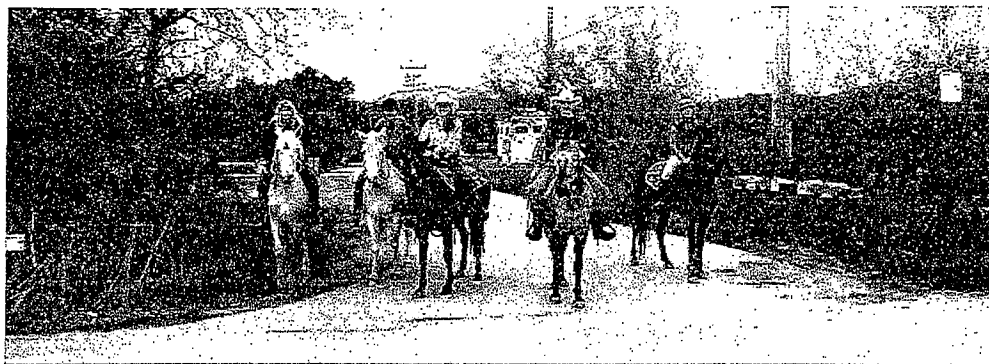
TOP OF
FLOODWALL

FLOODWALL
FOOTING

12" MIN.

LEVEE GRADE, JUNE 2001

STA 13+250
TO STA 13+300
FLOODWALL TYPE 5



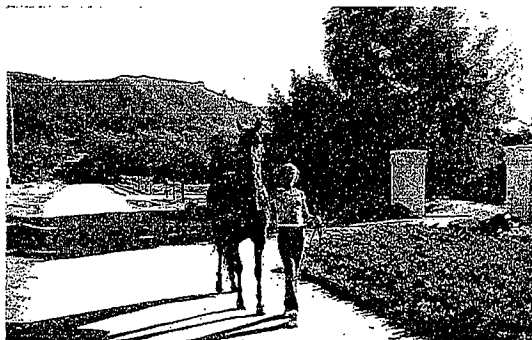
VAL VERDE DRIVE AND RIO ROAD

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 FAMLIES 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



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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

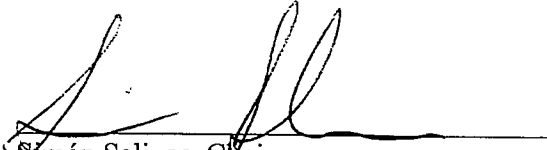
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, 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 14th 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 25th day of January, 2011, by the following vote, to-wit:

AYES: Supervisors

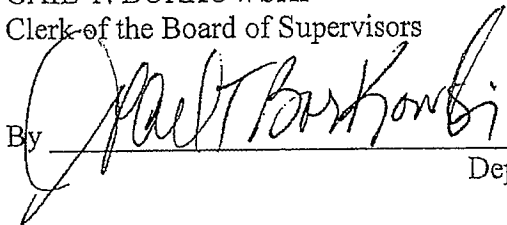
NOES:

ABSENT:

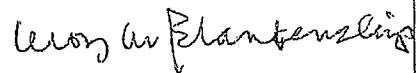


Jane Parker
Chair, Monterey County Board of
Supervisors

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

By  Deputy

APPROVED AS TO FORM:



LEROY W. BLANKENSHIP
Assistant County Counsel

EXHIBIT F



Hydrogeologic Consulting & Water Resource Management
Office: (831-869-8888) 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, 2nd 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 29th, 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; (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 Report¹, Report Addendum², and Bierman Hydro-Geo-Logic Responses^{3,4} 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.

¹ 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.

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

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

⁴ 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 MPWMD⁵
- 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 Report⁶ and Response⁷, 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 Report⁸ and Response⁹, 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 Report¹⁰ and above Response for Policy #: PS-3.1, PS-3.2.

⁵ MPWMD E-Mail dated January 10, 2011.

⁶ 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.

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

⁸ 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.

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

¹⁰ 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:

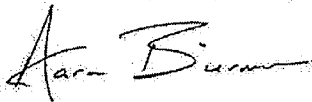
- <http://www.armtec.com/en-ca/products-and-services/drainage-solutions-and-water-treatment.aspx>
- <http://www.rainharvest.com/stormwater-management.asp>
- <http://www.xerxes.com/>
- <http://www.darcoinc.com/poly-specifications.html>
- <http://www.brentwoodindustries.com/water/stormtank.html>
- <http://www.tritonsws.com/>

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

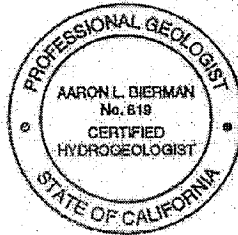
- Rainwater Catchment Design and Installation Standards, adopted by American Rainwater Catchment Systems Association (ARSCA) and American Society of Plumbing Engineers (ASPE).
- ARMTEC Stormwater Treatment, Detention, Infiltration Brouchure

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: 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

For the Record 7

~~392~~ 400 plus

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

We, the undersigned, strongly support the Planning Department's finding that the project called Carmel Rio Road LLC* is inconsistent with the 2010 General Plan.

Two major inconsistencies: access and water. The project is on a private road and if built the required extra road maintenance will place an undue financial burden on the Val Verde Drive Owners and destroy the rural character of the neighborhood.

The project does not have a proven, long term sustainable water supply. We feel that supplying water to 42 units could dry up critical wells in the area and wells at Riverwood and Arroyo Camel.

The project will add to the traffic overload on Highway One and make it ever harder to get to CHOMP in emergencies. We ask that you support the Planning Department and deny this project.

Print Name

Signature

Margaret Robbins Margaret Robbins

Barbara Grace Barbara Grace

George Whistler George Whistler

Kwesi Crader Kwesi Crader

UTE PANDER Ute Pander

Kathryn Rayne Kathryn Rayne

CLIVE H. RAYNE Clive H. Rayne

JOANMARIE VON RICHTHOFFEN Joanmarie von Richthofen

David Hendrick David R. Hendrick

Joan Hendrick Joan Hendrick

Martezza MARTEZAI Martezza Martezai

MARION BESMEHN Marion Besmehn

Charles Besmehn Charles Besmehn

Roy Kominske Roy Kominske

* aka the Val Verde Drive 42 unit subdivision

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The project does not have a proven, long term and sustainable source of water as required by our General Plan. Adjoining neighbors worry that supplying water to 42 units for 365 days a year could make their own wells run dry.

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Print Name

Signature

<u>ELIZABETH PLAXTON BROWN</u>	<u>Elizabeth Plaxton Brown</u>
* <u>Chuck Winge</u>	<u>Chuck Winge</u>
* <u>Lois Winge</u>	<u>Lois Winge</u>
<u>Sam Binkor</u>	<u>SAM BINKOR</u>
<u>Dorothy Jones</u>	<u>Dorothy Jones</u>
<u>Mary L. Olsen</u>	<u>MLO</u>
<u>Betty J Clark</u>	<u>BETTY J CLARK</u>
<u>Melvin Loop</u>	<u>Melvin Loop</u>
<u>ROBERT PALMER</u>	<u>Robert Palmer</u>
<u>Wendy Williamson</u>	<u>Wendy Williamson</u>
<u>James R. Jones</u>	<u>James R. Jones</u>
* <u>Billy Bergerac</u>	<u>Billy Bergerac</u>

Please collect signatures, and mail petition(s) to
Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

* Please call North

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Print Name

Signature

JACKLYN FINLEY

Jacklyn Finley

M LEWIS GARING

M Lewis Garing

CYNTHIA F RINK

Cynthia F Rink

* William Errico

William Errico

* Lorella Errico

Lorella Errico

* Bejan Fozzenmayer

Bejan Fozzenmayer

* Cheryl Mueller

Cheryl Mueller

* Joan Crenshaw

Joan Crenshaw

KATHLEEN KNIGHT

Kathleen Knight

William E. McDermott

W E McDermott

Paul L. Spjut

Paul L Spjut

* HALINA A. SZMIT

Halina A. Szmit

* Helen Rhy

Helen Rhy

* Doreen Rhy

Doreen Rhy

* aka the Val Verde Drive 42 unit subdivision

* Per phone call 11/1/11

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Print Name

Signature

MAXINE KENT CALLINAN	<i>Maxine Kent Callinan</i>
JOAN P. LAWSON	<i>Joan P Lawson</i>
SUSAN DUCOEUR	<i>Susan DuCoeur</i>
<i>Elaine Rankin</i>	<i>Elaine Rankin</i>
NANCY L. JOHNSON	<i>Nancy L. Johnson</i>
CYNTHIA NOWLAN	<i>C Nowlan</i>
<i>Fluorvontaten</i>	<i>Fluorvontaten</i>
<i>Janet Fluhr</i>	<i>Janet Fluhr</i>
<i>Donna Kneeland</i>	<i>DONNA KNEELAND</i>
<i>MS MacClelland</i>	<i>M McClelland</i>
<i>Victoria McMillan</i>	<i>Victor Mcmillan</i>
<i>Marcus McMillan</i>	<i>Marcus a. McMillan</i>

Please collect signatures, and mail petition(s) to
Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

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Print Name

Signature

Renee Sanders

Renee Sanders

MARILYN G SANDERS

Marilyn G Sanders

JAMES V. SANDERS

JV Sanders

Janet Brennan

Janet B

Lessie Hodgkin

Lessie Hodgkin

BUD STOKANSEN

Bud Stokansen

Frederica Nichols

Frederica Nichols

Joyce Stevens

Joyce Stevens

SANDRA SCHACHTER

Sandra Schachter

DAVID BURBRIDGE

D Burbridge

* Antonia Tremaroli

Antonia Tremaroli

* Victoria Hogan

Victoria Hogan

Please collect signatures, and mail petition(s) to
Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

* phone call w/s

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<u>Print Name</u>	<u>Signature</u>
ANDREW ALLISON	<i>[Signature]</i>
ELENA ALLISON	<i>[Signature]</i>
DIANA NICHOLS	<i>[Signature]</i>
LINDA PEPPE	<i>[Signature]</i>
SANDRA THUST	<i>[Signature]</i>
KAREN KING	<i>[Signature]</i>
JAMES GUSTAFSON	<i>[Signature]</i>
TERESA SORMAN	<i>[Signature]</i>
<i>[Signature]</i>	<i>[Signature]</i>
* MORRIS CLELAND	<i>[Signature]</i>
Dwight Beach	<i>[Signature]</i>
Caterine Beach	<i>[Signature]</i>

Please collect signatures, and mail petition(s) to Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923. **BY NOVEMBER 5!**

* BUS PROCEED

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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Print Name

Signature

Eleanor Avila	<i>Eleanor Avila</i>
Lynette Culbert	<i>Lynette Culbert</i>
Barbara Kinney	<i>Barbara Kinney</i>
Wendy Swanson	<i>Wendy Swanson</i>
Joyce OLCESE	<i>Joyce Olcese</i>
Peggy Griest	<i>Peggy Griest</i>
Mary R Gale	<i>Mary R Gale</i>
OLIVIA C. BIGELOW	<i>Olivia C. Bigelow</i>
MARGARET LENCH	<i>Margaret Lench</i>
* Yedart Cuhaciyon	<i>Yedart Cuhaciyon</i>
* Don Miraco	<i>Don Miraco</i>
* Candi Bach Phillips	<i>Candi Bach Phillips</i>

Please collect signatures, and mail petition(s) to Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

* Share com 4/5

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Print Name

Signature

DR. MEL SPEHN

Mel Spehn

WILLIAM GIVEN

William Given

JOH, RAN

[Signature]

SOH, Andrew

Andrew B. Soh

John Walton

John Walton

TODD NORGGAARD

Todd Norggaard

* James Cheng

James Cheng

* Grace Cheng

Grace Cheng

* Linda Norggaard

Linda Norggaard

* Sylvette Bourd

Sylvette Bourd

NATALIE KEELER

Natalie S. Keeler

* Falsia Morozov

Falsia Morozov

Please collect signatures, and mail petition(s) to
Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

* Andrew Chen Nov 5

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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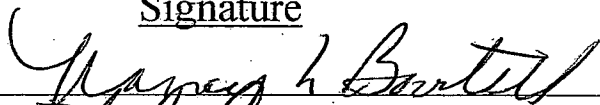
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Print Name

Signature

Nancy Bartel



NEIL AGRON

Neil Agron

B. Tripp

B. Tripp

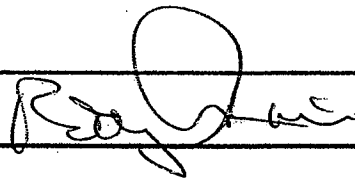
Joyce Stevens

Joyce Stevens

Print Name

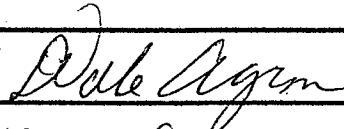
Signature

Richard Dauphine MD

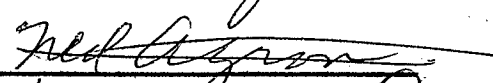


State way Carmel

Dale Agron



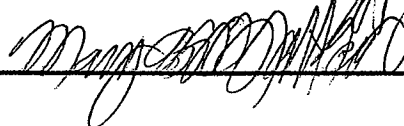
Neil Agron



Nicole Nedeff



Mary Ann Matthews



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PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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Two major inconsistencies exist: access and water. The project is on a private road and, if built, the required extra road maintenance will place an undue financial burden on the Val Verde Drive owners. This dense project will destroy the rural character of the neighborhood.

The project does not have a proven, long term and sustainable source of water as required by our General Plan. Adjoining neighbors worry that supplying water to 42 units for 365 days a year could make their own wells run dry.

The project will add to the traffic overload on Highway One and make it even harder for people from all areas of the Valley to get to CHOMP in emergencies. We ask that you support the Planning Department and deny this project.

Print Name

Signature

RODGER LANGLAND	Rodger Langland
Janet Langland	Janet Langland
JOHN BERNARDI	John Bernardi
Patricia C. Bernardi	Patricia C. Bernardi
JAMES E JACKSON	James E Jackson
PATRICIA R. JACKSON	Patricia R Jackson
Michael Robbins	Michael Robbins
* JOANNE Robbins	Joanne Robbins
* Gloria Anello	Gloria Anello
<hr/>	
STANLEY NELSON FRENCH, JR.	Stanley Nelson French, Jr.
* Jim Russo	Jim Russo
* Angela Russo	Angela Russo

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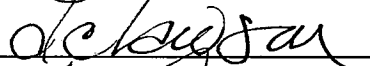
DORIS FABRE



HUBERT FABRE



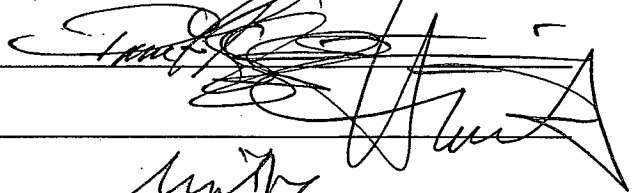
Donna Lawson



SCOT GELSY



PAUL F. KOTRODIMOS



LYNNE ANDERSON

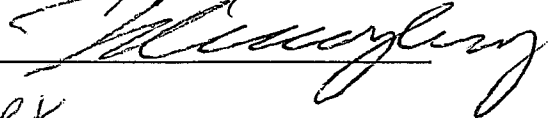
RICH FOX



Elizabeth Turner Fox



FRANK HENNESSY



JOHN CLARK JORIE CLARK

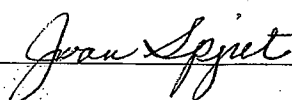
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Signature

BRIAN MACDONALD



Joan Spjut



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Print Name

Signature

Ber Krups

Ber Krups

EDWARD L. KRUPS

Edward L. Krups

CATHRYN CRAVITTE

Cathryn Cravitte

Mary Ellen Okeberry

MARY ELLEN OKEBERRY

Catherine von Schwind

Catherine von Schwind

DAVID B WOODHURST

David B Woodhurst

IAN ROISTRICK

Ian Roistrick

Jenny Cattanach

Jenny Cattanach

CHRIS SAWYER

Chris Sawyer

GARY LOGAN

Gary Logan

JIM WOOD

Jim Wood

KARL SCHAEFER

KARL SCHAEFER

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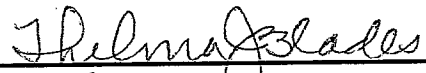
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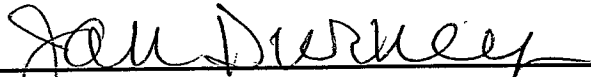
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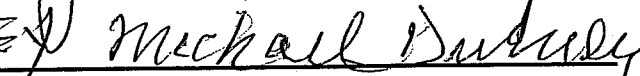
Print Name **Signature**

Jonathan Blades 

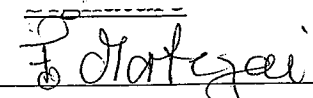
Thelma J. Blades 

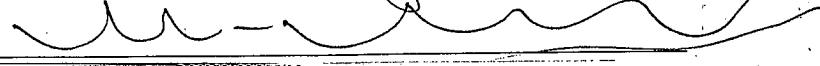
* Charles Chang 

Jan Durney 

MICHAEL DURNAY 

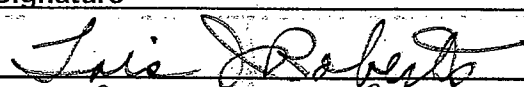
* Debra Robinson 

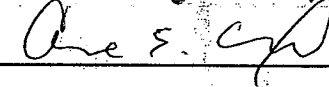
Fausia Mortezaei 

Morteza MORTAZAI 

BOB DANZER 

Aileen Dolittle 

Lois J. Roberts 

Anne Crawford 

* per MS phone call

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Print Name

Signature

CATHERINE M. WILSON	Catherine M. Wilson
SHERMAN & SUSAN WU	Sherman & Susan Wu
Betty Bischoff #15	Betty Bischoff
SALLIE ARMSTRONG #19	Sallie ARMSTRONG
IRINA FURATTINI #20	Irina Furattini
Jaimee Salyers	Jaimee Salyers
DONALD E MURRELL	Donald E Murrell
Catherine Murrell	Catherine Murrell
Calvin Wilkes	Calvin Wilkes
BARBARA KEVEGER	Barbara Keveger
Amy Drobner	Amy Drobner
Lennie Rodriguez	Lennie Rodriguez
Benedikte Milling	Benedikte Milling
Nik Myers	Nik Myers

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JAMES S. CHINN #59	James S. Chinn
EVELYN E. CHINN #59	Evelyn E. Chinn
ARLENE LUCIER #63	Arlene Lucier
MARY CHOWCHAK #55	Mary Chouhak
Chris Kretzmer #76	Chris Kretzmer
TANIA DRAKE #69	Tania Drake
Jane Dausby #74	Jane Dausby
Daniel Oflor #69	Daniel Oflor
ROBERT DRAKE #69	Robert Drake
BARBARA BARBARA KISKADDEN #67	Barbara Kiskadden
ROBERT BECHTEL #67	Bechtel
Jayne Bechtel #67	Bechtel
Robert F. Luster	Robert F. Luster
W KORVER	W Korver

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Kimberly Gregory

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Stacey Supich

Stacey Supich

Ingrid L. Sotooddy

Ingrid L. Sotooddy

Richard Burkhardt

Richard Burkhardt

Susan Phillips

Susan Phillips

MARTI McKim

Marti McKim

Print Name

Signature

Robert Steinberg

Robert Steinberg

William M. Crawford

William M. Crawford

Kimberly M Crawford

Kimberly M Crawford

Janet Steinberg

Janet Steinberg

* Vicki Pauloff

* Laura Kiehl

* Horvath

* phone #/4

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<i>Myra Hampton</i>	<i>Myra Hampton</i>
<i>Siena Hampton Eng</i>	<i>Siena Hampton-Eng</i>
<i>Brian Wark</i>	<i>Brian Wark</i>
<i>Michael Bayne</i>	<i>Michael Bayne</i>
<i>Mark Bayne</i>	<i>Mark Bayne</i>
<i>Tracie J Goodwin Bayne</i>	<i>Tracie J Bayne</i>
<i>Wendy & Loren</i>	<i>Wendy Loren</i>
<i>Cindi Phillips</i>	<i>Cindi Phillips</i>
<i>Vicki Pool</i>	<i>Vicki Pool</i>
x <i>Bonnie Winestue</i>	<i>Bonnie Winestue</i>
x <i>Jan Moore</i>	<i>Jan Moore</i>
x <i>Barbara Weine</i>	<i>B Weine</i>
x <i>Barbara Weine</i>	

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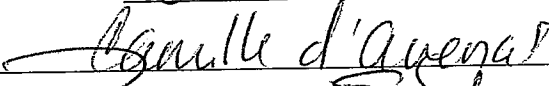


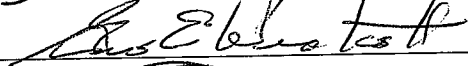
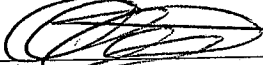
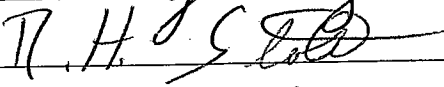
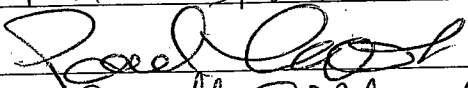

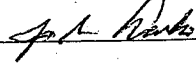
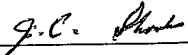
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Camille d'Avenas	
Dain M. Smit	
GLORIA J. WESTCOTT	
GEORGE E. WESTCOTT	
ALAN F. SIEGRIST	
BETTY SIEGRIST	Betty Siegrist
Richard STOTT	
Teri L. Stott	Teri L. Stott
P. Lukacs	
Annette S. Mezzatesta	Annette S. Mezzatesta
Aviala Fields	
Alyson Kuhn	Alyson Kuhn
Jim Simon	
Loez Simon	

* aka the Val Verde Drive 42 unit subdivision

Nov 8

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Jon Stueffoten
VINCENTA LAUTER JR.

