

# Attachment B

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# NOTICE OF APPEAL

*Monterey County Code  
Title 19 (Subdivisions)  
Title 20 (Zoning)  
Title 21 (Zoning)*

RECEIVED  
MONTEREY COUNTY

JUN 16 2023

CLERK OF THE BOARD

*Emmanuel H. Santos* DEPUTY

*Santos*  
EMMANUEL H. SANTOS

*No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before \_\_\_\_\_ (10 days after written notice of the decision has been mailed to the applicant). Date of decision \_\_\_\_\_.*

1. Please provide the following information:

- a) Your name Geert Rosseel and Tracy Powell
- b) Phone Number \_\_\_\_\_
- c) Address \_\_\_\_\_
- d) Appellant's name (if different) \_\_\_