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Vincenta Lauter Jr.
Kenneth Anderson
Terry O'Connell
Joseph Crescente
~~Ken Anderson~~

Kenneth Anderson
Terry O'Connell
Joseph Crescente
~~Ken Anderson~~

KAN CABRIETO
RONALD FREDRICKSON
Steve Savio

Kan Cabrieto
Ronald Fredrickson
Steve Savio

Pat KRAFT
Karin Casey 81
Robert Grow 81

Pat Kraft
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Aaron Wiggins
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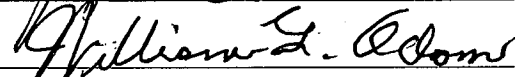
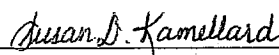
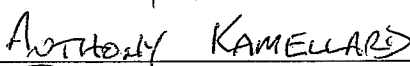
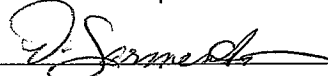
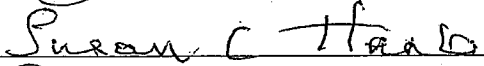
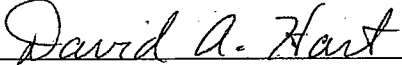
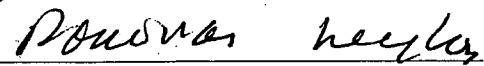
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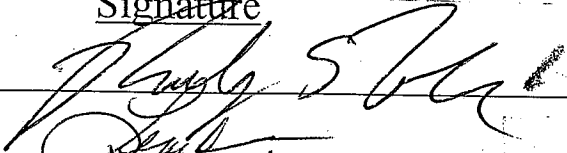
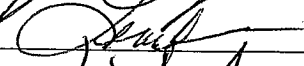
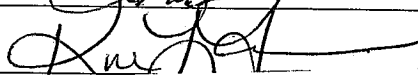
Print Name

Signature

Joyce Odom	
William G. Odoms	
Susan Kamellard	
Anthony Kamellard	
V. Sarmiento	
Susan C Hart	
DAVID A. HART	
*Dorothy Layton	



Print Name

Signature

Bradley S. Towle	
LEANNA M. TOWLE	
KRISTA L. TOWLE	

Print Name

Signature

JANET WILLIAMS	
Jess E. Arias	

* known as

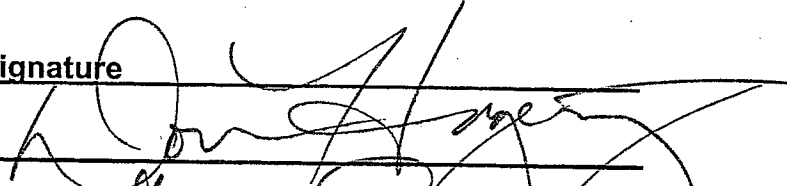
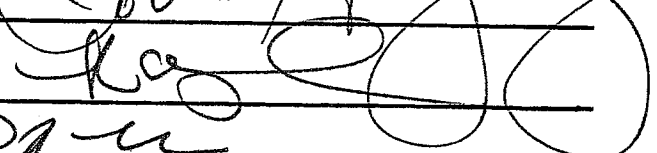

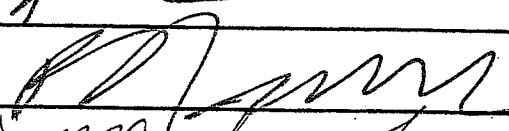
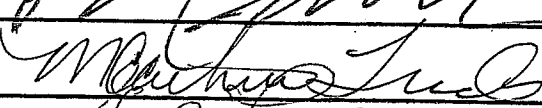
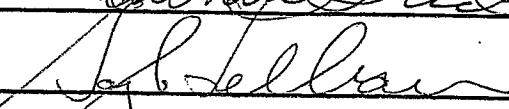
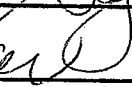
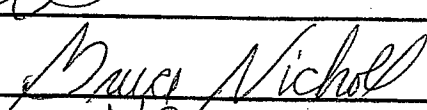
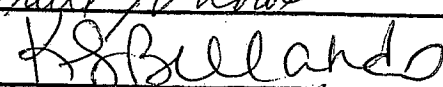
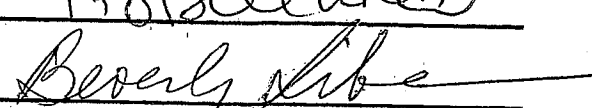
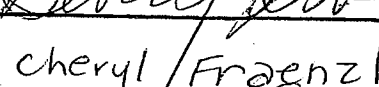
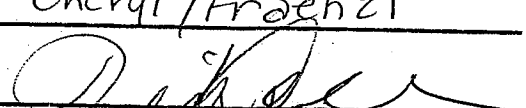
PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

We, the undersigned, members Save Our Carmel Neighborhoods Coalition support our neighbors in Carmel Valley to help them prevent an unwanted subdivision at the mouth of Carmel Valley. **We urge you to deny the proposed subdivision project on Val Verde Drive.**

Officially known as Carmel Rio Road LLC, with 42 units located on Val Verde Drive – a private road -- the project has been found by the Planning Department to be **inconsistent with the 2010 General Plan. We strongly support this finding.**

The inconsistencies include lack of a long term proved and sustainable source of water, and lack of vehicle access because the project is on a private road.

Our major additional concern is the amount of traffic the project would generate. According to our analysis, the traffic it would produce on Highway One would greatly exceed (by a factor of as much as 2.5 at the Highway 1 bottleneck) that which Villas de Carmelo would have produced. **Even on that single fact alone, the Val Verde Drive project (Carmel Rio Road LLC) should be denied.**

Print Name	Signature
DONNA HAGERTY	
Ruth Deardes	
Regina T LaCrosse	
Pats Newman	
M Catherine Tirado	
Gyle Felban	
Ilann Rasmussen	
Bruce Nicholl	
KRISTIN Bellando	
BEVERLY SILVERMAN	
Cheryl Fraenzl	
RICK CANNON	

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<u>Print Name</u>	<u>Signature</u>
Sherry Angell	Sherry Angell

Taichi Paik	Taichi Paik
Brian Poma	Brian Poma

<u>Print Name</u>	<u>Signature</u>
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Michael Hagerly	[Signature]
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Tracy Kauffman	Tracy Kauffman
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PATRICIA KAUFFMAN	Patricia Kauffman
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Dylan G. Wolcott	[Signature]
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Carmel, CA 93922-1001
SOCNCWatch@aol.com



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Print Name

Signature

Bonnie B. Gillooly

Bonnie B. Gillooly

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

We, who live and work in Carmel Valley, strongly support the Planning Department's finding that the project officially known as Carmel Rio Road LLC is inconsistent with the 2010 General Plan.

Two major inconsistencies exist: access and water. The project is on a private road and, if built, the required extra road maintenance will place an undue financial burden on the Val Verde Drive owners. This dense project will destroy the rural character of the neighborhood.

The project does not have a proven, long term and sustainable source of water as required by our General Plan. Adjoining neighbors worry that supplying water to 42 units for 365 days a year could make their own wells run dry.

The project will add to the traffic overload on Highway One and make it even harder for people from all areas of the Valley to get to CHOMP in emergencies. We ask that you support the Planning Department and deny this project.

Print Name

Signature

Merry E. Nolte

Merry Nolte

Glenn A. Nolte

Glenn A. Nolte

Gale R. F. Barish

Gale R. Barish

ANNE DEWEES

Anne Dewees

KENNETH OLSON

Kenneth Olson

* Jack Hall

Jack Hall

Please collect signatures, and mail petition(s) to
Margaret Robbins, 3850 Rio Road, #26, Carmel, CA 93923

BY NOVEMBER 5!

*Phone call 4/7

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

We, the undersigned, strongly support the Planning Department's finding that the project called Carmel Rio Road LLC* is inconsistent with the 2010 General Plan.


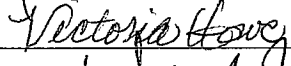
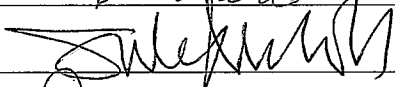
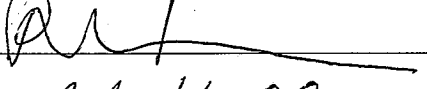
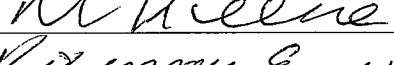
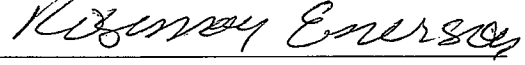
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The project will add to the traffic overload on Highway One and make it ever harder to get to CHOMP in emergencies. We ask that you support the Planning Department and deny this project.

Print Name

Signature

DEEANNE HOWE	
Victoria Howe	
Sula Nichols	
TOM MCDADE	
Maxine Keene	
Rosemary Emerson	

* aka the Val Verde Drive 42 unit subdivision

Due - Noon Tues NOV 8

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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Print Name

Signature

Howard Keen

Howard Klein

26025 Rotunda Drive Carmel, CA 93923

Sylvette Baird

26110 Rio Vista Dr
Carmel, CA 93923

Sylvette Baird

* Mary Klein barat

Katherine Edison

Maria Rosas

Tim Miller

Lida Miller

Kymie Cook

Delores Miranda

Grace Koehorst

Jesus Quinones

* aka the Val Verde Drive 42 unit subdivision

* Per phone call from Mrs Kleinbarat
11/8

10/29/0
Tue - Noon Tues Nov 8

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Print Name

Signature

Katherine H. Curless

Katherine H. Curless

25865 Rio Vista Dr., Carmel, CA.

~~Maryruth Wilde~~ MARYRUTH WILDE

Maryruth Wilde

25490 CANADA DRIVE Carmel, CA 93923

Larry Wilde LARRY WILDE

25490 Canada Drive Carmel, CA 93923

JACQUES MEYER

Jacques Meyer

25375 Arriada DEL MUNDO
CARMEL CA 93923

Barbara D. Hylton 4300 Tolando Tr Carmel 93923 .BARBARA D. HYLTON

Robert R. Hylton 4300 Tolando Trl, Carmel 93923 Robert R. Hylton

Samuel R. Curless, 25865 Rio Vista, CA 93923 S R Curless

Alton L. Lewis

25910 Rio Vista Dr. Alton Lewis

Jeanie Lewis

25910 Rio Vista Dr. Jeanie Lewis

Karen Keen - 26065 Botunda Dr. Karen Keen

* aka the Val Verde Drive 42 unit subdivision

TODAY

Nov 7/12

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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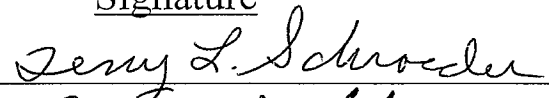
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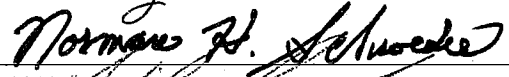
Print Name

Signature

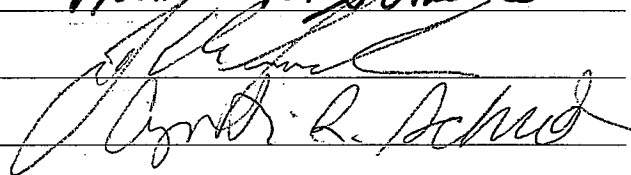
Terry L. Schroeder



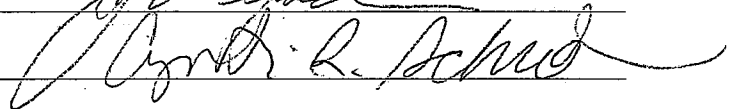
NORMAN H. SCHRÖEDER



JON M. SMOCK



Cynthia R. Schroeder



Blank lines for additional signatures.

* aka the Val Verde Drive 42 unit subdivision

Margaret Robbins, 3850 Rio Road #26, Carmel, CA 93923

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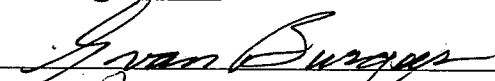
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EVAN BURGESS



KAREN FERLITO



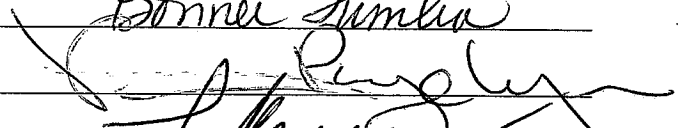
Robbin Clarke



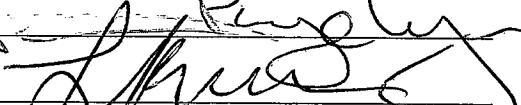
BANNER TUMLIN



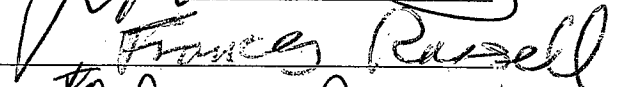
Victoria Page Lyons



Lilly Keene



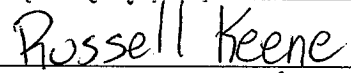
Frances Russell



Regina Russell



Russell Keene



Alice Russell



* aka the Val Verde Drive 42 unit subdivision

#7

PETITION TO DENY 42 UNITS ON VAL VERDE DRIVE

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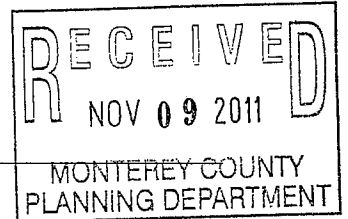
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Print Name

Signature



* aka the Val Verde Drive 42 unit subdivision

LandWatch monterey county

Post Office Box 1876
Salinas, CA 93902-1876
831-759-2824

Website: www.landwatch.org

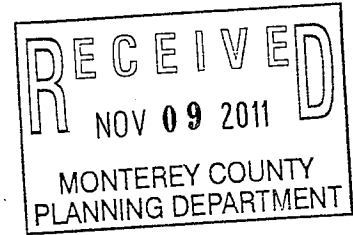
Email: landwatch@mchw.org

Fax: 831-759-2825



November 8, 2011

Paul Getzelman, Chair
Monterey County Planning Commission
168 West Alisal, 2nd Floor
Salinas, CA 93901



#7

Subject: Appeal of Val Verde Subdivision

Dear Chair Getzelman and Members of the Planning Commission:

LandWatch Monterey County supports staff's finding that the Combined Development Permit application is inconsistent with the 2010 General Plan. The proposed 42-unit subdivision is proposed on 7.92 acres with access from a private road. The project does not have proof of access, a demonstrated long term sustainable water supply, or water reclamation or conservation components required by General Plan Policy CV-5.4. Additionally, the project could potentially exceed the cap of 266 new units provided for in General Plan Policy CV-1.6.

Ordinance No. 5171 established a process for determining General Plan consistency. If county staff finds that a proposed project is inconsistent with the General Plan, the applicant has the opportunity to revise their proposal to attain consistency. Failure to submit a revised project within the allotted time would result in the application being denied.

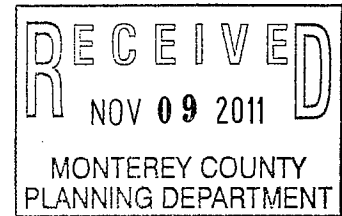
Based on Ordinance No. 5171, we urge the Commission to uphold staff's recommendation and find the Val Verde Subdivision inconsistent with the 2010 General Plan.

Sincerely,

Amy L. White
Executive Director

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org

#7



Planning Commissioners
168 W Alisal, 2nd Floor
Salinas, CA 93901

November 9, 2011

RE: GPZ090004
Carmel Rio Road, LLC

Dear Commissioners,

The Carmel Valley Association, representing nearly 10% of the voters of the Carmel Valley, is strongly opposed to this proposal for a 42-unit development on Val Verde, a private road, near the mouth of the Carmel Valley.

Staff has done an excellent job pointing out the many deficient areas of this proposed project: inconsistency with the General Plan, lack of proof of access, lack of long term water supply, well problems, lack of plan for water conservation or reclamation, traffic and road impacts to those living along the private road, lack on consensus with neighbors concerning the road and impacts to it.

The 95-10 Cease and Desist Order from the State of California, a very real and imminent threat to our water supply, alone, should be enough to deny this project. Why is it not mentioned anywhere is a mystery to me.

A 266-unit cap on new building over and above the existing 475 lots of record within the Carmel Valley Master Plan, was a figure arrived at during the General Plan 2010 process. Other projects which had completed applications prior to the Val Verde project's completed application, if approved, will use up all of those units.

It couldn't be more clear. This project is not consistent with the recently adopted General Plan, as multiple deficiencies, and therefore must be denied.

We respectfully ask that you deny this project and advise the applicant to accept the existing zoning and work with its parameters. *1 unit per acre,*

Sincerely,

Christine

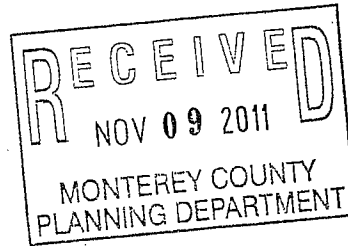
Christine Williams, President

"To preserve, protect and defend the natural beauty and resources of Carmel Valley"

Carmel Valley Association

P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org

#7



November 9, 2011

Mr. Mike Novo and Mr. Bob Schubert
Monterey Planning Commission
68 W. Alisal St., 2nd floor
Salinas, CA 93901

RE: GPZ090004, "Val Verde Subdivision," at 26500 Val Verde Drive, Carmel Valley

Dear Messrs. Novo and Schubert, and Members of the Planning Commission:

The Carmel Valley Association Water Committee agrees with the staff recommendation that the proposed subdivision is inconsistent with the 2010 General Plan.

In addition we believe that the project cannot be made to comply with the General Plan Policies #: CV-5.3 and #: CV-5.4 through on-site mitigation. As an alternative, the applicant could be required to pay mitigation fees to support an appropriate off-site water supply development project.

We believe the water management measures as proposed are totally inadequate, especially at this time of future water insecurity. We are living under the 95-10 Cease and Desist Order from the State of California, which is not mentioned. This is a critical part of any decision to be made on new development.

Specifically, we do not understand the logic underlying statements in the Bierman Hydro-geo-logic letter of October 24, 2011 (Exhibit F) regarding:

Policy #: CV-5.3: Limit Development to Vacant Lots of Record:

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

and,

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 Bierman letter states,

"The additional water supplies identified for this project are; 1) A comprehensive rain water harvesting, conveyance, and storage system and 2) An on-site 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."

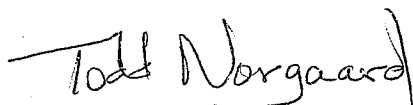
We expect that there is very little storm water runoff from the property as it now stands, and would expect that any increase in runoff from the development of seven units could be easily mitigated through proper grading. Expansion to 42 units would clearly result in a substantial increase in runoff, which the applicant proposes to mitigate with "water harvesting" measures such as oil/water separators, infiltration basins, etc.

But there is no "new source production" or "additional water supplies" created by this mitigation, as required by Policies CV-5.3 and CV-5.4.

Similarly, since wastewater entering the Carmel sewerage system is effectively treated and recycled already, and transported to Pebble Beach, **so there is no additional water generated by installing gray-water recycling systems,** as proposed.

Accordingly, we believe that the only mitigation step that can be taken to produce "additional water" would have to take place off site. Such an arrangement could involve paying fees to fund future desalination facilities, or fees to improve the transfer of water from the Carmel River during high flows for expanding ASR capacity (e.g. more pumps, bigger pipes).

With best regards,



Todd Norgaard, John Walton, Roger Dolan
CVA Water Committee

Val Verde Subdivision – Chronology

September 3, 2009 – Application submitted.

September 17, 2009 – Application deemed incomplete.

August 9, 2010 – At the request of applicant, Environmental Health Bureau deemed application complete with a recommendation of denial.

February 28, 2011 – Letter to applicant:

- Application deemed complete as of **December 9, 2010** which is 30 days from November 9, 2010 which is the date the applicant submitted the last of the materials requested on the checklist.
- For purposes of environmental review, the project description was not finalized until **February 4, 2011** which is when the applicant identified the proposed mix of affordable units.
- Applicant advised that 1) based on staff's preliminary analysis, project is inconsistent with General Plan; 2) additional information (traffic, drainage, hydrologic) is needed to complete environmental review of the project; and 3) options include: i) withdraw application, ii) request staff to complete General Plan consistency analysis, or iii) request staff to proceed with environmental review.

March 8, 2011 – In an e-mail message, the applicant requested staff to complete a GP consistency analysis.

July 5, 2011 – Letter to applicant:

- Contained staff's GP Consistency analysis which concluded that the project is inconsistent with several GP policies.
- Applicant advised that options for processing the application include: 1) appeal staff's General Plan consistency analysis to the Planning Commission as set forth in the Interim Ordinance, or 2) accept staff's GP consistency analysis and request staff to proceed with environmental review.
- Applicant was reminded that additional information (traffic, drainage, hydrologic) was still needed in order to proceed with environmental review.

July 6, 2011 – Applicant sent series of e-mails disputing staff's GP consistency analysis and contending that the project is consistent with all applicable GP policies.

August 31, 2011 - Staff met with applicant to review staff's GP consistency analysis. Staff agreed to revise the analysis based on information the applicant submitted at the meeting.

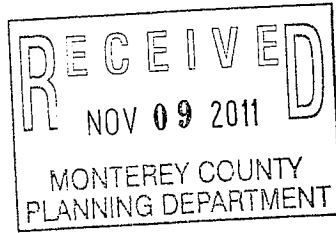
September 29, 2011 – Letter to applicant:

- Contained staff's revised GP consistency analysis as a follow-up to meeting on August 31, 2011 which concluded that the project was inconsistent with several GP policies.

- Advised applicant that project has been tentatively scheduled for the Planning Commission meeting on **November 9, 2011** to consider staff's GP consistency analysis as set forth in the Interim Ordinance and to consider denial of the project.

Neumeier Poma Investment Counsel LLC

Peter L. Neumeier, C.F.A.
Brian D. Poma, C.F.A.



November 7, 2011

Planning Commission
Monterey County

RE: Val Verde Carmel Project (Carmel Rio Road LLC application)

I am writing to express my **opposition** to the proposed Val Verde housing project. I'm a long time business owner with offices located on Carmel Rancho Blvd., adjacent to the proposed project. Over the 25 years we have worked in this location, my staff and I have witnessed increasingly crowded traffic conditions in the Carmel Rancho area, as development has been approved without the road infrastructure needed to cope with it. The entire business area cannot tolerate an additional 400 car trips per day that are estimated to be added by this development. As it stands now, the area's roads quickly end up in gridlock when we have a busy summer weekend or one of the many "special events" that clog Carmel Valley Road. I believe adding to this traffic mess will negatively affect the many small businesses at the mouth of the Valley, and will also create potential problems for any emergency evacuation needs.

The potential for increased flooding during heavy rains is also a major concern. As all the people who work in the area can attest, periods of heavy rain cause regular flooding of areas of Carmel Rancho Blvd., including major parts of the parking lots serving the offices and retail businesses along Carmel Rancho Blvd. The rain that now is soaked up by the farm fields now on the Val Verde site would presumably run off the roofs and streets of the project to be piped into the drainage infrastructure under Carmel Rancho Blvd.--which is already insufficient. In an extended flooding period, this additional water could cause the current street flooding to extend to the steps or even inside some of the ground level businesses in the area. Many clients and customers of the shops and offices would be unable to access the businesses, possibly for days.

I urge the Planning Commission to deny this project application.

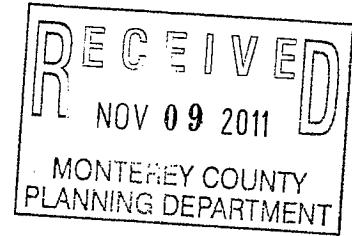
Thank you,

Peter L. Neumeier
Neumeier Poma Investment Counsel
26435 Carmel Rancho Blvd.
Carmel, Ca. 93923

#7

11/9/11

Brian Clark
Val Verde Drive, Carmel – Minor Sub-division Application



15084. PREPARING THE DRAFT EIR

(c) Any person, including the applicant, may submit information or comments to the Lead Agency to assist in the preparation of the draft EIR. The submittal may be presented in any format, including the form of a draft EIR. The Lead Agency must consider all information and comments received. The information or comments may be included in the draft EIR in whole or in part.

(e) Before using a draft prepared by another person, the Lead Agency shall subject the draft to the agency's own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgment of the Lead Agency. The Lead Agency is responsible for the adequacy and objectivity of the draft EIR.

EIR TIME LIMIT: Lead agency has one year to complete a certified EIR – EIR must be completed within one year period (Pub Res Code section 21151.5(a)(1)(A). One year anniversary is the date of application accepted as complete.

Application was complete on Dec. 9, 2010 therefore the certified EIR is due Dec., 9, 2011.

The DEIR (three volumes) submittal meets all applicable CEQA requirements in both form and content. It was prepared using several Tier 1 EIRs (primarily GPU5) and the project specific CEQA responses from 11 consulting and engineering companies.

Please accept this DEIR and we look forward to moving forward with the internal or external peer review process.

Regards,

Brian Clark

Brian Clark

7

SUSTAINABLE CARMEL VALLEY
11 Via Las Encinas, Carmel Valley, CA 93924
831-659-1115

November 1, 2011

Paul Getzelman, Chair
Monterey County Planning Commission
168 West Alisal, 2nd Floor
Salinas, CA 93901

RE: Carmel Rio Road LLC

Dear Chair Getzelman and Members of the Commission:

Sustainable Carmel Valley, a loosely knit organization of about 200 Carmel Valley residents, is committed to supporting projects and ways of living that, while enhancing our quality of life, can be maintained throughout the years without depleting our resources.

We support the Planning Department's finding that the 42 unit subdivision on Val Verde Drive, a private road, is inconsistent with the 2010 General Plan.

The project does not have the support of neighbors on the private road leading to the property. On a private road a project proposal should have the approval of the residents along the road before any other plans are made.

In addition, there is no long-term sustainable source of water for this project.

For these reasons we oppose the project and support the finding of the Planning Department. Please vote to deny the project.

Sincerely,

Mibs McCarthy

#7

*Carmel Valley Women's Network
8250 El Camino Estrada
Carmel Valley, CA 93923*

November 1, 2011

Monterey County Planning Commission
Paul Getzelman, Chair
168 W. Alisal Street
Salinas, CA 93901

SUBJECT: Val Verde Drive Subdivision

Chair Getzelman and Commissioners:

The members of Carmel Valley Women's Network meet monthly to discuss events and policies affecting life in the valley. We are particularly concerned with health and safety issues.

We strongly oppose the Val Verde Drive subdivision. Traffic at the mouth of the valley is already often clogged during the day. We are especially concerned about our ability to quickly and safely reach our nearest medical facility, Community Hospital of the Monterey Peninsula. With added housing on Val Verde Drive, and added traffic, ambulances would have difficulty reaching CHOMP and first responders would not be able to respond quickly to emergencies.

Please deny approval of this project.

Sincerely,

Darby Moss Worth

#7

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.

11/01/2011

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.

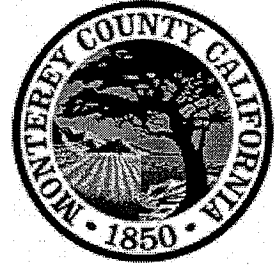
Patricia Bernardi and I have been working to get a Private Road Ordinance written and passed to eight long years. Please don't make us wait for another eight.

Thank you,

**Margaret Robbins
November 1, 2011**

MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY – PLANNING DEPARTMENT



MEMORANDUM

Date: November 9, 2011

To: Planning Commission

From: Bob Schubert, Senior Planner

Subject: Agenda Item #7 – Val Verde Subdivision (GPZ090004)

Attached please find correspondence that has been submitted since the Planning Commission staff report was distributed.

MONTEREY COUNTY

PLANNING AND BUILDING INSPECTION DEPARTMENT

68 W. ALISAL ST. 2nd FLOOR, SALINAS, CA 93901

PERMIT CENTER LOCATIONS:

- SALINAS OFFICE: 168 WEST ALISAL ST., 2nd FLOOR, SALINAS, CA 93901 FAX: (831) 755-9516; PHONE: (831) 755-5025
- COASTAL OFFICE: 2620 FIRST AVE., MARINA, CALIFORNIA 93933; FAX: (831) 384-3261; PHONE: (831) 883-7500 (Building only)
- KING CITY OFFICE: 522 - NORTH SECOND ST., KING CITY, CA 93930 FAX: (831) 385-8387; PHONE: (831) 385-8315

<http://www.co.monterey.ca.us/pbi/>



October 14, 2011

Pamela Silkwood
P.O. Box 3350
Monterey, CA 93942-3350.

Subject: Subdivision Application on property at Rio Road & Val Verde Drive, Carmel
File No.: GPZ090004 (Formerly PLN060647)

Dear Ms. Silkwood:

Thank you for your letter dated October 6, 2011 regarding the subject project. Below are responses to your comments.

I. Consistency Analysis

A. Overview

Your letter states that staff's General Plan consistency analysis is incomplete because CEQA requires a review of the project's consistency not only with the General Plan but also with regional and other plans (CEQA Guidelines Section 15125(d)). As stated in the letter to Mr. Clark dated July 5, 2011, staff's consistency analysis only applies to the 2010 General Plan. Since the analysis was not done as part of an EIR, CEQA Guideline Section 15125(d) does not apply to the project at this time. If an EIR were to be prepared for the project, consistency with regional and other plans would have to be analyzed at that time. Since the consistency analysis was based on information that has been submitted to date, the letter to Mr. Clark not only identified polices that the project was found to be inconsistent with, but also identified policies where consistency could not be determined until additional information is submitted. County also disagrees with your contention that "[t]here are several General Plan policies ... that conflict with or are inconsistent with the state's affordable housing and infill development laws."

Your letter further states that bringing the project before the Planning Commission at this time is inconsistent with "Ordinance 5721". Presumably, you are referring to Ordinance No. 5171 (Interim Ordinance) that sets forth a process to determine 2010 General Plan consistency for discretionary projects until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. Section 4.C of Ordinance No. 5171 states that staff shall review the completed General Plan consistency checklist against polices and land use designations prior to issuance of any permit and shall make a recommendation regarding

General Plan consistency to the appropriate authority. Nothing in the ordinance precludes staff from taking its recommendation regarding General Plan consistency to the Planning Commission prior to completing environmental review.

Your letter also states that the “*application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission....*” Ordinance No. 5171 (Section 4.D) states that no permit shall be issued if the proposed development does not conform to General Plan policies or to the land use designation. In addition, Public Resources Code section 21080(b)(4) and CEQA Guidelines Section 15270(a) provide that CEQA does not apply to projects that are denied. If a project is inconsistent with the General Plan, it cannot be approved, and it would not be necessary or prudent to prepare an EIR if the project is going to be denied.

B. Consistency Analysis

You are correct in assuming that the consistency analysis in the September 29, 2011 letter is the most recent interpretation of the General Plan policies that has been provided to the applicant. As stated in the September 29, 2011 letter, staff met with Brian Clark on August 31, 2011 to review staff’s consistency analysis and subsequently revised the analysis in response to the discussion at that meeting.

1. Access

General Plan Policy C-3.6 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 the applicable agreement.*” The policy does not refer to density “*beyond the density that is anticipated in the General Plan.*” That will be clarified when the project goes before the Planning Commission.

Your letter refers to a recorded easement to provide access to the subdivision. The easement does not satisfy the requirements of Policy C-3.6 because the applicant has not provided documentation, such as an agreement among all of the easement holders or a final determination by a court, that would allow the proposed intensification of use of the easement. Additionally, we disagree with your interpretation of Government Code section 66474(g) of the Subdivision Map Act. It does not establish that the recorded easement in this case demonstrates access to the proposed subdivision.

Your letter also states that until “*regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislative action.*” Ordinance No. 5171 requires a General Plan consistency determination until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. It sets forth a General Plan consistency review process which is being followed in the processing of the subject application.

2. Secondary Well

Your letter notes that General Plan Policy PS-3.13 sets forth “*factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.*” Your letter also states that, “*to properly interpret and determine consistency with these polices, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical document reports submitted to it by the applicant.*” As stated in the September 29, 2011 letter to Mr. Clark, the 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. These requirements derive not just from the General Plan but also from state regulation. Therefore, the replacement well would need to be applied for, drilled and tested to provide the required information in regard to “*production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity*” (see memorandum from the Environmental Health Bureau dated March 10, 2011). 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 described above (see memorandum from the Environmental Health Bureau dated August 9, 2010).

Your letter further states that the County has the option of imposing as a condition of tentative map approval a requirement for a secondary well to be located in an area with a sufficient control zone. As indicated above, the project cannot be approved if it is inconsistent with the General Plan, and General Plan consistency cannot be determined until the secondary well is drilled. The projects you referenced precede the adoption of the 2010 General Plan.

3. Water Related Policies

Your letter states that the County’s consistency analysis determined that no information has been submitted demonstrating that the project includes any water reclamation or conservation component and then it notes that the applicant is proposing hydrozones as a water conservation component. The General Plan consistency analysis will be updated to reflect the applicant’s current proposal. However, the project is still inconsistent with Policy CV-5.3 because it does not include a water reclamation component. Although the hydrozones are a water conservation component, they do not provide for substantial water reclamation.

II. **Environmental Review Under CEQA**

Your letter states that “*my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application.*” Staff disagrees with that statement. A letter from the Planning Department dated February 28, 2011 indicated that:

- The application was deemed complete as of December 9, 2010 which is 30 days from November 9, 2010 which is the date the applicant submitted the last of the materials requested on the checklist.

- For purposes of environmental review, the project description was not finalized until February 4, 2011 which is when the applicant identified the proposed mix of affordable units.
- The applicant was advised that 1) based on staff's preliminary analysis, project is inconsistent with General Plan; 2) additional information (traffic, drainage, hydrologic) is needed to complete environmental review of the project; and 3) options include: i) withdraw application, ii) request staff to complete General Plan consistency analysis, or iii) request staff to proceed with environmental review.

In an e-mail message dated March 8, 2011, Mr. Clark requested staff to complete a GP consistency analysis. On July 5, 2011, a letter containing staff's GP Consistency analysis was sent to Mr. Clark. The letter also advised Mr. Clark that options for processing the application include: 1) appeal staff's General Plan consistency analysis to the Planning Commission, or 2) accept staff's GP consistency analysis and request staff to proceed with environmental review. Mr. Clark was also reminded that additional information (traffic, drainage, hydrologic) was still needed in order to proceed with environmental review.

On July 6, 2011, Mr. Clark sent a series of e-mails contending that the project is consistent with all applicable GP policies. On August 31, 2011, staff met with Mr. Clark to review the GP consistency analysis, and based on the discussion at the meeting, staff agreed to revise the analysis. On September 29, 2011, a letter containing staff's revised GP consistency analysis was sent to Mr. Clark.

Your letter states that, under Public Resources Code Section 21080.2 and CEQA Guidelines Section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. As indicated in the September 17, 2009 letter to Mr. Clark, applications that involve legislative acts are not bound by the timelines in the Permit Streamlining Act. The subject application would require General Plan Amendments (i.e., legislative act) in order to be found consistent with the 2010 General Plan. Staff's most recent General Plan consistency analysis of the project contained in the letter from the Planning Department dated September 29, 2011 identifies several GPAs that would be required for the project to be determined to be consistent with the General Plan.

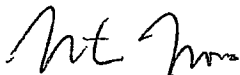
Additionally, in response to your contentions concerning CEQA timelines, pursuant to CEQA Guidelines Section 15109, an unreasonable delay by an applicant in meeting requests by the lead agency necessary for the preparation of an EIR suspends the running of the time period described in CEQA Guideline Section 15108. Until the requested additional information is submitted, the running of the time period described in Sections 15108 is suspended because the project description has not been sufficiently defined to commence environmental analysis of the project. For example, General Plan Policy PS-3.2 (Long Term Sustainable Water Supply) sets forth several factors to be used in developing criteria for proof of a long term sustainable water supply, including the production capacity, production capability and any adverse effect of the economic extraction of water or other effect on wells in the immediate vicinity. In the absence of drilling the replacement well and providing the other requested information (traffic, drainage, hydrogeologic), the running of the time period described in Section 15108 is suspended because adequate information does not exist to conduct the environmental review. This information is

needed to establish a stable project description and to begin the assessment of long term sustainable water supply (as discussed in Secondary Well section above) and analysis of other potential environmental impacts..

As indicated in the letter to Mr. Clark dated September 29, 2011, a hearing on the project has been tentatively scheduled for the Planning Commission meeting on November 9, 2011 to consider staff's General Plan consistency analysis and to consider denial of the project. Since staff has already met with Mr. Clark to review staff General Plan consistency analysis, another meeting prior to the Planning Commission meeting would not be productive. You will, of course, have the opportunity to present your position regarding the application at the Planning Commission hearing.

If you have any questions, feel free to contact me at novom@co.monterey.ca.us or by phone at (831) 755-5192.

Sincerely,



Mike Novo, AICP
Planning Director
RMA – Planning Department

cc. Leslie Girard
Wendy Strimling
Carl Holm
Bob Schubert
Janna Faulk
File No. GPZ090004

#7

LAW OFFICES OF
HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,
LAW & COOK
INCORPORATED

LAURENCE P. HORAN (Retired)
FRANCIS P. LLOYD
ANTHONY T. KARACHALE
STEPHEN W. DYER
GARY D. SCHWARTZ
MARK A. BLUM
MARK A. O'CONNOR
ROBERT E. ARNOLD III
ELIZABETH C. GIANOLA
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P.O. BOX 3350, MONTEREY, CALIFORNIA 93942-3350
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JAMES J. COOK
DENNIS M. LAW

OF Counsel
JEROME F. POLITZER
SEAN FLAVIN

October 6, 2011

TELEPHONE: (831) 373-4131
FROM SALINAS: (831) 757-4131
FACSIMILE: (831) 373-8302

OUR FILE NO. 6490.01

Michael Novo
Resource Management Agency –
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, California 93901

RE: Carmel Rio Road LLC, Subdivision Project (PLN060647)

Dear Mr. Novo:

This firm represents Carmel Rio Road LLC regarding the subdivision project at Val Verde Drive and Rio Road (PLN060647; the "Project"). This letter addresses the following two issues regarding the Project: (1) the County consistency analysis, dated September 29, 2011, and (2) the hearing scheduled before the Planning Commission. More specifically, we believe that the Project is consistent with local, state and federal laws, regulations and policies and that the County has failed to complete a thorough consistency analysis as required under CEQA. Rather than hold a hearing on an incomplete consistency analysis and piecemeal the application review process, we request that the County complete the application process as required by law. In order to meet the December 9, 2011 deadline to complete and certify an EIR, we request that the County accept the applicant's EIR by performing independent review and judgment of the document consistent with CEQA Guidelines section 15084(e).

I. Consistency Analysis

A. Overview

Although your staff prepared an analysis to determine the Project's consistency with the 2010 General Plan pursuant to Ordinance 5721, the consistency analysis is incomplete. CEQA requires a review of a project's consistency not only with the general plan, but with regional and other plans as well (14 CCR §15125(d)), and a review of the project's consistency with state and federal laws and regulation are oftentimes included in EIRs. There are several General Plan policies (including the policy setting forth the housing unit cap) that conflict with or are inconsistent with the State's affordable housing and infill development laws, and a more thorough consistency analysis in an EIR would address and possibly resolve these conflicts and inconsistencies.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 2

Procedurally, bringing the Project now before the Planning Commission is inconsistent with Ordinance 5721. Ordinance 5721 states that the determination of the General Plan consistency must be made “as part of the determination of the development application.” (Section 4.C., Ordinance 5721.) Because the Planning staff has failed to fully process the development application, the staff does not have sufficient information to prepare a staff report, nor do they have sufficient information to make a recommendation on the application. The application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission or the Board; otherwise, any decision by the County’s discretionary bodies would be arbitrary and capricious.

B. Consistency Analysis

Over the course of reviewing this application, your staff has taken differing positions and has put forth numerous interpretations of the same policy, which indicates that the policies of the General Plan may be vague and overbroad or insufficiently described to properly set forth standards. We assume that the consistency analysis in the September 29, 2011 letter sets forth the County staff’s most recent interpretation of the General Plan policies. This letter states that the Project is inconsistent with five (5) General Plan policies. The below sections provide a rationale on why the Project is consistent with these five (5) policies.

1. Access

The September 29, 2011 letter states that the Project is inconsistent with Policy C-3.6 because the applicant failed to provide an agreement among all of the easement holders or a court order for the easement that provides access for the subdivision. However, in interpreting this policy, the September 29, 2011 letter sets forth the following qualifying language – the agreement or court order is only required for a project that proposes a density “beyond the density that is anticipated in the General Plan”.

Your staff has already determined that the density proposed for the Project is consistent with the General Plan. This has not been refuted. Thus, in accordance with the staff’s interpretation of Policy CV-3.6, the Project is consistent with this policy.

Density is set forth in Camel Valley Master Plan Policy CV-1.10, which is specific to development on Val Verde Drive. Policy CV-1.10 allows for certain density if the project proposes 25% affordable housing, for which the Project exceeds. Moreover, the Housing Element of the General Plan references the application (and future County enacting ordinance) of two state laws, SB 1818 and SB 435, that allow for state density bonus, which is also applicable to this Project. In summary, the density of the Project is not beyond that anticipated in the General Plan, and thus, the Project is consistent with this policy.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 3

My client also provided you a recorded easement of sufficient size to provide access to the subdivision. Under the Subdivision Map Act section 66474(g), “easements of record” are sufficient to demonstrate access for the subdivision. The Subdivision Map Act does not require an agreement or court order to interpret a recorded easement beyond the four corners of the document. My client has sufficiently demonstrated that the recorded easement will provide sufficient access for the subdivision.

Finally, Policy C-3.6 states that the County “shall establish regulations for new development that would intensify use of a private road or access easement.” No such regulations have yet been enacted. Until the regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislatively action.

In summary, the applicant provided the County a recorded easement for access of sufficient size to be consistent with the Subdivision Map Act. The recorded easement is also consistent with the staff’s interpretation of Policy C-3.6, because the access is available for a project that proposes a density that is consistent with the General Plan. In moving forward, the County has the option of imposing conditions to the tentative map for street widening and installation of street improvements, which is consistent with its limited police power.

2. Secondary Well

Policy PS-3.13 sets forth “factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.” The criteria have not yet been developed. Policies PS-3.1, 3.2, 3.9, and 3.13 are absent such language as “well control zone” and “replacement well,” yet your staff created these requirements from these policies, without the benefit of a legislative process, and such action, if accepted by the County’s discretionary bodies, would constitute improper delegation of legislative authority. To properly interpret and determine consistency with these policies, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical documents reports submitted to it by the applicant. Otherwise, the County staff does not have any legal basis for their position that the Project is inconsistent with these policies.

To immediately remedy this issue, the County has the option of imposing as a condition of the tentative map a secondary, back up well to be located in an area with sufficient control zone (to be developed later on through enacting ordinances). The County has allowed such condition in the past for various subdivision projects (e.g., Rancho Los Robles). Water quality and quantity for this area are not of concern since the applicant has demonstrated sufficient quality and quantity from the on-site two wells and other wells in the area have also demonstrated the

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 4

same. To treat this Project consistently with previously approved subdivision projects to avoid discriminatory application, we request that the secondary back up well be included as a condition of the tentative map.

3. Water-Related Policies

The County's consistency analysis for the water-related policies determined that "no information has been submitted demonstrating that the proposed project includes any water reclamation or conservation component." The consistency analysis failed to acknowledge the applicant's plan, dated July 16, 2010, that proposes hydrozones as part of the Project (see Exhibit "A"). Hydrozones divide a landscape irrigation system based upon individual plant water requirements, plant height, and plant density to create microclimates to increase water-efficiency. The hydrozones are also designed to capture and infiltrate irrigation water and seasonal rainfall to recharge the groundwater basin.

Because of the relatively shallow groundwater level at the Project site, Bestor Engineers had determined that direct infiltration from these hydrozones is the most effective mechanism for recharging groundwater. With the hydrozone proposal that incorporates both water conservation and supply measures, the Project is consistent with these policies.

II. Environmental Review Under CEQA

Upon receiving the September 17, 2009 letter from the County, in which your staff told my client in no uncertain terms to withdraw his development application, my client, out of frustration, requested to forego the CEQA process because the Planning staff had already determined that the Project will be recommended for denial even though the application was incomplete at that time. However, since that time and once the application was determined to be complete on December 9, 2010, my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application. Despite the repeated requests, the County has not acted accordingly as required by law.

Under Public Resources Code section 21080.2 and CEQA Guidelines section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. Instead of making such determination or preparing the environmental document, the County staff worked on the consistency analysis for nearly 10 months, which analysis could have and should have been performed as part of the EIR. The County has until December 9, 2011, to prepare and certify an EIR. (Public Resources Code §21151.5(a)(1)(A).)

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 5

Although the deadline is approaching, we believe the County could complete the EIR within that timeline. First, the General Plan's EIR, which was certified in October 2010, was a programmatic EIR. The proposed project is within the scope of the programmatic EIR. Therefore, the programmatic EIR can be used to simplify the task of preparing this later environmental document for activities within the program. (14 CCR §15168(b)-(d).) Under section 15168(d)(3) of the CEQA Guidelines, the focus EIR can be limited to new environmental effects that had not been considered in the program EIR.

Second, the County has the technical, site-specific information necessary to complete the EIR or accept an EIR from the applicant. (CEQA Guidelines section 15084(e).) As discussed earlier, my client submitted site specific, technical reports as part of the development application. Pursuant to CEQA Guidelines section 15084(c), the County must consider all information and comments received, and the information or comments may be included in the draft EIR in whole or in part.

Finally, although the County has an unwritten, internal policy to contract with an outside consultant to prepare EIRs, the County has a short period of time before the 1 year period lapses for preparing and certifying an EIR. (Public Resources Code §21151.5(a)(1)(A).) To avoid further delays, the County can accept the applicant's EIR and perform independent review and judgment of the document pursuant to CEQA Guidelines section 15084(e).

In summary, we ask that the County proceed by accepting the EIR prepared by the applicant, which will focus solely on the site-specific environmental effects not considered in the program EIR of the General Plan. The County should then be able to perform its independent review and judgment of the document within the one-year time frame requirement. (Public Resources Code §21151.5(a)(1)(A).)

After you have had an opportunity to review the foregoing, please call me to schedule a meeting.

Respectfully submitted,


Pamela H. Silkwood

cc: Leslie Girard, Esq.

#7

November 1, 2011

Chair Getzelman and Commissioners,

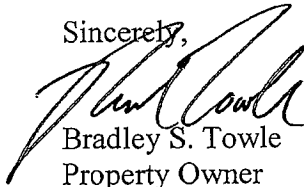
The Towle family (4072 Rio Road - corner of Val Verde drive) strongly oppose the proposed 42 unit subdivision on Val Verde Drive in Carmel. If built, it will produce over 400 new daily car trips and make it near impossible to access my driveway which is right at corner of Val Verde and Rio Road. This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

Timothy D. Sanders ♦ 25075 Pine Hills Drive ♦ Carmel ♦ CA ♦ 93923
Ph: (831) 625-4324 ♦ Fx: (831) 625-4370 ♦ Email: tds@oxy.edu

November 7, 2011

Planning Commission
C/o Mike Novo, Planning Director
168 West Alisal, 2nd Floor
Salinas, CA 93901

Delivered by email (novom@co.monterey.ca.us)

Re: **CARMEL RIO ROAD LLC - GPZ090004**

Dear Members of the Planning Commission:

The available information for this proposed project on Val Verde Drive (also known as Carmel Rio Road LLC) includes ***no traffic analysis*** at all ***where traffic from the project would have the most significant impact***, namely on the segment of Highway 1 between Carmel Valley Road and Ocean Avenue. The traffic **impacts** would be ***unavoidable and irreversible***; no physical mitigation is feasible.

There is sufficient raw data in the available material, however, to assess the principal impacts it would have on that segment. The developer’s estimate (Hexagon, June 2007) is that it would generate 364 vehicle trips per day, which is 35% more trips than the Villas de Carmelo development, recently disapproved by the Board of Supervisors. In addition it would (according to project data) distribute more than 40% of the new traffic – or more likely at least 45% of that traffic – to Highway 1 between Carmel Valley Road and Ocean Avenue, whereas Villas de Carmelo was projected to distribute about 25% of its traffic to that segment. Taken together, these facts imply that the *Val Verde Drive proposal would produce about 220% to 250% of the Villas de Carmelo traffic* on that segment.

That portion of highway has been *shown in every study* in recent years to ***exceed its capacity*** for traffic volume. These studies include the 2010 General Plan EIR (2007), a County project; the Carmel Valley Road Traffic Improvement Program RDSEIR (2009), a County project; and the Villas de Carmelo EIR (2010, 2011), a private project.

Furthermore, the southbound average travel speed on the segment, as reported in the last of these reports, was 14.3 mph during the AM peak traffic period and 16.7 mph during PM the peak, where the speed limit is 45 mph and the “free flow speed” – the typical speed of cars when there is very little traffic – is only slightly lower, at 42 mph. The AM peak *travel speed* is ***less than 1/3 of the speed limit***, and only slightly more than 1/3 of the free flow speed.

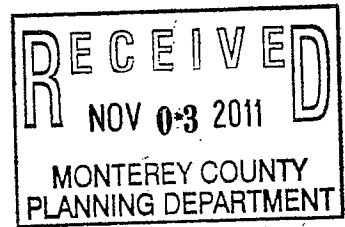
Clearly ***no more discretionary traffic should be added to this segment***. This is **codified** in the County’s regulations by the condition that not even one vehicle trip should be

added to a road segment rated LOS F. Classified as a Class II rural highway, as it consistently has been for many years, it is rated LOS F because road capacity is exceeded (see any of the studies listed above). Even under the inappropriate misclassification as an Urban Street, which incorporates four categories, the category of that classification that best fits the segment (high speed principal artery design) also rates it as LOS F. (However, the segment demonstrably does *not* meet the defining criteria for *any* of the four urban street categories. See the Highway Capacity Manual, chapters 5, 10, 15 and 21.)

Adding about 146 – 164 daily vehicle trips or about 15 – 16 peak hour trips unavoidably and irreversibly even to just the segment of Highway 1 north of Carmel Valley Road, the project would ***dump entirely unacceptable numbers of vehicles*** into ***already over-capacity*** traffic. Even a single added vehicle violates County standards and the General Plan.

The proposed Val Verdi Drive project *cannot* under any circumstances meet existing traffic standards, or *any* reasonable traffic standards, and should not proceed forward.

#7



Mr. Paul C. Getzelman - Commissioner
Monterey Planning Commission
2nd Floor
168 W Alisal
Salinas, CA 93901

November 1, 2001

In Reference To: The consideration for Rezoning at 26500 Val Verde Dr. Carmel, CA

In 1955 my husband and I, Joe and Irene Broadman, purchased 2.5 acres at 26380 Val Verde Dr. We lived there thirty(30) years. Presently this is a rental, but in the very near future , one of my daughters plans to make it here home.

It is my wish that the Monterey County Planning Commission will take into consideration the following problems:

- 1. Val Verde Dr. is a non-exclusive easement road; not a county road.
- 2. The need for more water in Carmel Valley continues to be an issue.
- 3. Traffic continues to increase
- 4. The air quality is not improving.

I am opposed to the rezoning of 26500: "The Clark's Property". Will the commission please make the very best decision for the people in Carmel Valley. Thank You.

Sincerely

Irene Broadman
IRENE BROADMAN

- CC. Ms. Margaret Robbins
- Ms. Anne McGowan
- Ms Gwen (Broadman) Lindsey
- Ms Lesa Broadman
- Mr. Tim Broadman

#7

LAW OFFICES OF
HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,
LAW & COOK
INCORPORATED

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October 6, 2011

OUR FILE NO. 6490.01

Michael Novo
Resource Management Agency –
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, California 93901

RE: Carmel Rio Road LLC, Subdivision Project (PLN060647)

Dear Mr. Novo:

This firm represents Carmel Rio Road LLC regarding the subdivision project at Val Verde Drive and Rio Road (PLN060647; the "Project"). This letter addresses the following two issues regarding the Project: (1) the County consistency analysis, dated September 29, 2011, and (2) the hearing scheduled before the Planning Commission. More specifically, we believe that the Project is consistent with local, state and federal laws, regulations and policies and that the County has failed to complete a thorough consistency analysis as required under CEQA. Rather than hold a hearing on an incomplete consistency analysis and piecemeal the application review process, we request that the County complete the application process as required by law. In order to meet the December 9, 2011 deadline to complete and certify an EIR, we request that the County accept the applicant's EIR by performing independent review and judgment of the document consistent with CEQA Guidelines section 15084(e).

I. Consistency Analysis

A. Overview

Although your staff prepared an analysis to determine the Project's consistency with the 2010 General Plan pursuant to Ordinance 5721, the consistency analysis is incomplete. CEQA requires a review of a project's consistency not only with the general plan, but with regional and other plans as well (14 CCR §15125(d)), and a review of the project's consistency with state and federal laws and regulation are oftentimes included in EIRs. There are several General Plan policies (including the policy setting forth the housing unit cap) that conflict with or are inconsistent with the State's affordable housing and infill development laws, and a more thorough consistency analysis in an EIR would address and possibly resolve these conflicts and inconsistencies.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 2

Procedurally, bringing the Project now before the Planning Commission is inconsistent with Ordinance 5721. Ordinance 5721 states that the determination of the General Plan consistency must be made “as part of the determination of the development application.” (Section 4.C., Ordinance 5721.) Because the Planning staff has failed to fully process the development application, the staff does not have sufficient information to prepare a staff report, nor do they have sufficient information to make a recommendation on the application. The application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission or the Board; otherwise, any decision by the County’s discretionary bodies would be arbitrary and capricious.

B. Consistency Analysis

Over the course of reviewing this application, your staff has taken differing positions and has put forth numerous interpretations of the same policy, which indicates that the policies of the General Plan may be vague and overbroad or insufficiently described to properly set forth standards. We assume that the consistency analysis in the September 29, 2011 letter sets forth the County staff’s most recent interpretation of the General Plan policies. This letter states that the Project is inconsistent with five (5) General Plan policies. The below sections provide a rationale on why the Project is consistent with these five (5) policies.

1. Access

The September 29, 2011 letter states that the Project is inconsistent with Policy C-3.6 because the applicant failed to provide an agreement among all of the easement holders or a court order for the easement that provides access for the subdivision. However, in interpreting this policy, the September 29, 2011 letter sets forth the following qualifying language – the agreement or court order is only required for a project that proposes a density “beyond the density that is anticipated in the General Plan”.

Your staff has already determined that the density proposed for the Project is consistent with the General Plan. This has not been refuted. Thus, in accordance with the staff’s interpretation of Policy CV-3.6, the Project is consistent with this policy.

Density is set forth in Camel Valley Master Plan Policy CV-1.10, which is specific to development on Val Verde Drive. Policy CV-1.10 allows for certain density if the project proposes 25% affordable housing, for which the Project exceeds. Moreover, the Housing Element of the General Plan references the application (and future County enacting ordinance) of two state laws, SB 1818 and SB 435, that allow for state density bonus, which is also applicable to this Project. In summary, the density of the Project is not beyond that anticipated in the General Plan, and thus, the Project is consistent with this policy.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
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My client also provided you a recorded easement of sufficient size to provide access to the subdivision. Under the Subdivision Map Act section 66474(g), “easements of record” are sufficient to demonstrate access for the subdivision. The Subdivision Map Act does not require an agreement or court order to interpret a recorded easement beyond the four corners of the document. My client has sufficiently demonstrated that the recorded easement will provide sufficient access for the subdivision.

Finally, Policy C-3.6 states that the County “shall establish regulations for new development that would intensify use of a private road or access easement.” No such regulations have yet been enacted. Until the regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislatively action.

In summary, the applicant provided the County a recorded easement for access of sufficient size to be consistent with the Subdivision Map Act. The recorded easement is also consistent with the staff’s interpretation of Policy C-3.6, because the access is available for a project that proposes a density that is consistent with the General Plan. In moving forward, the County has the option of imposing conditions to the tentative map for street widening and installation of street improvements, which is consistent with its limited police power.

2. Secondary Well

Policy PS-3.13 sets forth “factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.” The criteria have not yet been developed. Policies PS-3.1, 3.2, 3.9, and 3.13 are absent such language as “well control zone” and “replacement well,” yet your staff created these requirements from these policies, without the benefit of a legislative process, and such action, if accepted by the County’s discretionary bodies, would constitute improper delegation of legislative authority. To properly interpret and determine consistency with these policies, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical documents reports submitted to it by the applicant. Otherwise, the County staff does not have any legal basis for their position that the Project is inconsistent with these policies.

To immediately remedy this issue, the County has the option of imposing as a condition of the tentative map a secondary, back up well to be located in an area with sufficient control zone (to be developed later on through enacting ordinances). The County has allowed such condition in the past for various subdivision projects (e.g., Rancho Los Robles). Water quality and quantity for this area are not of concern since the applicant has demonstrated sufficient quality and quantity from the on-site two wells and other wells in the area have also demonstrated the

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
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same. To treat this Project consistently with previously approved subdivision projects to avoid discriminatory application, we request that the secondary back up well be included as a condition of the tentative map.

3. Water-Related Policies

The County's consistency analysis for the water-related policies determined that "no information has been submitted demonstrating that the proposed project includes any water reclamation or conservation component." The consistency analysis failed to acknowledge the applicant's plan, dated July 16, 2010, that proposes hydrozones as part of the Project (see Exhibit "A"). Hydrozones divide a landscape irrigation system based upon individual plant water requirements, plant height, and plant density to create microclimates to increase water-efficiency. The hydrozones are also designed to capture and infiltrate irrigation water and seasonal rainfall to recharge the groundwater basin.

Because of the relatively shallow groundwater level at the Project site, Bestor Engineers had determined that direct infiltration from these hydrozones is the most effective mechanism for recharging groundwater. With the hydrozone proposal that incorporates both water conservation and supply measures, the Project is consistent with these policies.

II. Environmental Review Under CEQA

Upon receiving the September 17, 2009 letter from the County, in which your staff told my client in no uncertain terms to withdraw his development application, my client, out of frustration, requested to forego the CEQA process because the Planning staff had already determined that the Project will be recommended for denial even though the application was incomplete at that time. However, since that time and once the application was determined to be complete on December 9, 2010, my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application. Despite the repeated requests, the County has not acted accordingly as required by law.

Under Public Resources Code section 21080.2 and CEQA Guidelines section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. Instead of making such determination or preparing the environmental document, the County staff worked on the consistency analysis for nearly 10 months, which analysis could have and should have been performed as part of the EIR. The County has until December 9, 2011, to prepare and certify an EIR. (Public Resources Code §21151.5(a)(1)(A).)

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
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Although the deadline is approaching, we believe the County could complete the EIR within that timeline. First, the General Plan's EIR, which was certified in October 2010, was a programmatic EIR. The proposed project is within the scope of the programmatic EIR. Therefore, the programmatic EIR can be used to simplify the task of preparing this later environmental document for activities within the program. (14 CCR §15168(b)-(d).) Under section 15168(d)(3) of the CEQA Guidelines, the focus EIR can be limited to new environmental effects that had not been considered in the program EIR.

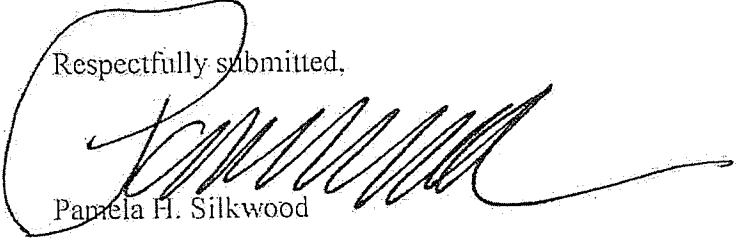
Second, the County has the technical, site-specific information necessary to complete the EIR or accept an EIR from the applicant. (CEQA Guidelines section 15084(e).) As discussed earlier, my client submitted site-specific, technical reports as part of the development application. Pursuant to CEQA Guidelines section 15084(c), the County must consider all information and comments received, and the information or comments may be included in the draft EIR in whole or in part.

Finally, although the County has an unwritten, internal policy to contract with an outside consultant to prepare EIRs, the County has a short period of time before the 1 year period lapses for preparing and certifying an EIR. (Public Resources Code §21151.5(a)(1)(A).) To avoid further delays, the County can accept the applicant's EIR and perform independent review and judgment of the document pursuant to CEQA Guidelines section 15084(e).

In summary, we ask that the County proceed by accepting the EIR prepared by the applicant, which will focus solely on the site-specific environmental effects not considered in the program EIR of the General Plan. The County should then be able to perform its independent review and judgment of the document within the one-year time frame requirement. (Public Resources Code §21151.5(a)(1)(A).)

After you have had an opportunity to review the foregoing, please call me to schedule a meeting.

Respectfully submitted,



Pamela H. Silkwood

cc: Leslie Girard, Esq.

MONTEREY COUNTY

PLANNING AND BUILDING INSPECTION DEPARTMENT

68 W. ALISAL ST. 2nd FLOOR, SALINAS, CA 93901

PERMIT CENTER LOCATIONS:

- SALINAS OFFICE: 168 WEST ALISAL ST., 2nd FLOOR, SALINAS, CA 93901 FAX: (831) 755-9516; PHONE: (831) 755-5025
- COASTAL OFFICE: 2620 FIRST AVE., MARINA, CALIFORNIA 93933: FAX: (831) 384-3261; PHONE: (831) 883-7500 (Building only)
- KING CITY OFFICE: 522 - NORTH SECOND ST., KING CITY, CA 93930 FAX: (831) 385-8387; PHONE: (831) 385-8315

<http://www.co.monterey.ca.us/pbi/>



October 14, 2011

Pamela Silkwood
P.O. Box 3350
Monterey, CA 93942-3350.

Subject: Subdivision Application on property at Rio Road & Val Verde Drive, Carmel
File No.: GPZ090004 (Formerly PLN060647)

Dear Ms. Silkwood:

Thank you for your letter dated October 6, 2011 regarding the subject project. Below are responses to your comments.

I. Consistency Analysis

A. Overview

Your letter states that staff's General Plan consistency analysis is incomplete because CEQA requires a review of the project's consistency not only with the General Plan but also with regional and other plans (CEQA Guidelines Section 15125(d)). As stated in the letter to Mr. Clark dated July 5, 2011, staff's consistency analysis only applies to the 2010 General Plan. Since the analysis was not done as part of an EIR, CEQA Guideline Section 15125(d) does not apply to the project at this time. If an EIR were to be prepared for the project, consistency with regional and other plans would have to be analyzed at that time. Since the consistency analysis was based on information that has been submitted to date, the letter to Mr. Clark not only identified polices that the project was found to be inconsistent with, but also identified policies where consistency could not be determined until additional information is submitted. County also disagrees with your contention that "[t]here are several General Plan policies ... that conflict with or are inconsistent with the state's affordable housing and infill development laws."

Your letter further states that bringing the project before the Planning Commission at this time is inconsistent with "Ordinance 5721". Presumably, you are referring to Ordinance No. 5171 (Interim Ordinance) that sets forth a process to determine 2010 General Plan consistency for discretionary projects until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. Section 4.C of Ordinance No. 5171 states that staff shall review the completed General Plan consistency checklist against polices and land use designations prior to issuance of any permit and shall make a recommendation regarding

General Plan consistency to the appropriate authority. Nothing in the ordinance precludes staff from taking its recommendation regarding General Plan consistency to the Planning Commission prior to completing environmental review.

Your letter also states that the “*application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission....*” Ordinance No. 5171 (Section 4.D) states that no permit shall be issued if the proposed development does not conform to General Plan policies or to the land use designation. In addition, Public Resources Code section 21080(b)(4) and CEQA Guidelines Section 15270(a) provide that CEQA does not apply to projects that are denied. If a project is inconsistent with the General Plan, it cannot be approved, and it would not be necessary or prudent to prepare an EIR if the project is going to be denied.

B. Consistency Analysis

You are correct in assuming that the consistency analysis in the September 29, 2011 letter is the most recent interpretation of the General Plan policies that has been provided to the applicant. As stated in the September 29, 2011 letter, staff met with Brian Clark on August 31, 2011 to review staff’s consistency analysis and subsequently revised the analysis in response to the discussion at that meeting.

1. Access

General Plan Policy C-3.6 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 the applicable agreement.*” The policy does not refer to density “*beyond the density that is anticipated in the General Plan.*” That will be clarified when the project goes before the Planning Commission.

Your letter refers to a recorded easement to provide access to the subdivision. The easement does not satisfy the requirements of Policy C-3.6 because the applicant has not provided documentation, such as an agreement among all of the easement holders or a final determination by a court, that would allow the proposed intensification of use of the easement. Additionally, we disagree with your interpretation of Government Code section 66474(g) of the Subdivision Map Act. It does not establish that the recorded easement in this case demonstrates access to the proposed subdivision.

Your letter also states that until “*regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislative action.*” Ordinance No. 5171 requires a General Plan consistency determination until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. It sets forth a General Plan consistency review process which is being followed in the processing of the subject application.

2. Secondary Well

Your letter notes that General Plan Policy PS-3.13 sets forth *“factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.”* Your letter also states that, *“to properly interpret and determine consistency with these polices, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical document reports submitted to it by the applicant.”* As stated in the September 29, 2011 letter to Mr. Clark, the 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. These requirements derive not just from the General Plan but also from state regulation. Therefore, the replacement well would need to be applied for, drilled and tested to provide the required information in regard to *“production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity”* (see memorandum from the Environmental Health Bureau dated March 10, 2011). 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 described above (see memorandum from the Environmental Health Bureau dated August 9, 2010).

Your letter further states that the County has the option of imposing as a condition of tentative map approval a requirement for a secondary well to be located in an area with a sufficient control zone. As indicated above, the project cannot be approved if it is inconsistent with the General Plan, and General Plan consistency cannot be determined until the secondary well is drilled. The projects you referenced precede the adoption of the 2010 General Plan.

3. Water Related Policies

Your letter states that the County’s consistency analysis determined that no information has been submitted demonstrating that the project includes any water reclamation or conservation component and then it notes that the applicant is proposing hydrozones as a water conservation component. The General Plan consistency analysis will be updated to reflect the applicant’s current proposal. However, the project is still inconsistent with Policy CV-5.3 because it does not include a water reclamation component. Although the hydrozones are a water conservation component, they do not provide for substantial water reclamation.

II. **Environmental Review Under CEQA**

Your letter states that *“my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application.”* Staff disagrees with that statement. A letter from the Planning Department dated February 28, 2011 indicated that:

- The application was deemed complete as of December 9, 2010 which is 30 days from November 9, 2010 which is the date the applicant submitted the last of the materials requested on the checklist.

- For purposes of environmental review, the project description was not finalized until February 4, 2011 which is when the applicant identified the proposed mix of affordable units.
- The applicant was advised that 1) based on staff's preliminary analysis, project is inconsistent with General Plan; 2) additional information (traffic, drainage, hydrologic) is needed to complete environmental review of the project; and 3) options include: i) withdraw application, ii) request staff to complete General Plan consistency analysis, or iii) request staff to proceed with environmental review.

In an e-mail message dated March 8, 2011, Mr. Clark requested staff to complete a GP consistency analysis. On July 5, 2011, a letter containing staff's GP Consistency analysis was sent to Mr. Clark. The letter also advised Mr. Clark that options for processing the application include: 1) appeal staff's General Plan consistency analysis to the Planning Commission, or 2) accept staff's GP consistency analysis and request staff to proceed with environmental review. Mr. Clark was also reminded that additional information (traffic, drainage, hydrologic) was still needed in order to proceed with environmental review.

On July 6, 2011, Mr. Clark sent a series of e-mails contending that the project is consistent with all applicable GP policies. On August 31, 2011, staff met with Mr. Clark to review the GP consistency analysis, and based on the discussion at the meeting, staff agreed to revise the analysis. On September 29, 2011, a letter containing staff's revised GP consistency analysis was sent to Mr. Clark.

Your letter states that, under Public Resources Code Section 21080.2 and CEQA Guidelines Section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. As indicated in the September 17, 2009 letter to Mr. Clark, applications that involve legislative acts are not bound by the timelines in the Permit Streamlining Act. The subject application would require General Plan Amendments (i.e., legislative act) in order to be found consistent with the 2010 General Plan. Staff's most recent General Plan consistency analysis of the project contained in the letter from the Planning Department dated September 29, 2011 identifies several GPAs that would be required for the project to be determined to be consistent with the General Plan.

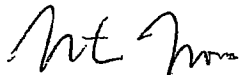
Additionally, in response to your contentions concerning CEQA timelines, pursuant to CEQA Guidelines Section 15109, an unreasonable delay by an applicant in meeting requests by the lead agency necessary for the preparation of an EIR suspends the running of the time period described in CEQA Guideline Section 15108. Until the requested additional information is submitted, the running of the time period described in Sections 15108 is suspended because the project description has not been sufficiently defined to commence environmental analysis of the project. For example, General Plan Policy PS-3.2 (Long Term Sustainable Water Supply) sets forth several factors to be used in developing criteria for proof of a long term sustainable water supply, including the production capacity, production capability and any adverse effect of the economic extraction of water or other effect on wells in the immediate vicinity. In the absence of drilling the replacement well and providing the other requested information (traffic, drainage, hydrogeologic), the running of the time period described in Section 15108 is suspended because adequate information does not exist to conduct the environmental review. This information is

needed to establish a stable project description and to begin the assessment of long term sustainable water supply (as discussed in Secondary Well section above) and analysis of other potential environmental impacts..

As indicated in the letter to Mr. Clark dated September 29, 2011, a hearing on the project has been tentatively scheduled for the Planning Commission meeting on November 9, 2011 to consider staff's General Plan consistency analysis and to consider denial of the project. Since staff has already met with Mr. Clark to review staff General Plan consistency analysis, another meeting prior to the Planning Commission meeting would not be productive. You will, of course, have the opportunity to present your position regarding the application at the Planning Commission hearing.

If you have any questions, feel free to contact me at novom@co.monterey.ca.us or by phone at (831) 755-5192.

Sincerely,



Mike Novo, AICP
Planning Director
RMA – Planning Department

cc. Leslie Girard
Wendy Strimling
Carl Holm
Bob Schubert
Janna Faulk
File No. GPZ090004

#7

FOR THE
RECORD
Val Verde Units

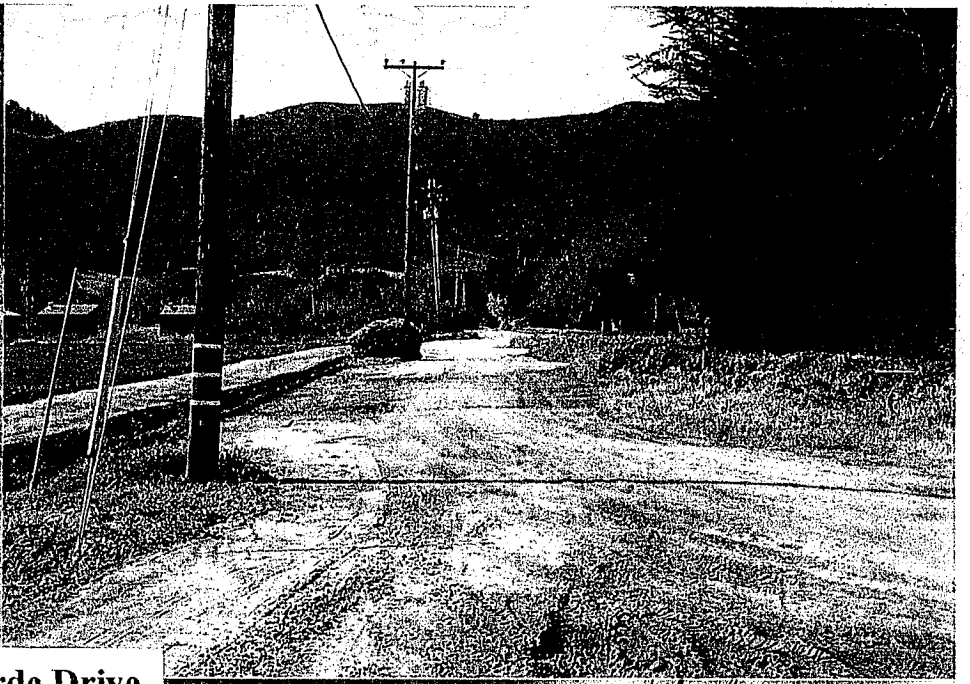
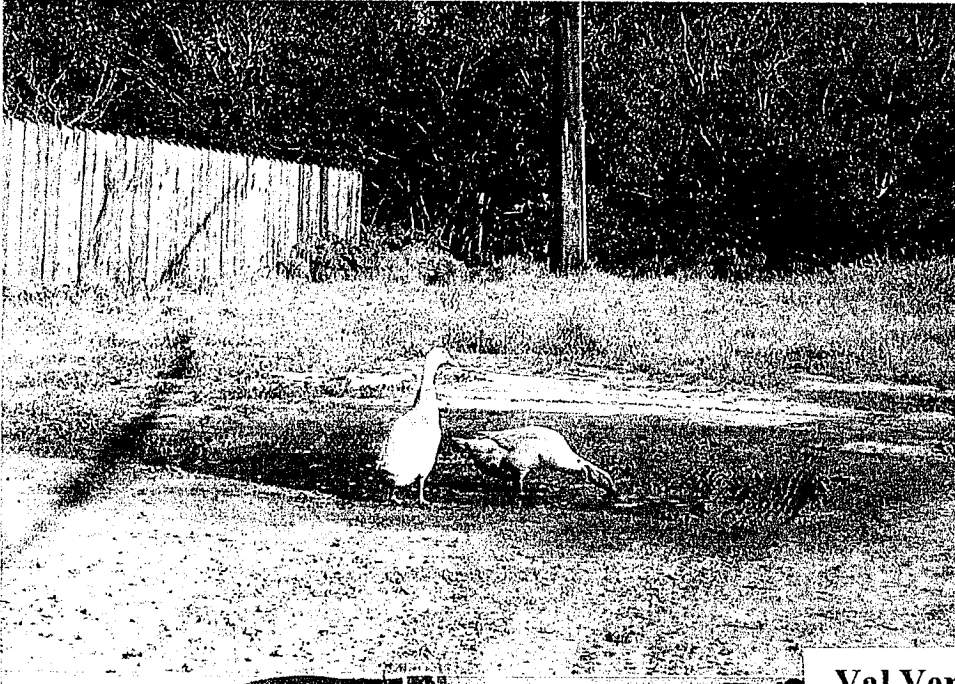


VAL VERDE ROAD

Brad's
Driveway



Val Verde/Rio

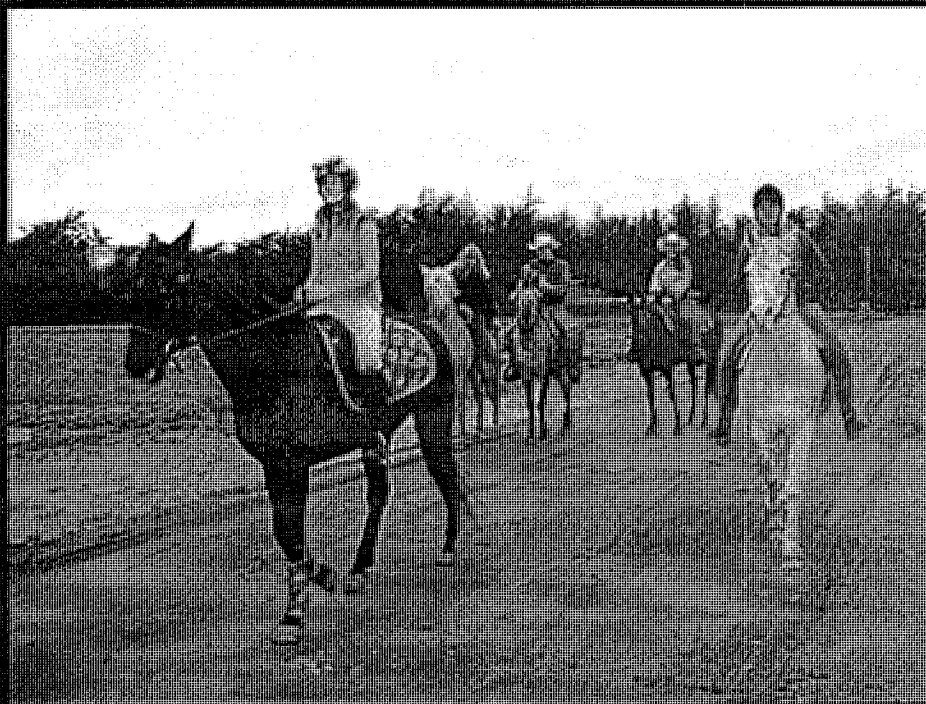
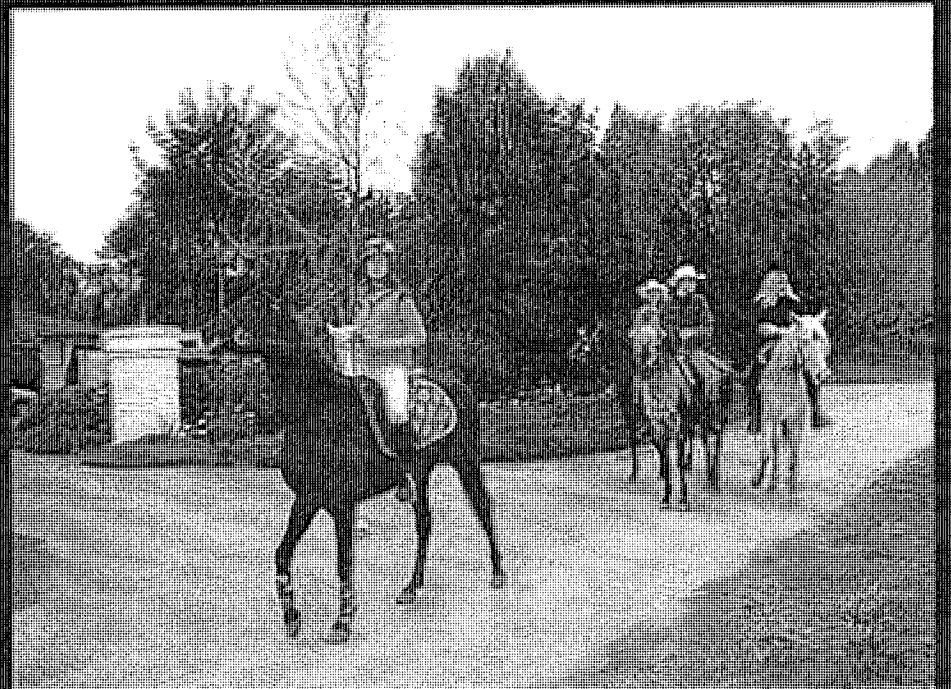


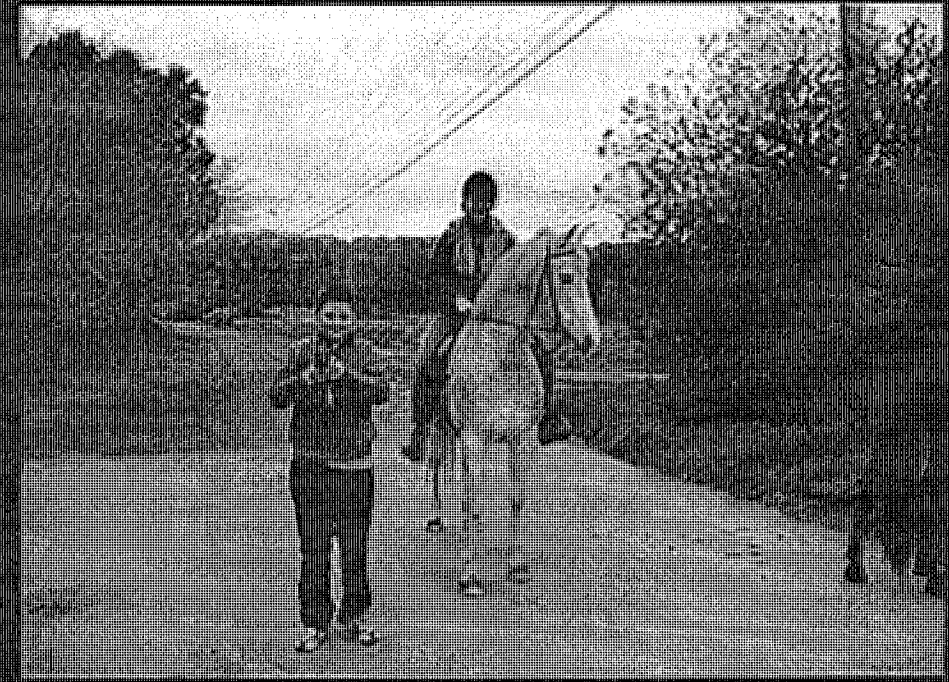
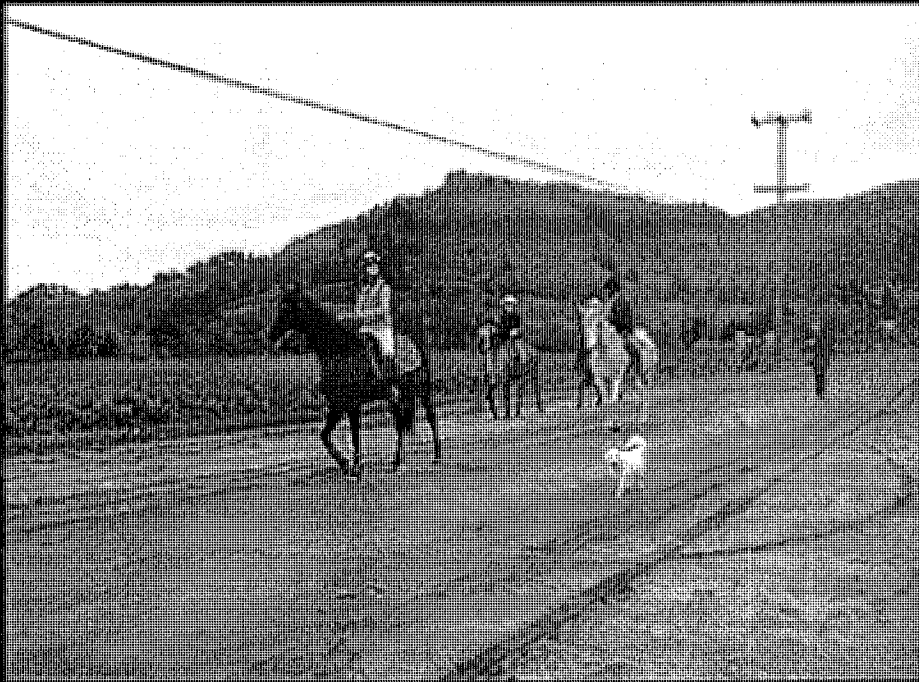
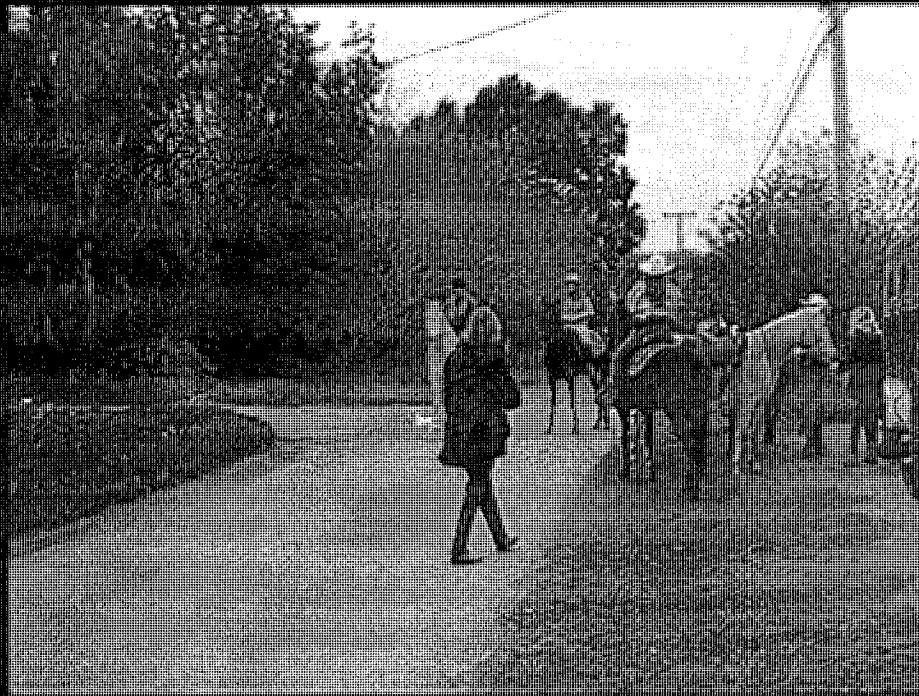
Val Verde Drive





TOMMY 2.5 ACRES








ROSEMARIE 1 ACRES



RUSSELLS 2 ACRES

A black and white photograph showing a wide, open field. In the background, there is a dense line of trees. The foreground is covered in what appears to be dry grass or straw. A small, light-colored puddle or depression is visible in the middle ground. The sky is bright with some clouds. The overall scene is a rural or undeveloped landscape.

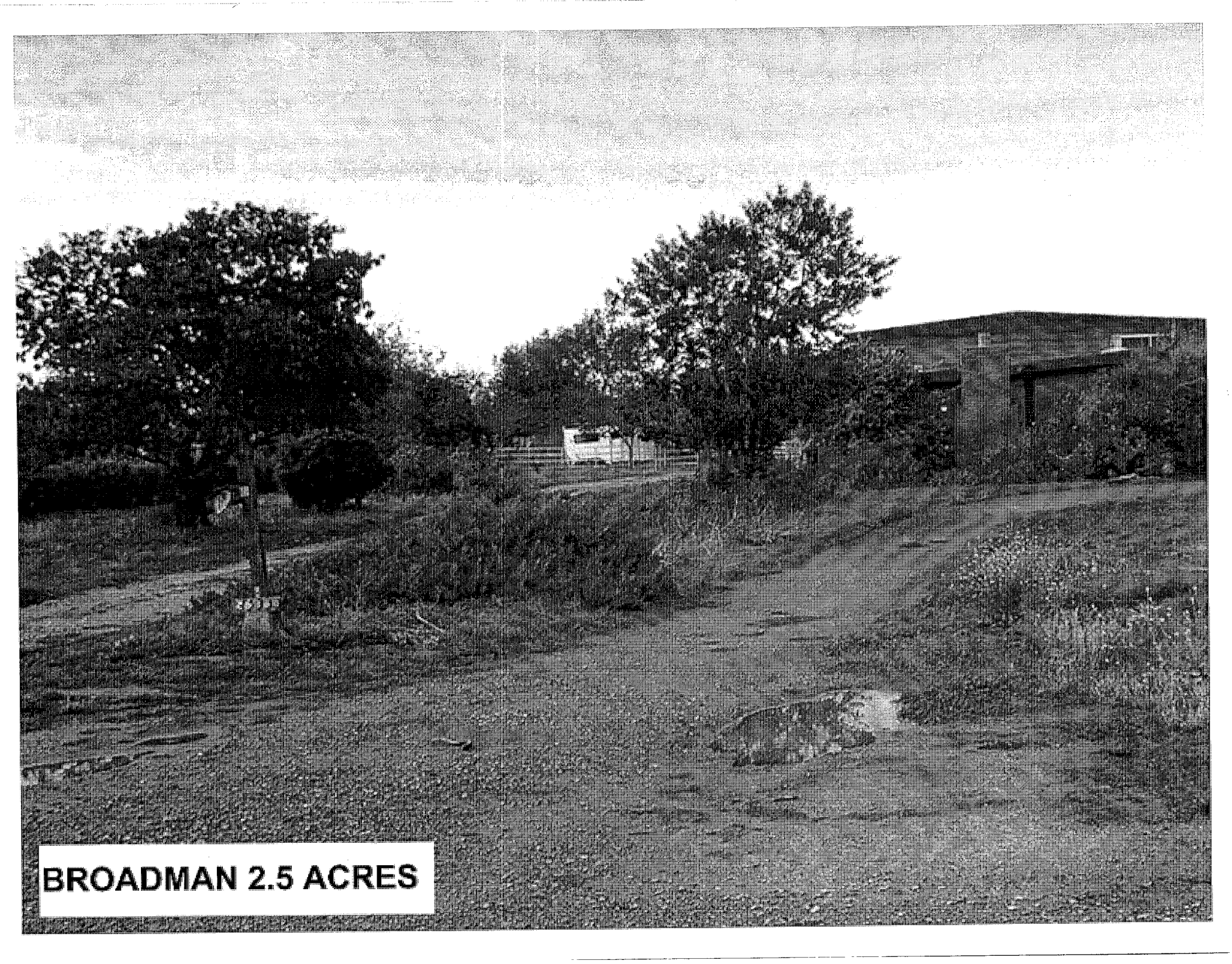
CHURCH 5+ ACRES



DEEANNE 5+ ACRES

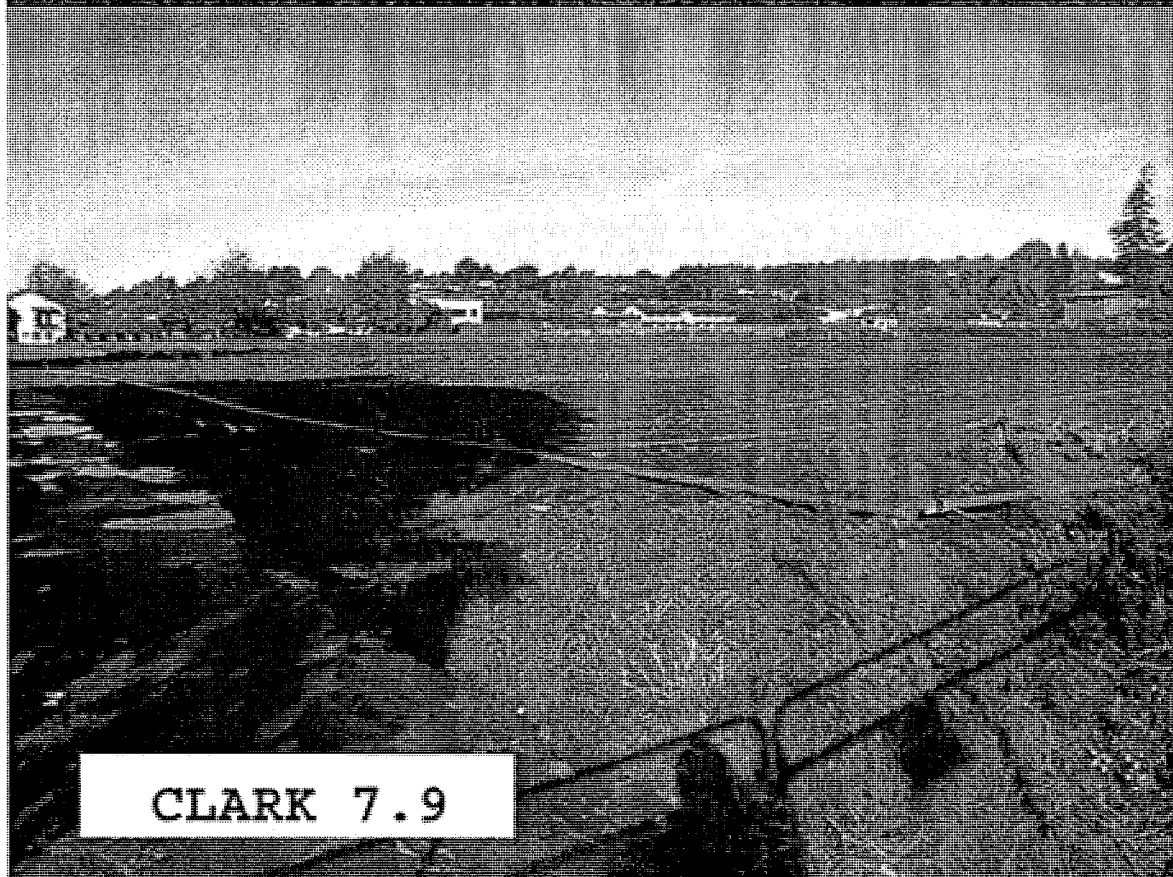
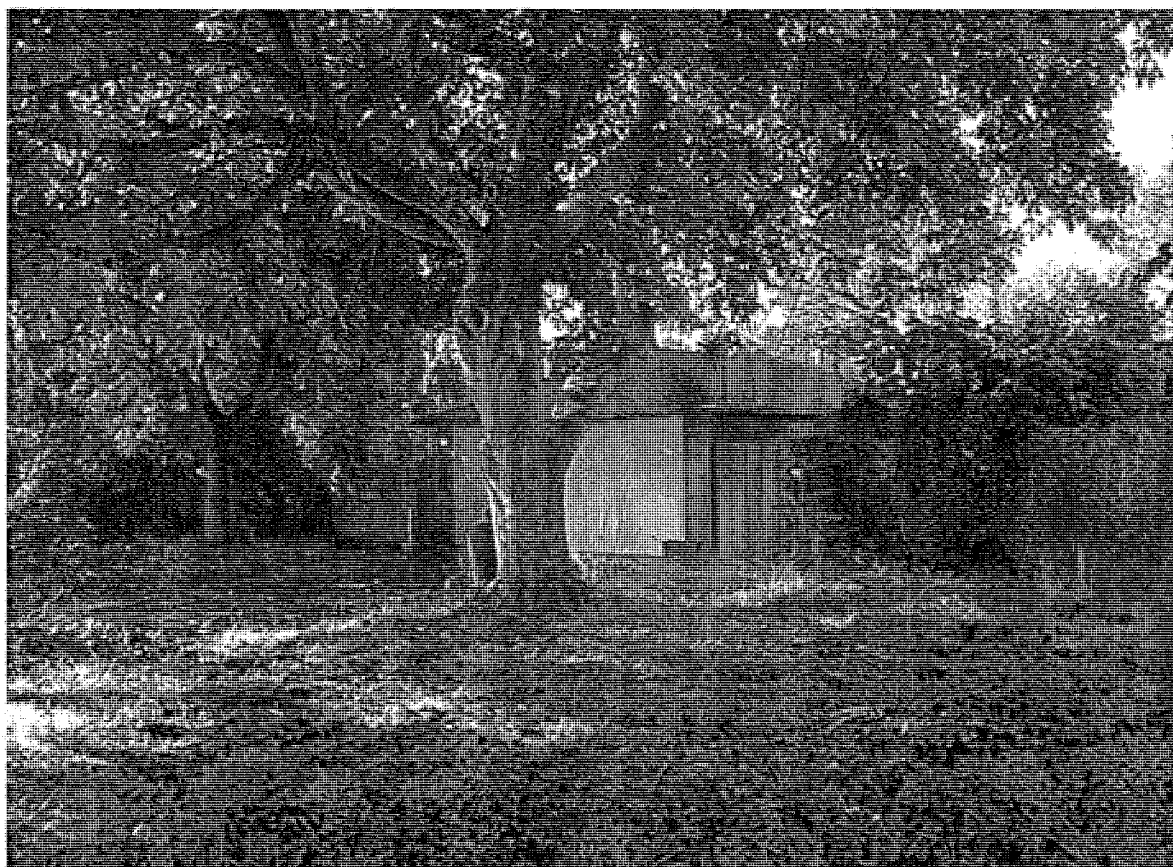


CHRIS 5+ ACRES



BROADMAN 2.5 ACRES

Developer Clark



For The Record

#7

Chair Getzelman and Commissioners,

The planner did an excellent job on page 4 of the staff report of explaining what happened to the rural centers during the various permutations of the General Plan. What he didn't make crystal clear is this: At no time during the last set of hearings was Val Verde Drive considered for anything other than one unit per acre. This was the trade off for the Special Treatment Area that covers the entire Rancho Canada Golf Club. And we expect that the County will honor this trade off.

When the Carmel Valley Master Plan was finally approved in the 1980's, Val Verde was considered a transitional area -- a buffer between the high density residential development at Arroyo Carmel and Riverwood and the real rural areas of the Valley. The present 266 unit cap is what remains of the initial 1310 unit cap. It's the amount of growth that can be accommodated due to the serious constraints of water, traffic, and flooding at the mouth of the Valley.

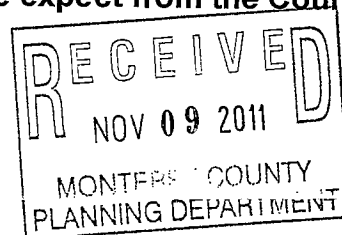
Just because a project can be built, should it be built? Not if it is not consistent with the General Plan. So I strongly support the analysis done by the staff. If you find the consistency analysis correct, the next question should be --- can the project be made consistent in a time certain?

Water is a real problem Perhaps another well can be dug. The question here is what happens to the other 11 wells in the immediate neighborhood. It's obvious that there will be less aquifer recharge with the extensive lot coverage.

There's also a question of fairness. Carmel Cottages has less than half the daily car trips than the 42 Val Verde Units will produce. They were not allowed to use Val Verde so they paid the Prine family one million dollars for access through Brinton's parking lot. The Cottages also has to move light standards, repave the lot, and add landscaping. I think it's unfair to allow Developer Clark to use Val Verde Drive at no cost and to allow him to burden the residents with costly road maintenance for a project they don't want.

I see no way this project can be made consistent with the General Plan. Giving more time to the developer is just kicking the can down the road. Deny the 42 units today. Keep Val Verde Drive at one units per acre -- that's what we expect from the County.

Margaret Robbins
Margaret Robbins
November 8, 2011



This project is an excellent example of why a strong Private Road Ordinance is needed. If the ordinance had been in place when Developer Clark applied for 42 units his application would not have been accepted and none of us would be sitting here today. He did not have and still does not have an agreement to go ahead with this project from the Val Verde Drive residents.

For The Record

Subj: **need someone to read this into the record**
Date: 11/8/2011 2:21:08 P.M. Pacific Standard Time
From: Margaretmike@aol.com
To: carmelvalleyassociation@gmail.com

Chair and Commissioners,

I'm Rosemary Emerson. I live at the corner of Rio and Val Verde Drive. It's just one acre. It's perfect for me since I love to garden. I'm a senior citizen and living on a tight budget. My biggest worry: I don't have Cal Am water. I rely completely on my well for all my water needs. What if those 42 units that Developer Clark wants to build cause my well to dry up? I don't have the money to dig another well. And I certainly don't have the money to maintain fancy road. Please put my mind at ease. Uphold the staff report and deny the 42 units. Keep Val Verde no more than one unit per acre.

Rosemary Emerson

Send me the name and I will put that in the order. There's a picture that goes with this -- I will handle -- this person follows Dale Agron

42 units Val Verde
For The Record

Monterey County Planning Commissioners,

It is appalling to me that any entity who honestly cares about the residents and the fragile environment at the mouth of Carmel Valley would even consider applying for a 42 unit subdivision on Val Verde Drive. The water impacts and the traffic generated by this development alone are enough to alarm the entire community. I live south of Rio Road and the intersection of Hwy. One where the traffic congestion will be significantly increased. Water hookups for 42 single family units cannot be accomplished with the up coming requirement to reduce pumping from the Carmel River.

I am grateful the Planning Dept. and staff find this project unacceptable. It is my hope that they will continue to oppose it and send their recommendation for denial to the Commissioners. I trust those on the Planning Commission will listen and agree with their staff.

As a private citizen of the Carmel area for over fifty years and one who has worked to preserve the special character of this lovely area I ask you to please deny the application of Carmel Rio Road LLC on Val Verde Drive at the mouth of Carmel Valley.

Respectfully submitted,

Barbara Rainer
Barbara Rainer

November 7, 2011

Neumeier Poma Investment Counsel LLC

Peter L. Neumeier, C.F.A.
Brian D. Poma, C.F.A.

November 7, 2011

Planning Commission
Monterey County

RE: Val Verde Carmel Project (Carmel Rio Road LLC application)

I am writing to express my **opposition** to the proposed Val Verde housing project. I'm a long time business owner with offices located on Carmel Rancho Blvd., adjacent to the proposed project. Over the 25 years we have worked in this location, my staff and I have witnessed increasingly crowded traffic conditions in the Carmel Rancho area, as development has been approved without the road infrastructure needed to cope with it. The entire business area cannot tolerate an additional 400 car trips per day that are estimated to be added by this development. As it stands now, the area's roads quickly end up in gridlock when we have a busy summer weekend or one of the many "special events" that clog Carmel Valley Road. I believe adding to this traffic mess will negatively affect the many small businesses at the mouth of the Valley, and will also create potential problems for any emergency evacuation needs.

The potential for increased flooding during heavy rains is also a major concern. As all the people who work in the area can attest, periods of heavy rain cause regular flooding of areas of Carmel Rancho Blvd., including major parts of the parking lots serving the offices and retail businesses along Carmel Rancho Blvd. The rain that now is soaked up by the farm fields now on the Val Verde site would presumably run off the roofs and streets of the project to be piped into the drainage infrastructure under Carmel Rancho Blvd.--which is already insufficient. In an extended flooding period, this additional water could cause the current street flooding to extend to the steps or even inside some of the ground level businesses in the area. Many clients and customers of the shops and offices would be unable to access the businesses, possibly for days.

I urge the Planning Commission to deny this project application.

Thank you,



Peter L. Neumeier
Neumeier Poma Investment Counsel
26435 Carmel Rancho Blvd.
Carmel, Ca. 93921

Carmel Valley Association
P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org



Since 1949

Planning Commissioners
168 W Alisal, 2nd Floor
Salinas, CA 93901

November 9, 2011

RE: GPZ090004
Carmel Rio Road, LLC

Dear Commissioners,

The Carmel Valley Association, representing nearly 10% of the voters of the Carmel Valley, is strongly opposed to this proposal for a 42-unit development on Val Verde, a private road, near the mouth of the Carmel Valley.

Staff has done an excellent job pointing out the many deficient areas of this proposed project: inconsistency with the General Plan, lack of proof of access, lack of long term water supply, well problems, lack of plan for water conservation or reclamation, traffic and road impacts to those living along the private road, lack on consensus with neighbors concerning the road and impacts to it.

The 95-10 Cease and Desist Order from the State of California, a very real and imminent threat to our water supply, alone should be enough to deny this project. Why is it not mentioned anywhere is a mystery to me.

A 266-unit cap on new building over and above the existing 475 lots of record within the Carmel Valley Master Plan, was a negotiated figure arrived at during the General Plan 2010 process. Other projects which had completed applications prior to the Val Verde project's completed application, if approved, will use up all of those units.

It couldn't be more clear. This project is not consistent with the recently adopted General Plan, as multiple deficiencies, and therefore must be denied.

We respectfully ask that you deny this project and advise the applicant to accept the existing zoning and work with its parameters.

Sincerely,

Christine Williams, President

"To preserve, protect and defend the natural beauty and resources of Carmel Valley"

SUSTAINABLE CARMEL VALLEY
11 Via Las Encinas, Carmel Valley, CA 93924
831-659-1115

November 1, 2011

Paul Getzelman, Chair
Monterey County Planning Commission
168 West Alisal, 2nd Floor
Salinas, CA 93901

RE: Carmel Rio Road LLC

Dear Chair Getzelman and Members of the Commission:

Sustainable Carmel Valley, a loosely knit organization of about 200 Carmel Valley residents, is committed to supporting projects and ways of living that, while enhancing our quality of life, can be maintained throughout the years without depleting our resources.

We support the Planning Department's finding that the 42 unit subdivision on Val Verde Drive, a private road, is inconsistent with the 2010 General Plan.

The project does not have the support of neighbors on the private road leading to the property. On a private road a project proposal should have the approval of the residents along the road before any other plans are made.

In addition, there is no long-term sustainable source of water for this project.

For these reasons we oppose the project and support the finding of the Planning Department. Please vote to deny the project.

Sincerely,

Mibs McCarthy

***Carmel Valley Women's Network
8250 El Camino Estrada
Carmel Valley, CA 93923***

November 1, 2011

Monterey County Planning Commission
Paul Getzelman, Chair
168 W. Alisal Street
Salinas, CA 93901

SUBJECT: Val Verde Drive Subdivision

Chair Getzelman and Commissioners:

The members of Carmel Valley Women's Network meet monthly to discuss events and policies affecting life in the valley. We are particularly concerned with health and safety issues.

We strongly oppose the Val Verde Drive subdivision. Traffic at the mouth of the valley is already often clogged during the day. We are especially concerned about our ability to quickly and safely reach our nearest medical facility, Community Hospital of the Monterey Peninsula. With added housing on Val Verde Drive, and added traffic, ambulances would have difficulty reaching CHOMP and first responders would not be able to respond quickly to emergencies.

Please deny approval of this project.

Sincerely,

Darby Moss Worth

Subj: **Fwd: 42 units Val Verde Drive - Carmel**
Date: 10/31/2011 12:10:51 P.M. Pacific Daylight Time
From: Lorribigsur@aol.com
To: margaretmike@aol.com

From: Lorribigsur@aol.com
To: district5@co.monterey.ca.us, district4@co.monterey.ca.us, district3@co.monterey.ca.us,
disrict2@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?

November 1, 2011

Chair Getzelman and Commissioners,

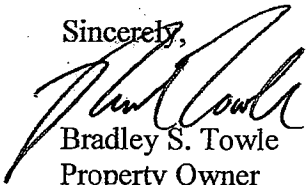
The Towle family (4072 Rio Road - corner of Val Verde drive) strongly oppose the proposed 42 unit subdivision on Val Verde Drive in Carmel. If built, it will produce over 400 new daily car trips and make it near impossible to access my driveway which is right at corner of Val Verde and Rio Road. This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

Mr. Paul C. Getzelman - Commissioner
Monterey Planning Commission
2nd Floor
168 W Alisal
Salinas, CA 93901

November 1, 2001

In Reference To: The consideration for Rezoning at 26500 Val Verde Dr. Carmel, CA

In 1955 my husband and I, Joe and Irene Broadman, purchased 2.5 acres at 26380 Val Verde Dr.; We lived there thirty(30) years. Presently this is a rental, but in the very near future , one of my daughters plans to make it here home.

It is my wish that the Monterey County Planning Commission will take into consideration the following problems:

1. Val Verde Dr. is a non-exclusive easement road; not a county road.
2. The need for more water in Carmel Valley continues to be an issue.
3. Traffic continues to increase
4. The air quality is not improving.

I am opposed to the rezoning of 26500: "The Clark's Property". Will the commission please make the very best decision for the people in Carmel Valley. Thank You.

Sincerely

IRENE BROADMAN

CC. Ms. Margaret Robbins
Ms. Anne McGowan
Ms Gwen (Broadman) Lindsey
Ms Lesa Broadman
Mr. Tim Broadman

Timothy D. Sanders ♦ 25075 Pine Hills Drive ♦ Carmel ♦ CA 93923
Ph: (831) 625-4324 ♦ Fx: (831) 625-4370 ♦ Email: tds@oxy.edu

November 7, 2011

Planning Commission
C/o Mike Novo, Planning Director
168 West Alisal, 2nd Floor
Salinas, CA 93901

Delivered by email (novom@co.monterey.ca.us)

Re: CARMEL RIO ROAD LLC - GPZ090004

Dear Members of the Planning Commission:

The available information for this proposed project on Val Verde Drive (also known as Carmel Rio Road LLC) includes *no traffic analysis* at all *where traffic from the project would have the most significant impact*, namely on the segment of Highway 1 between Carmel Valley Road and Ocean Avenue. The traffic **impacts** would be *unavoidable and irreversible*; no physical mitigation is feasible.

There is sufficient raw data in the available material, however, to assess the principal impacts it would have on that segment. The developer's estimate (Hexagon, June 2007) is that it would generate 364 vehicle trips per day, which is 35% more trips than the Villas de Carmelo development, recently disapproved by the Board of Supervisors. In addition it would (according to project data) distribute more than 40% of the new traffic – or more likely at least 45% of that traffic – to Highway 1 between Carmel Valley Road and Ocean Avenue, whereas Villas de Carmelo was projected to distribute about 25% of its traffic to that segment. Taken together, these facts imply that the *Val Verde Drive proposal would produce about 220% to 250% of the Villas de Carmelo traffic* on that segment.

That portion of highway has been *shown in every study* in recent years to *exceed its capacity* for traffic volume. These studies include the 2010 General Plan EIR (2007), a County project; the Carmel Valley Road Traffic Improvement Program RDSEIR (2009), a County project; and the Villas de Carmelo EIR (2010, 2011), a private project.

Furthermore, the southbound average travel speed on the segment, as reported in the last of these reports, was 14.3 mph during the AM peak traffic period and 16.7 mph during PM the peak, where the speed limit is 45 mph and the “free flow speed” – the typical speed of cars when there is very little traffic – is only slightly lower, at 42 mph. The AM peak *travel speed is less than 1/3 of the speed limit*, and only slightly more than 1/3 of the free flow speed.

Clearly *no more discretionary traffic should be added to this segment*. This is **codified** in the County's regulations by the condition that not even one vehicle trip should be

added to a road segment rated LOS F. Classified as a Class II rural highway, as it consistently has been for many years, it is rated LOS F because road capacity is exceeded (see any of the studies listed above). Even under the inappropriate misclassification as an Urban Street, which incorporates four categories, the category of that classification that best fits the segment (high speed principal artery design) also rates it as LOS F. (However, the segment demonstrably does *not* meet the defining criteria for *any* of the four urban street categories. See the Highway Capacity Manual, chapters 5, 10, 15 and 21.)

Adding about 146 – 164 daily vehicle trips or about 15 – 16 peak hour trips unavoidably and irreversibly even to just the segment of Highway 1 north of Carmel Valley Road, the project would ***dump entirely unacceptable numbers of vehicles into already over-capacity*** traffic. Even a single added vehicle violates County standards and the General Plan.

The proposed Val Verdi Drive project *cannot* under any circumstances meet existing traffic standards, or *any* reasonable traffic standards, and should not proceed forward.

Carmel Valley Association

P.O. Box 157, Carmel Valley, California 93924

www.carmelvalleyassociation.org

*Christine
to Roger*

November 8, 2011

Mr. Mike Novo and Mr. Bob Schubert
Monterey Planning Commission
68 W. Alisal St., 2nd floor
Salinas, CA 93901

RE: GPZ090004, "Val Verde Subdivision," at 26500 Val Verde Drive, Carmel Valley

Dear Messrs. Novo and Schubert, and Members of the Planning Commission:

The Carmel Valley Association Water Committee agrees with the staff recommendation that the proposed subdivision is inconsistent with the 2010 General Plan.

In addition we believe that the project cannot be made to comply with the General Plan Policies #: CV-5.3 and #: CV-5.4 through on-site mitigation. As an alternative, the applicant could be required to pay mitigation fees to support an appropriate off-site water supply development project.

We believe the water management measures as proposed are totally inadequate, especially at this time of future water insecurity.

Specifically, we do not understand the logic underlying statements in the Bierman Hydro-geologic letter of October 24, 2011 (Exhibit F) regarding:

Policy #: CV-5.3; Limit Development to Vacant Lots of Record:

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

and,

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 Bierman letter states,

“The additional water supplies identified for this project are; 1) A comprehensive rain water harvesting, conveyance, and storage system and 2) An on-site 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.”

We expect that there is very little storm water runoff from the property as it now stands, and would expect that any increase in runoff from the development of seven units could be easily mitigated through proper grading. Expansion to 42 units would clearly result in a substantial increase in runoff, which the applicant proposes to mitigate with “water harvesting” measures such as oil/water separators, infiltration basins, etc.

But there is no “new source production” or “additional water supplies” created by this mitigation, as required by Policies CV-5.3 and CV-5.4!

Similarly, since wastewater entering the Carmel sewerage system is effectively treated and recycled already, and transported to Pebble Beach, so there is no additional water generated by installing gray-water recycling systems, as proposed.

Accordingly, we believe that the only mitigation step that can be taken to produce “additional water” would have to take place off site. Such an arrangement could involve paying fees to fund future desalination facilities, or fees to improve the transfer of water from the Carmel River during high flows for expanding ASR capacity (e.g. more pumps, bigger pipes).

With best regards,

Todd Norgaard
CVA Water Committee

Subj: **private road ordinance**
 Date: 11/1/2011 2:12:23 P.M. Pacific Daylight Time
 From: Margaretmike@aol.com
 To: holmcp@co.monterey.ca.us

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.

advice
 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.

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 for eight long years. Please don't make us wait for another eight.

Thank you,

Margaret Robbins
 Margaret Robbins
 11/1, 2011

***Carmel Valley Women's Network
8250 El Camino Estrada
Carmel Valley, CA 93923***

November 1, 2011

Monterey County Planning Commission
Paul Getzelman, Chair
168 W. Alisal Street
Salinas, CA 93901

SUBJECT: Val Verde Drive Subdivision

Chair Getzelman and Commissioners:

The members of Carmel Valley Women's Network meet monthly to discuss events and policies affecting life in the valley. We are particularly concerned with health and safety issues.

We strongly oppose the Val Verde Drive subdivision. Traffic at the mouth of the valley is already often clogged during the day. We are especially concerned about our ability to quickly and safely reach our nearest medical facility, Community Hospital of the Monterey Peninsula. With added housing on Val Verde Drive, and added traffic, ambulances would have difficulty reaching CHOMP and first responders would not be able to respond quickly to emergencies.

Please deny approval of this project.

Sincerely,

Darby Moss Worth

Subj: **Fwd: 42 units Val Verde Drive - Carmel**
Date: 10/31/2011 12:10:51 P.M. Pacific Daylight Time
From: Lorribigsur@aol.com
To: margaretmike@aol.com

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?

Subj: **MAXINE STUFF**
Date: 11/9/2011 8:09:46 A.M. Pacific Standard Time
From: maxine.keene@gmail.com
To: margaretmike@aol.com

DENY THE 42 UNITS ON VAL VERDE DRIVE

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

**THIS PROPOSED DEVELOPMENT WILL COMPLETELY CHANGE
THE RURAL QUALITY WE PRESENTLY ENJOY ON VAL VERDE DRIVE.
MAKING IT UNSAFE FOR MY FAMILY HORSES AND THE HISTORICAL
USES OF THE NEIGHBORHOOD. THIS DEVELOPMENT IS NOT
WANTED BY THE SURROUNDING PROPERTY OWNERS AND WE DO
NOT SANCTION THE INTENSIFICATION OF USE ON OUR SAFE
PRIVATE ROAD- THIS PROJECT WILL DIMINISH OUR WELL WATER
SUPPLE AND THE CONTINUOUS TRAFFIC AND FUMES
POLLUTING OUR ENVIRONMENT
WILL MAKE IT UNSAFE FOR MY FAMILY,
HORSES AND THE EQUESTRIAN NEIGHBORHOOD.**

**WE ALL LIKE OUR ROAD THE WAY IT IS, AND DO NOT HAVE THE FUNDS
FOR REQUIRED ROAD MAINTENANCE**

WE NEED TO DENY THIS PROJECT AND ASK FOR ON UNIT PER ACRES

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

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

Subj: **need someone to read this into the record**
Date: 11/8/2011 2:21:08 P.M. Pacific Standard Time
From: Margaretmike@aol.com
To: carmelvalleyassociation@gmail.com

Chair and Commissioners,

I'm Rosemary Emerson. I live at the corner of Rio and Val Verde Drive. It's just one acre. It's perfect for me since I love to garden. I'm a senior citizen and living on a tight budget. My biggest worry: I don't have Cal Am water. I rely completely on my well for all my water needs. What if those 42 units that Developer Clark wants to build cause my well to dry up? I don't have the money to dig another well. And I certainly don't have the money to maintain fancy road. Please put my mind at ease. Uphold the staff report and deny the 42 units. Keep Val Verde no more than one unit per acre.

Rosemary Emerson

Send me the name and I will put that in the order. There's a picture that goes with this -- I will handle -- this person follows Dale Agron

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.

11/01/2011

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

Carmel Valley Women's Network
8250 El Camino Estrada
Carmel Valley, CA 93923

November 1, 2011

Monterey County Planning Commission
Paul Getzelman, Chair
168 W. Alisal Street
Salinas, CA 93901

SUBJECT: Val Verde Drive Subdivision

Chair Getzelman and Commissioners:

The members of Carmel Valley Women's Network meet monthly to discuss events and policies affecting life in the valley. We are particularly concerned with health and safety issues.

We strongly oppose the Val Verde Drive subdivision. Traffic at the mouth of the valley is already often clogged during the day. We are especially concerned about our ability to quickly and safely reach our nearest medical facility, Community Hospital of the Monterey Peninsula. With added housing on Val Verde Drive, and added traffic, ambulances would have difficulty reaching CHOMP and first responders would not be able to respond quickly to emergencies.

Please deny approval of this project.

Sincerely,

Darby Moss Worth

SUSTAINABLE CARMEL VALLEY
11 Via Las Encinas, Carmel Valley, CA 93924
831-659-1115

November 1, 2011

Paul Getzelman, Chair
Monterey County Planning Commission
168 West Alisal, 2nd Floor
Salinas, CA 93901

RE: Carmel Rio Road LLC

Dear Chair Getzelman and Members of the Commission:

Sustainable Carmel Valley, a loosely knit organization of about 200 Carmel Valley residents, is committed to supporting projects and ways of living that, while enhancing our quality of life, can be maintained throughout the years without depleting our resources.

We support the Planning Department's finding that the 42 unit subdivision on Val Verde Drive, a private road, is inconsistent with the 2010 General Plan.

The project does not have the support of neighbors on the private road leading to the property. On a private road a project proposal should have the approval of the residents along the road before any other plans are made.

In addition, there is no long-term sustainable source of water for this project.

For these reasons we oppose the project and support the finding of the Planning Department. Please vote to deny the project.

Sincerely,

Mibs McCarthy

MONTEREY COUNTY

PLANNING AND BUILDING INSPECTION DEPARTMENT

68 W. ALISAL ST. 2nd FLOOR, SALINAS, CA 93901

PERMIT CENTER LOCATIONS:

- SALINAS OFFICE: 168 WEST ALISAL ST., 2nd FLOOR, SALINAS, CA 93901 FAX: (831) 755-9516; PHONE: (831) 755-5025
- COASTAL OFFICE: 2620 FIRST AVE., MARINA, CALIFORNIA 93933; FAX: (831) 384-3261; PHONE: (831) 883-7500 (Building only)
- KING CITY OFFICE: 522 - NORTH SECOND ST., KING CITY, CA 93930 FAX: (831) 385-8387; PHONE: (831) 385-8315

<http://www.co.monterey.ca.us/pbi/>



October 14, 2011

Pamela Silkwood
P.O. Box 3350
Monterey, CA 93942-3350

Subject: Subdivision Application on property at Rio Road & Val Verde Drive, Carmel
File No.: GPZ090004 (Formerly PLN060647)

Dear Ms. Silkwood:

Thank you for your letter dated October 6, 2011 regarding the subject project. Below are responses to your comments.

I. Consistency Analysis

A. Overview

Your letter states that staff's General Plan consistency analysis is incomplete because CEQA requires a review of the project's consistency not only with the General Plan but also with regional and other plans (CEQA Guidelines Section 15125(d)). As stated in the letter to Mr. Clark dated July 5, 2011, staff's consistency analysis only applies to the 2010 General Plan. Since the analysis was not done as part of an EIR, CEQA Guideline Section 15125(d) does not apply to the project at this time. If an EIR were to be prepared for the project, consistency with regional and other plans would have to be analyzed at that time. Since the consistency analysis was based on information that has been submitted to date, the letter to Mr. Clark not only identified polices that the project was found to be inconsistent with, but also identified policies where consistency could not be determined until additional information is submitted. County also disagrees with your contention that "[t]here are several General Plan policies ... that conflict with or are inconsistent with the state's affordable housing and infill development laws."

Your letter further states that bringing the project before the Planning Commission at this time is inconsistent with "Ordinance 5721". Presumably, you are referring to Ordinance No. 5171 (Interim Ordinance) that sets forth a process to determine 2010 General Plan consistency for discretionary projects until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. Section 4.C of Ordinance No. 5171 states that staff shall review the completed General Plan consistency checklist against polices and land use designations prior to issuance of any permit and shall make a recommendation regarding

General Plan consistency to the appropriate authority. Nothing in the ordinance precludes staff from taking its recommendation regarding General Plan consistency to the Planning Commission prior to completing environmental review.

Your letter also states that the “*application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission....*” Ordinance No. 5171 (Section 4.D) states that no permit shall be issued if the proposed development does not conform to General Plan policies or to the land use designation. In addition, Public Resources Code section 21080(b)(4) and CEQA Guidelines Section 15270(a) provide that CEQA does not apply to projects that are denied. If a project is inconsistent with the General Plan, it cannot be approved, and it would not be necessary or prudent to prepare an EIR if the project is going to be denied.

B. Consistency Analysis

You are correct in assuming that the consistency analysis in the September 29, 2011 letter is the most recent interpretation of the General Plan policies that has been provided to the applicant. As stated in the September 29, 2011 letter, staff met with Brian Clark on August 31, 2011 to review staff’s consistency analysis and subsequently revised the analysis in response to the discussion at that meeting.

1. Access

General Plan Policy C-3.6 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 the applicable agreement.*” The policy does not refer to density “*beyond the density that is anticipated in the General Plan.*” That will be clarified when the project goes before the Planning Commission.

Your letter refers to a recorded easement to provide access to the subdivision. The easement does not satisfy the requirements of Policy C-3.6 because the applicant has not provided documentation, such as an agreement among all of the easement holders or a final determination by a court, that would allow the proposed intensification of use of the easement. Additionally, we disagree with your interpretation of Government Code section 66474(g) of the Subdivision Map Act. It does not establish that the recorded easement in this case demonstrates access to the proposed subdivision.

Your letter also states that until “*regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislative action.*” Ordinance No. 5171 requires a General Plan consistency determination until such time as the County adopts the necessary ordinances and programs to fully implement the 2010 General Plan. It sets forth a General Plan consistency review process which is being followed in the processing of the subject application.

2. Secondary Well

Your letter notes that General Plan Policy PS-3.13 sets forth “*factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.*” Your letter also states that, “*to properly interpret and determine consistency with these polices, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical document reports submitted to it by the applicant.*” As stated in the September 29, 2011 letter to Mr. Clark, the 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. These requirements derive not just from the General Plan but also from state regulation. Therefore, the replacement well would need to be applied for, drilled and tested to provide the required information in regard to “*production capacity, production capability and any adverse effect on the economic extraction of water or other effect on wells in the immediate vicinity*” (see memorandum from the Environmental Health Bureau dated March 10, 2011). 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 described above (see memorandum from the Environmental Health Bureau dated August 9, 2010).

Your letter further states that the County has the option of imposing as a condition of tentative map approval a requirement for a secondary well to be located in an area with a sufficient control zone. As indicated above, the project cannot be approved if it is inconsistent with the General Plan, and General Plan consistency cannot be determined until the secondary well is drilled. The projects you referenced precede the adoption of the 2010 General Plan.

3. Water Related Policies

Your letter states that the County’s consistency analysis determined that no information has been submitted demonstrating that the project includes any water reclamation or conservation component and then it notes that the applicant is proposing hydrozones as a water conservation component. The General Plan consistency analysis will be updated to reflect the applicant’s current proposal. However, the project is still inconsistent with Policy CV-5.3 because it does not include a water reclamation component. Although the hydrozones are a water conservation component, they do not provide for substantial water reclamation.

II. **Environmental Review Under CEQA**

Your letter states that “*my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application.*” Staff disagrees with that statement. A letter from the Planning Department dated February 28, 2011 indicated that:

- The application was deemed complete as of December 9, 2010 which is 30 days from November 9, 2010 which is the date the applicant submitted the last of the materials requested on the checklist.

- For purposes of environmental review, the project description was not finalized until February 4, 2011 which is when the applicant identified the proposed mix of affordable units.
- The applicant was advised that 1) based on staff's preliminary analysis, project is inconsistent with General Plan; 2) additional information (traffic, drainage, hydrologic) is needed to complete environmental review of the project; and 3) options include: i) withdraw application, ii) request staff to complete General Plan consistency analysis, or iii) request staff to proceed with environmental review.

In an e-mail message dated March 8, 2011, Mr. Clark requested staff to complete a GP consistency analysis. On July 5, 2011, a letter containing staff's GP Consistency analysis was sent to Mr. Clark. The letter also advised Mr. Clark that options for processing the application include: 1) appeal staff's General Plan consistency analysis to the Planning Commission, or 2) accept staff's GP consistency analysis and request staff to proceed with environmental review. Mr. Clark was also reminded that additional information (traffic, drainage, hydrologic) was still needed in order to proceed with environmental review.

On July 6, 2011, Mr. Clark sent a series of e-mails contending that the project is consistent with all applicable GP policies. On August 31, 2011, staff met with Mr. Clark to review the GP consistency analysis, and based on the discussion at the meeting, staff agreed to revise the analysis. On September 29, 2011, a letter containing staff's revised GP consistency analysis was sent to Mr. Clark.

Your letter states that, under Public Resources Code Section 21080.2 and CEQA Guidelines Section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. As indicated in the September 17, 2009 letter to Mr. Clark, applications that involve legislative acts are not bound by the timelines in the Permit Streamlining Act. The subject application would require General Plan Amendments (i.e., legislative act) in order to be found consistent with the 2010 General Plan. Staff's most recent General Plan consistency analysis of the project contained in the letter from the Planning Department dated September 29, 2011 identifies several GPAs that would be required for the project to be determined to be consistent with the General Plan.

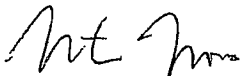
Additionally, in response to your contentions concerning CEQA timelines, pursuant to CEQA Guidelines Section 15109, an unreasonable delay by an applicant in meeting requests by the lead agency necessary for the preparation of an EIR suspends the running of the time period described in CEQA Guideline Section 15108. Until the requested additional information is submitted, the running of the time period described in Sections 15108 is suspended because the project description has not been sufficiently defined to commence environmental analysis of the project. For example, General Plan Policy PS-3.2 (Long Term Sustainable Water Supply) sets forth several factors to be used in developing criteria for proof of a long term sustainable water supply, including the production capacity, production capability and any adverse effect of the economic extraction of water or other effect on wells in the immediate vicinity. In the absence of drilling the replacement well and providing the other requested information (traffic, drainage, hydrogeologic), the running of the time period described in Section 15108 is suspended because adequate information does not exist to conduct the environmental review. This information is

needed to establish a stable project description and to begin the assessment of long term sustainable water supply (as discussed in Secondary Well section above) and analysis of other potential environmental impacts..

As indicated in the letter to Mr. Clark dated September 29, 2011, a hearing on the project has been tentatively scheduled for the Planning Commission meeting on November 9, 2011 to consider staff's General Plan consistency analysis and to consider denial of the project. Since staff has already met with Mr. Clark to review staff General Plan consistency analysis, another meeting prior to the Planning Commission meeting would not be productive. You will, of course, have the opportunity to present your position regarding the application at the Planning Commission hearing.

If you have any questions, feel free to contact me at novom@co.monterey.ca.us or by phone at (831) 755-5192.

Sincerely,



Mike Novo, AICP
Planning Director
RMA – Planning Department

cc. Leslie Girard
Wendy Strimling
Carl Holm
Bob Schubert
Janna Faulk
File No. GPZ090004

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October 6, 2011

OUR FILE NO. 6490.01

Michael Novo
Resource Management Agency –
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, California 93901

RE: Carmel Rio Road LLC, Subdivision Project (PLN060647)

Dear Mr. Novo:

This firm represents Carmel Rio Road LLC regarding the subdivision project at Val Verde Drive and Rio Road (PLN060647; the "Project"). This letter addresses the following two issues regarding the Project: (1) the County consistency analysis, dated September 29, 2011, and (2) the hearing scheduled before the Planning Commission. More specifically, we believe that the Project is consistent with local, state and federal laws, regulations and policies and that the County has failed to complete a thorough consistency analysis as required under CEQA. Rather than hold a hearing on an incomplete consistency analysis and piecemeal the application review process, we request that the County complete the application process as required by law. In order to meet the December 9, 2011 deadline to complete and certify an EIR, we request that the County accept the applicant's EIR by performing independent review and judgment of the document consistent with CEQA Guidelines section 15084(e).

I. Consistency Analysis

A. Overview

Although your staff prepared an analysis to determine the Project's consistency with the 2010 General Plan pursuant to Ordinance 5721, the consistency analysis is incomplete. CEQA requires a review of a project's consistency not only with the general plan, but with regional and other plans as well (14 CCR §15125(d)), and a review of the project's consistency with state and federal laws and regulation are oftentimes included in EIRs. There are several General Plan policies (including the policy setting forth the housing unit cap) that conflict with or are inconsistent with the State's affordable housing and infill development laws, and a more thorough consistency analysis in an EIR would address and possibly resolve these conflicts and inconsistencies.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
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Procedurally, bringing the Project now before the Planning Commission is inconsistent with Ordinance 5721. Ordinance 5721 states that the determination of the General Plan consistency must be made “as part of the determination of the development application.” (Section 4.C., Ordinance 5721.) Because the Planning staff has failed to fully process the development application, the staff does not have sufficient information to prepare a staff report, nor do they have sufficient information to make a recommendation on the application. The application must be fully processed, including compliance with CEQA, before the Project can be heard by the Planning Commission or the Board; otherwise, any decision by the County’s discretionary bodies would be arbitrary and capricious.

B. Consistency Analysis

Over the course of reviewing this application, your staff has taken differing positions and has put forth numerous interpretations of the same policy, which indicates that the policies of the General Plan may be vague and overbroad or insufficiently described to properly set forth standards. We assume that the consistency analysis in the September 29, 2011 letter sets forth the County staff’s most recent interpretation of the General Plan policies. This letter states that the Project is inconsistent with five (5) General Plan policies. The below sections provide a rationale on why the Project is consistent with these five (5) policies.

1. Access

The September 29, 2011 letter states that the Project is inconsistent with Policy C-3.6 because the applicant failed to provide an agreement among all of the easement holders or a court order for the easement that provides access for the subdivision. However, in interpreting this policy, the September 29, 2011 letter sets forth the following qualifying language – the agreement or court order is only required for a project that proposes a density “beyond the density that is anticipated in the General Plan”.

Your staff has already determined that the density proposed for the Project is consistent with the General Plan. This has not been refuted. Thus, in accordance with the staff’s interpretation of Policy CV-3.6, the Project is consistent with this policy.

Density is set forth in Camel Valley Master Plan Policy CV-1.10, which is specific to development on Val Verde Drive. Policy CV-1.10 allows for certain density if the project proposes 25% affordable housing, for which the Project exceeds. Moreover, the Housing Element of the General Plan references the application (and future County enacting ordinance) of two state laws, SB 1818 and SB 435, that allow for state density bonus, which is also applicable to this Project. In summary, the density of the Project is not beyond that anticipated in the General Plan, and thus, the Project is consistent with this policy.

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
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My client also provided you a recorded easement of sufficient size to provide access to the subdivision. Under the Subdivision Map Act section 66474(g), “easements of record” are sufficient to demonstrate access for the subdivision. The Subdivision Map Act does not require an agreement or court order to interpret a recorded easement beyond the four corners of the document. My client has sufficiently demonstrated that the recorded easement will provide sufficient access for the subdivision.

Finally, Policy C-3.6 states that the County “shall establish regulations for new development that would intensify use of a private road or access easement.” No such regulations have yet been enacted. Until the regulations are adopted, the County staff and discretionary bodies must rely on the requirements of the subdivision map act and the express language in the easement of record to avoid an ad-hoc and legally invalid legislative action.

In summary, the applicant provided the County a recorded easement for access of sufficient size to be consistent with the Subdivision Map Act. The recorded easement is also consistent with the staff’s interpretation of Policy C-3.6, because the access is available for a project that proposes a density that is consistent with the General Plan. In moving forward, the County has the option of imposing conditions to the tentative map for street widening and installation of street improvements, which is consistent with its limited police power.

2. Secondary Well

Policy PS-3.13 sets forth “factors for developing criteria for proof of a long term sustainable water supply and an adequate water supply.” The criteria have not yet been developed. Policies PS-3.1, 3.2, 3.9, and 3.13 are absent such language as “well control zone” and “replacement well,” yet your staff created these requirements from these policies, without the benefit of a legislative process, and such action, if accepted by the County’s discretionary bodies, would constitute improper delegation of legislative authority. To properly interpret and determine consistency with these policies, the County must complete an environmental review for the Project or conduct an independent review and judgment of the technical documents reports submitted to it by the applicant. Otherwise, the County staff does not have any legal basis for their position that the Project is inconsistent with these policies.

To immediately remedy this issue, the County has the option of imposing as a condition of the tentative map a secondary, back up well to be located in an area with sufficient control zone (to be developed later on through enacting ordinances). The County has allowed such condition in the past for various subdivision projects (e.g., Rancho Los Robles). Water quality and quantity for this area are not of concern since the applicant has demonstrated sufficient quality and quantity from the on-site two wells and other wells in the area have also demonstrated the

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 4

same. To treat this Project consistently with previously approved subdivision projects to avoid discriminatory application, we request that the secondary back up well be included as a condition of the tentative map.

3. Water-Related Policies

The County's consistency analysis for the water-related policies determined that "no information has been submitted demonstrating that the proposed project includes any water reclamation or conservation component." The consistency analysis failed to acknowledge the applicant's plan, dated July 16, 2010, that proposes hydrozones as part of the Project (see Exhibit "A"). Hydrozones divide a landscape irrigation system based upon individual plant water requirements, plant height, and plant density to create microclimates to increase water-efficiency. The hydrozones are also designed to capture and infiltrate irrigation water and seasonal rainfall to recharge the groundwater basin.

Because of the relatively shallow groundwater level at the Project site, Bestor Engineers had determined that direct infiltration from these hydrozones is the most effective mechanism for recharging groundwater. With the hydrozone proposal that incorporates both water conservation and supply measures, the Project is consistent with these policies.

II. Environmental Review Under CEQA

Upon receiving the September 17, 2009 letter from the County, in which your staff told my client in no uncertain terms to withdraw his development application, my client, out of frustration, requested to forego the CEQA process because the Planning staff had already determined that the Project will be recommended for denial even though the application was incomplete at that time. However, since that time and once the application was determined to be complete on December 9, 2010, my client repeatedly asked the County to either perform an environmental review of the Project under CEQA or conduct an independent review and judgment of the technical documents submitted as part of the application. Despite the repeated requests, the County has not acted accordingly as required by law.

Under Public Resources Code section 21080.2 and CEQA Guidelines section 15102, the County should have completed its determination on whether to prepare an EIR within 30 days after the application was accepted as complete. Instead of making such determination or preparing the environmental document, the County staff worked on the consistency analysis for nearly 10 months, which analysis could have and should have been performed as part of the EIR. The County has until December 9, 2011, to prepare and certify an EIR. (Public Resources Code §21151.5(a)(1)(A).)

Michael Novo
Resource Management Agency –
Planning Department
October 6, 2011
Page 5

Although the deadline is approaching, we believe the County could complete the EIR within that timeline. First, the General Plan's EIR, which was certified in October 2010, was a programmatic EIR. The proposed project is within the scope of the programmatic EIR. Therefore, the programmatic EIR can be used to simplify the task of preparing this later environmental document for activities within the program. (14 CCR §15168(b)-(d).) Under section 15168(d)(3) of the CEQA Guidelines, the focus EIR can be limited to new environmental effects that had not been considered in the program EIR.

Second, the County has the technical, site-specific information necessary to complete the EIR or accept an EIR from the applicant. (CEQA Guidelines section 15084(e).) As discussed earlier, my client submitted site specific, technical reports as part of the development application. Pursuant to CEQA Guidelines section 15084(c), the County must consider all information and comments received, and the information or comments may be included in the draft EIR in whole or in part.

Finally, although the County has an unwritten, internal policy to contract with an outside consultant to prepare EIRs, the County has a short period of time before the 1 year period lapses for preparing and certifying an EIR. (Public Resources Code §21151.5(a)(1)(A).) To avoid further delays, the County can accept the applicant's EIR and perform independent review and judgment of the document pursuant to CEQA Guidelines section 15084(e).

In summary, we ask that the County proceed by accepting the EIR prepared by the applicant, which will focus solely on the site-specific environmental effects not considered in the program EIR of the General Plan. The County should then be able to perform its independent review and judgment of the document within the one-year time frame requirement. (Public Resources Code §21151.5(a)(1)(A).)

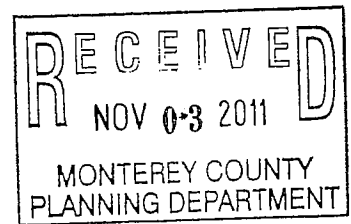
After you have had an opportunity to review the foregoing, please call me to schedule a meeting.

Respectfully submitted,



Pamela H. Silkwood

cc: Leslie Girard, Esq.



Mr. Paul C. Getzelman - Commissioner
Monterey Planning Commission
2nd Floor
168 W Alisal
Salinas, CA 93901

November 1, 2001

In Reference To: The consideration for Rezoning at 26500 Val Verde Dr. Carmel, CA

In 1955 my husband and I, Joe and Irene Broadman, purchased 2.5 acres at 26380 Val Verde Dr.; we lived there thirty(30) years. Presently this is a rental, but in the very near future , one of my daughters plans to make it here home.

It is my wish that the Monterey County Planning Commission will take into consideration the following problems:

1. Val Verde Dr. is a non-exclusive easement road; not a county road.
2. The need for more water in Carmel Valley continues to be an issue.
3. Traffic continues to increase
4. The air quality is not improving.

I am opposed to the rezoning of 26500: "The Clark's Property". Will the commission please make the very best decision for the people in Carmel Valley. Thank You.

Sincerely


IRENE BROADMAN

CC. Ms. Margaret Robbins
Ms. Anne McGowan
Ms Gwen (Broadman) Lindsey
Ms Lesa Broadman
Mr. Tim Broadman

Timothy D. Sanders ♦ 25075 Pine Hills Drive ♦ Carmel ♦ CA ♦ 93923
Ph: (831) 625-4324 ♦ Fx: (831) 625-4370 ♦ Email: tds@oxy.edu

November 7, 2011

Planning Commission
C/o Mike Novo, Planning Director
168 West Alisal, 2nd Floor
Salinas, CA 93901
Delivered by email (novom@co.monterey.ca.us)

Re: CARMEL RIO ROAD LLC - GPZ090004

Dear Members of the Planning Commission:

The available information for this proposed project on Val Verde Drive (also known as Carmel Rio Road LLC) includes *no traffic analysis* at all *where traffic from the project would have the most significant impact*, namely on the segment of Highway 1 between Carmel Valley Road and Ocean Avenue. The traffic **impacts** would be *unavoidable and irreversible*; no physical mitigation is feasible.

There is sufficient raw data in the available material, however, to assess the principal impacts it would have on that segment. The developer's estimate (Hexagon, June 2007) is that it would generate 364 vehicle trips per day, which is 35% more trips than the Villas de Carmelo development, recently disapproved by the Board of Supervisors. In addition it would (according to project data) distribute more than 40% of the new traffic – or more likely at least 45% of that traffic – to Highway 1 between Carmel Valley Road and Ocean Avenue, whereas Villas de Carmelo was projected to distribute about 25% of its traffic to that segment. Taken together, these facts imply that the *Val Verde Drive proposal would produce about 220% to 250% of the Villas de Carmelo traffic* on that segment.

That portion of highway has been *shown in every study* in recent years to *exceed its capacity* for traffic volume. These studies include the 2010 General Plan EIR (2007), a County project; the Carmel Valley Road Traffic Improvement Program RDSEIR (2009), a County project; and the Villas de Carmelo EIR (2010, 2011), a private project.

Furthermore, the southbound average travel speed on the segment, as reported in the last of these reports, was 14.3 mph during the AM peak traffic period and 16.7 mph during PM the peak, where the speed limit is 45 mph and the “free flow speed” – the typical speed of cars when there is very little traffic – is only slightly lower, at 42 mph. The AM peak *travel speed is less than 1/3 of the speed limit*, and only slightly more than 1/3 of the free flow speed.

Clearly *no more discretionary traffic should be added to this segment*. This is codified in the County's regulations by the condition that not even one vehicle trip should be

added to a road segment rated LOS F. Classified as a Class II rural highway, as it consistently has been for many years, it is rated LOS F because road capacity is exceeded (see any of the studies listed above). Even under the inappropriate misclassification as an Urban Street, which incorporates four categories, the category of that classification that best fits the segment (high speed principal artery design) also rates it as LOS F. (However, the segment demonstrably does *not* meet the defining criteria for *any* of the four urban street categories. See the Highway Capacity Manual, chapters 5, 10, 15 and 21.)

Adding about 146 – 164 daily vehicle trips or about 15 – 16 peak hour trips unavoidably and irreversibly even to just the segment of Highway 1 north of Carmel Valley Road, the project would ***dump entirely unacceptable numbers of vehicles*** into ***already over-capacity*** traffic. Even a single added vehicle violates County standards and the General Plan.

The proposed Val Verdi Drive project *cannot* under any circumstances meet existing traffic standards, or *any* reasonable traffic standards, and should not proceed forward.

EXHIBIT H



MONTEREY COUNTY

RESOURCE MANAGEMENT AGENCY

REDEVELOPMENT AND HOUSING OFFICE, Jim Cook, Director

168 W. Alisal St., 3rd Floor
Salinas, CA 93901

(831) 755-5390
FAX (831) 755-5398

MEMORANDUM

Date: December 17, 2010

To: Bob Schubert, Planning

From: Marti Noel, Assistant Director

CC: Kay Reimann, County Counsel

Re: **CARMEL RIO ROAD LLC (GPZ090004)**

The purpose of this memo is to provide an analysis on the Inclusionary compliance and State Density Bonus issues associated with the above referenced project. The project proposal currently consists of a General Plan Amendment, Rezoning, and Combined Development Permit to allow the development of a 7.92 acre property in Carmel Valley. The project, as currently proposed, will result in 31 market rate residential lots and eleven Inclusionary units, for a total of 42 residential units. One existing residential unit is located on the Project Site and will be demolished as part of the project. The following is a description and analysis related to applying State Density Bonus regulations layered with density/affordable housing policies contained in the Carmel Valley Master Plan while complying with the County's Inclusionary Housing Ordinance. Each of these regulations contains maximum densities related to minimum affordable housing provided and each have unique calculations associated with compliance.

INCLUSIONARY

Overview of Inclusionary Ordinance Requirements:

The project application is subject to the County's Inclusionary Housing Ordinance (#04185), as codified in Chapter 18.40 of the County Code. Ordinance #04185 requires that projects that create two or more new residential units/lots must supply affordable housing equal to 20% of the total number of residential units (both market rate and Inclusionary). For five or more new lots/units, compliance must be in the form of on-site restricted Inclusionary units (for sale or rental), unless an alternative form of compliance is specifically approved as part of the project. Further, of the required 20% "Inclusionary" units, 8% must be affordable for moderate income, 6% for low income and 6% for very low income. Fractional unit obligations for each income category are allowed to "round down," consistent with the Inclusionary Administrative Manual. In addition a developer can voluntarily provide more inclusionary units than required and /or provide deeper levels of affordability (i.e., substitute more very low income units for low or moderate income units).

Inclusionary Requirements for the Project:

The project, as proposed, will result in 31 residential market rate lots and 11 units designated as "Inclusionary." The existing residential unit on the site that will be demolished is considered an exemption and is not counted in calculating the number of "new" units triggering the Inclusionary requirement. The project therefore results in a net increase of 41 new residential lots/units for the purpose of calculation the Inclusionary requirements. The project would therefore be required to supply a minimum of 8.2 Inclusionary Units (20% of 41 units), of which, at least 2 units need to be affordable to very low income, 2 to low income and 4 to moderate income. The fractional 0.2 unit obligation could be complied by paying an in-lieu fee or an additional unit supplied.

Proposed Compliance:

The project applicant is proposing to supply eleven Inclusionary Units with one very low income, two low income, and eight moderate income. While the number of Inclusionary units exceeds the requirements of the Ordinance, the affordability levels proposed do not comply. In order to comply with the Ordinance, at least 2 of the Inclusionary units must be very low income and 2 must be low income. The remaining Inclusionary units can be priced at moderate income. The applicant can voluntarily supply a deeper level of affordability and adjust accordingly.

DENSITY BONUS

Overview of State Density Bonus Regulations:

Since the County has not adopted a Density Bonus Ordinance, the State Density Bonus regulations apply. These regulations can be found at Section 65915 of the State Government Code. Essentially, the regulations allow for an increase in density above what would normally be allowed with existing zoning and general plan designations, without requiring a re-zoning and General Plan amendment, for qualified projects. In order to qualify, the project must supply certain levels of very low and low income housing (or moderate income in specific circumstances) within the proposed development. The amount of increased density allowed is based on a sliding scale ranging from 20% to 35% above what would normally be permitted, depending on the percentage of units that are at the different affordability levels. For example, if the project provides at least 20% of the proposed units as low income units, a density increase of 35% would be allowed. Similarly, if the project provides 11% of the proposed units at a very-low-income level, then a density increase of 35% would be permitted. A smaller percentage is required because of the deeper level of affordability.

There are two key requirements that need to be taken into considerations in Density Bonus cases:

1. Unlike the Inclusionary Ordinance compliance calculations, the "bonus units" under the Density Bonus law are not added into the total units that provide the basis of the calculation. For example, if there are 100 units allowed in a project under existing zoning and the project qualifies for a 20% bonus, the 20% is calculated off of the 100 units allowed and not on the total number of units resulting in the project. Therefore, 20 additional bonus units are allowed resulting in a total of 120. This is different from the way the calculations work for the County's Inclusionary Ordinance, which applies to the total units created, not just those permitted under existing zoning.
2. Subsection 65915(g) of the State Government Code specifies that the Density Bonus is applied to the zoning that is in place at the time of the application. Therefore, a Density Bonus is not allowed to be applied to the density that would result from a rezoning request that is part of the subject application.

Applying State Density Bonus to Proposal:

The subject property is currently zoned “Low Density Residential” which allows one unit per acre. Therefore 7 units are allowed. If the project provides 2 (20%) of the 7 units at low income level it would qualify for the maximum 35% density bonus which would allow 2 additional units for a total of 9. If the project provides one unit (11%) at very low income it would also qualify for the maximum 35% density bonus which would allow 2 additional units for a total of 9. In no event, under existing zoning, would the project be permitted to have more than 9 units, if only the State Density Bonus provisions were applied.

CARMEL VALLEY MASTER PLAN

Overview of Applicable Carmel Valley Master Plan Regulations:

The proposed project is subject to the Carmel Valley Master Plan, which is part of the County’s General Plan. Policy CV-1.10 provides a density increase for projects that provide certain amounts of affordable housing. Policy CV -1.10 reads as follows:

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 at least 25% of the units are developed for individuals of low and moderate income or for workforce housing. This policy is intended to be independent from Policy CV-1.11, and not counted in conjunction with the density bonus identified in that policy.

Policy CV-1-11 referenced above is another density bonus policy specific to the Carmel Valley Master Plan Area, is not applicable to the subject project application, and is not related to the State Density provisions. Essentially, under CV-1.10 if a project supplies at least 25% of the proposed units at an “affordable” level then the project is allowed a density of up to 4 units per acre. Application of this policy does not “rezone” property. It only increases the allowed densities for qualified projects.

Applying CV-1.10 to Proposal:

The project site is within the Val Verde Drive area of the Carmel Valley Master Plan. If the proposed project supplies at least 25% of the proposed units as affordable, it will be allowed to have a density of up to 4 units per acre or 31.68 units (with 8 required to be affordable to very low, low, moderate or workforce households).

ANALYSIS OF PROPOSAL

Proposal:

The applicant has requested a Density Bonus under State Density Bonus regulations (Govt. Code 65915) to allow the proposed 42 units with a rezoning to Medium Density Residential. Of the 42 units that the applicant is proposing, eleven would be restricted under the County's Inclusionary Housing program with one very low income, two low income, and eight moderate income. This proposal does not comply with the County's Inclusionary Ordinance and a State Density Bonus can not be applied to the "Medium Density Residential" designation that would result with the proposed GPA and rezoning. There are, however, a couple of options in applying density bonus regulations to achieve the requested 42 units..

State Density Bonus (without the Carmel Valley Master Plan provisions applied):

The existing General Plan and zoning on the project site is "Low Density Residential" which allows one unit per acre, or a total of 7 units without a rezoning. State Density Bonus regulations must to be applied to that currently permitted density and not to a new density level that would result if a rezoning to "Medium Density Residential" is approved. Even if the proposed affordability levels would have allowed for the maximum density bonus of 35% under the State Density Bonus (which they do not), only a maximum of 9 residential units would be possible, of which 1 would have to be affordable to a very-low-income household (representing 11%) or 2 affordable to low income households (representing 20%). This is not likely to be acceptable to the applicant.

State Density Bonus (with the Carmel Valley Master Plan provisions applied):

The best option for the applicant appears to be based on the Carmel Valley Master Plan provisions contained in CV-1.10. This would allow 4 units per acre (or 31.68 units) without the need for a General Plan amendment or re-zoning. Eight of these units would need to be "affordable" under the Master Plan's definition, in order to meet the 25% requirement. Thus, 31.68 units would be the total number of units permissible under existing zoning at the time of application. At that point, a State Density Bonus could be calculated. In order for the project to qualify for the maximum 35% State Density Bonus (an additional 11.09 units), appropriate amounts of affordable housing must be provided. This would result in a total of 42.77 (rounded down to 42) units being allowed. The amounts of affordable housing required under the State Density Bonus law under this combined scenario would be: at least 7 low-income units (to meet the State's demand of 20% low income) or at least 4 very-low-income units (to meet the State's demand of 11% very low income). The applicant would still have to meet the County's Inclusionary Housing Ordinance requirements, which requires that certain percentages of very low, low and moderate income units be provided.

OPTIONS TO COMPLY

In order to comply with the various requirements pertaining to affordable housing, the following options should be considered for the proposed project:

- a. A 42-unit project that includes 34 market rate, 4 very low income, 1 low income and 3 moderate income units. The remaining 0.2 unit obligation (under the County Ordinance) could be paid as an Inclusionary in-lieu fee or an additional unit supplied. The key with this option is to achieve the 11% very low income requirement (4 units) for the 35% State Density Bonus while still complying with the Inclusionary requirements. (The project would comply with the Inclusionary Ordinance by substituting a low income unit with a very low income unit.)*

- b. A 42 -unit project that includes 2 very low income, 5 low income, and 1 moderate income units. The remaining 0.2 unit obligation (under the County Ordinance) could be paid as an in-lieu fee or an additional unit supplied. The key with this option is to achieve the 20% low income requirement for the 35% State Density Bonus while still providing at least 2 very low income units to comply with the Inclusionary Ordinance requirements.*

Both of these scenarios would comply with the County's Inclusionary requirements, meet the thresholds for a State Density Bonus for a 35% density increase, and comply with the Carmel Valley Master Plan requirements for allowing 4 units per acre. Attached are the calculations to support these options. 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.

Calculations

Option a

C.V.M.P: 23 Market Rate and 8 affordable without Density Bonus

7.92 acres x 4 = 31.68 units (round down to 31 without Density Bonus on top)

31.68 x 25% = 7.92 affordable units (round up to 8)

Density Bonus on top of C.V.M.P: provide 34 Market Rate, 4 very low and 4 other affordable

31.68 units x 11% = 3.48 very low units (round up to 4)

31.68 x 35% = 11.09 bonus units

31.68 + 11.09 = 42.77 total units (round down to 42)

Inclusionary: 34 Market Rate and 8 Inclusionary units of which provide at least: 2 very low, 2 low and 4 moderate with .4 as a fee

42 - 1 exempt (existing) unit = 41

41 units x 20% = 8.2 Inclusionary Units required

41 x 6% = 2.46 very low (round down to 2)

41 x 6% = 2.46 + .46 = 2.92 low (round down to 2)

41 x 8% = 3.28 + .92 = 4.2 moderate (round down to 4 with .2 remaining)

Option b:

C.V.M.P: 23 Market Rate and 8 affordable without Density Bonus

7.92 acres x 4 = 31.68 units (round down to 31 without Density Bonus on top)

31.68 x 25% = 7.92 affordable units (round up to 8)

Density Bonus on top of C.V.M.P: provide 34 Market Rate, 7 low and 1 other affordable

31.68 units x 20% = 6.34 low income units (round up to 7)

31.68 x 35% = 11.09 bonus units

31.68 + 11.09 = 42.77 total units (round down to 42)

Inclusionary: 34 Market Rate and 8 Inclusionary units of which provide at least: 2 very low, 2 low and 4 moderate with .2 as a fee

42 - 1 exempt (existing) unit = 41

41 units x 20% = 8.2 Inclusionary Units required

41 x 6% = 2.46 very low (round down to 2)

41 x 6% = 2.46 + .46 (carried over from very low) = 2.92 low (round down to 2)

41 x 8% = 3.28 + .92 (carried over from low and very low combined) = 4.2 moderate (round down to 4 with .2 remaining)

EXHIBIT I

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

From: Brian Clark [mailto:brian@surfloan.com]

Sent: Friday, December 09, 2011 6:39 PM

To: Novo, Mike x5192

Cc: Schubert, Bob J. x5183; brian@surfloan.com; Mcleodbuilding@aol.com

Subject: Brian Clark - bad subject...

12/9/2011

TO: Mike Novo

CC: Bob Schubert

RE: Consistency Analysis

In light of our appeal being deemed premature - is it staff's position a "determination of consistency" will need to go back before the Planning Commission OR will the staff begin conducting an independent judgment of our submitted draft EIR? If Planning is taking the position that an agreement on usage of the easement by all neighbors is required we will not be able to "become" consistent with the General Plan next week or next month barring a court interpretation. We do believe this falls into a legal/governmental category and is not a General Plan consistency issue or an issue that the Planning Commission has any jurisdictional authority.

If it is your position we must exhaust administrative remedies regarding staff's determination of consistency, the two remaining inconsistencies are not subject to much interpretation by staff (i.e., secondary well and road easement); then please schedule us for the earliest available Planning Commission meeting. We waive any statutory periods to "come into compliance" regarding the easement or back-up well items outlined as inconsistent in the last Planning Commission Agenda report prepared by Planner Schubert.

Given the litigious nature of the no-growth factions in Carmel Valley - staff's determination of consistency may be overturned during the approval of the project by the Planning Commission and the Board of Supervisors. Moreover, the staff's determination of consistency may itself be appealed by the neighbors.

Therefore - there is no reason not to move forward with findings of consistency with the General Plan and an immediate independent review of the draft EIR.

Please ask staff to:

- 1) determine consistency with the two remaining policies (back-up well & easement)
 - keep in mind we are working on a back-up replacement well or engineered solution at this time
 - copy of the replacement well permit forthcoming
 - deeds have 60' wide easement and state it may be used for "any and all purposes of a road"
- 2) have staff conduct an independent judgment of the draft EIR already submitted

There should be no reason to go back to the Planning Commission before it sends out the draft EIR for review because of the four areas of inconsistency:

- 1) LEGAL - road easement inconsistency (need be we will seek a court interpretation of easement)

Our position is this same - this ground has been well traveled by the Courts and there is massive case law going back decades and we prevail - our deeds are clear (easement is 60 FEET wide and deeds state the easement can be used for "any and all purposes of a road"...) The actual unambiguous language of the deeds themselves and even Monterey Planning agreeing with usage of this road for the Community Center and as a fire emergency road for The Cottages support our intended use of this easement. We have supplied mountains of clear documentation on this road/easement including legal review of the same easement by Attorney Lambardo memorialized in a letter to Planner Holm circa 2003 - 2005.

There is no ambiguity. IF the County position is an agreement by all homeowners on Val Verde Drive is required - herding cats - that the deeds clearly worded language is being summarily dismissed then, yes, our only option is to seek relief via the court option.

- 2) WILL BE CLEARED - two area's revolve around the back-up well - well control zone engineering/technical resolution or drill new back up well

Our position is we met all criteria and had proved out the "back up" well over several years in concert with Environmental Health. The County changed its position - not the applicant or any of the dynamics of the well.

In any case, drill now or drill later. We are pulling a permit to drill a replacement well. This is not an if but when solution. Simply timing.

3) CLEARED - Water reclamation or CV 5.4 - an engineered scope of work was prepared by Bestor Engineers and signed off by the powers that be (condition should be cleared per Mr. Schubert's letter to me).

Other than "timing" of well/water issues we are down to one issue - Val Verde Drive road easement. Our attorney - now the law firm - are all over this depending on how County wants to play it. We are totally transparent on this side and have pulled all deed and map data on all lots going back to the beginning of time. ALL this data has been presented to Planning in every available context and format. There is nothing in any deed related document or interpretation of the deeds after being scrutinized by legal and title experts that support denial of usage of the easement per our application (intended use).

Please keep in mind we have TWO - 100% discretionary inclusionary housing concessions that can be used for any purpose that must be granted (other than life/safety such as variances from building codes).

Today actually is the one year anniversary time limit (Dec. 9, 2010 application deemed complete) due date under which Planning was to have completed a certified EIR. Per CEQA we can give Planning a onetime 60 day extension to complete the EIR - the extension is at the discretion of the applicant. We are ready, willing and able to move forward with supporting Planning's independent review of the draft EIR. If Planning will commit to sending the draft EIR out for independent review immediately we are open to granting Planning a one time 60 day extension to complete the draft EIR review as provided for in CEQA regulations.

Please call to review the terms of our 60 day extension agreement which would allow Planning to become compliant with CEQA regulations regarding the one year statutory time limit.

Again - If we are directed to go back before the Planning Commission we request a waiver of the 60 day period and wish to be heard as soon as possible.

Thank you for your consideration and Happy Holidays to you and Mr. Schubert...

Brian Clark
831 899 6666
Carmel Rio Rd, LLC
Val Verde Drive Minor Sub-division Application

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Checked by AVG - www.avg.com
Version: 2012.0.1890 / Virus Database: 2109/4692 - Release Date: 12/20/11

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REVISIONS BY

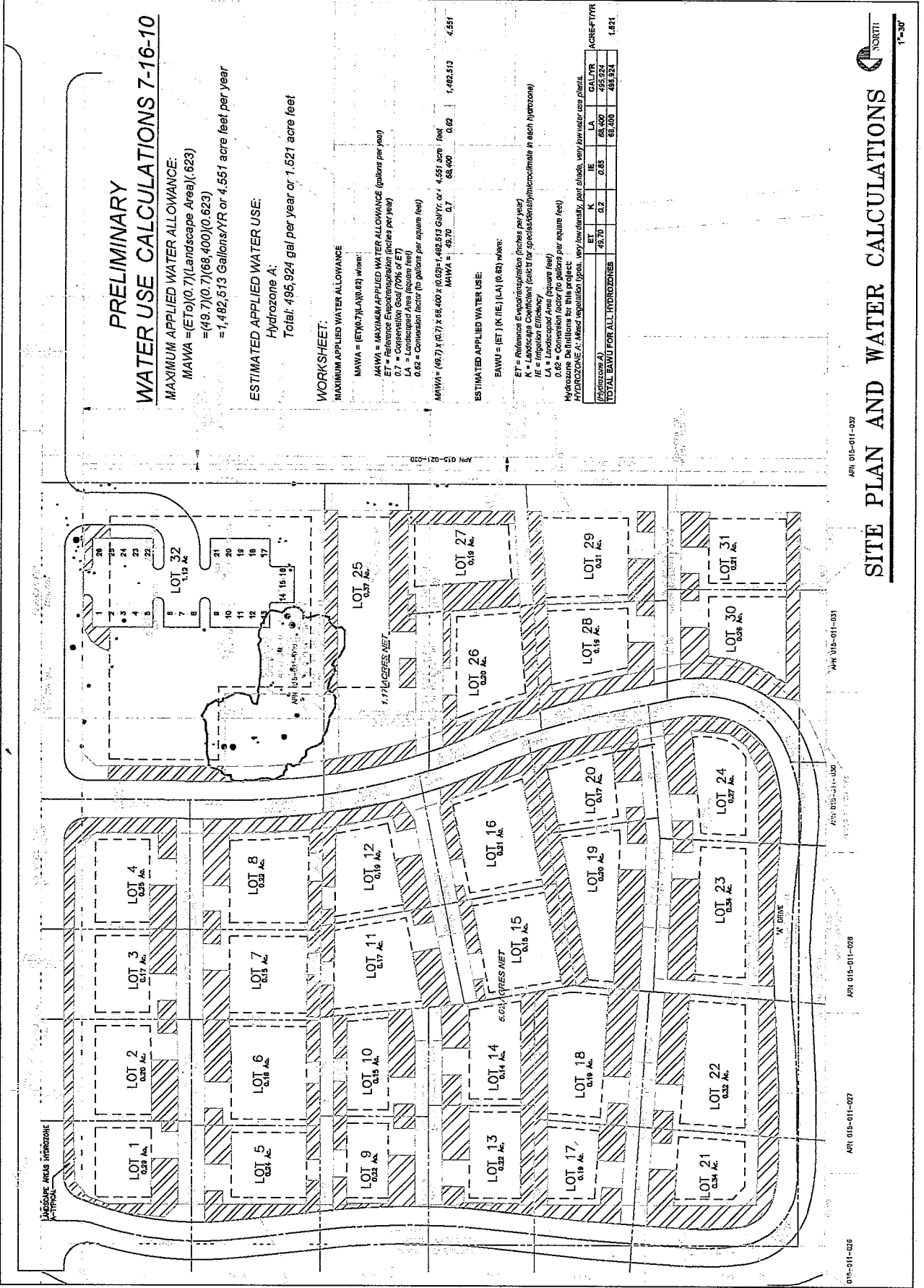


ANITA KANE
LANDSCAPE ARCHITECT
CL License #1077
200 West 17th Street, Suite 101
Carmel, California 95008
Tel: 831.923.1101
Fax: 831.923.1101

VAL VERDE
Rio Road
Carmel, California

SITE PLAN AND
WATER CALCULATIONS

DATE: 07/19/10
SCALE: 1"=30'
DRAWN: ALY/K/LJ
JOB: 08-112
SHEET
1-1 OF 1 SHEETS



**PRELIMINARY
WATER USE CALCULATIONS 7-16-10**

MAXIMUM APPLIED WATER ALLOWANCE:
MAWA = (ET)(0.7)(Landscape Area)(.623)
= (49.7)(0.7)(68,400)(0.623)
= 1,482,513 Gallons/YR or 4,551 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 = (ET)(K)(LA)(0.62) Where:
MAWA = MAXIMUM APPLIED WATER ALLOWANCE (gallons per year)
ET = Reference Evapotranspiration (inches per year)
K = Landscape Coefficient (calculated for species density/microclimate in each hydrozone)
LA = Landscape Area (square feet)
0.62 = Conversion factor (10 gallons per square foot)
MAWA = (49.7) x (0.7) x (68,400) x (0.623) = 1,482,513 GAL/YR or 4,551 acre feet

ESTIMATED APPLIED WATER USE:
EAWU = (ET) (K) (IE) (LA) (0.62) Where:
ET = Reference Evapotranspiration (inches per year)
K = Landscape Coefficient (calculated for species density/microclimate in each hydrozone)
IE = Irrigation Efficiency (percent)
LA = Landscape Area (square feet)
0.62 = Conversion factor (10 gallons per square foot)
Hydrozone A: Mixed vegetation (typical, very low density, part shade, very low water use plants)

Hydrozone A)	ET	K	IE	LA	GAL/YR	ACRE-FT/YR
TOTAL EAWU FOR ALL HYDROZONES	49.70	0.2	0.85	68,400	495,924	1.481

SITE PLAN AND WATER CALCULATIONS

APR 015-011-026 APR 015-011-027 APR 015-011-028 APR 015-011-030 APR 015-011-031

1"=30'

November 1, 2011

Chair Getzelman and Commissioners,

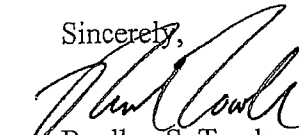
The Towle family (4072 Rio Road - corner of Val Verde drive) strongly oppose the proposed 42 unit subdivision on Val Verde Drive in Carmel. If built, it will produce over 400 new daily car trips and make it near impossible to access my driveway which is right at corner of Val Verde and Rio Road. This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

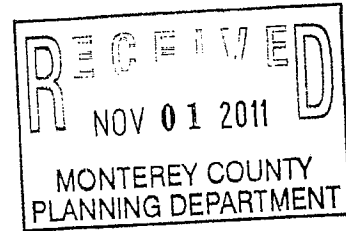
Regarding the 11 inclusionary units provided in this project, we do not see the immediate need in Carmel Valley as we already have a tremendous number of rentals plus another 41 units at the Preserve plus the mid-valley affordable overlay producing over 100 more. As a long time local Realtor (20+ years), 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



-----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.

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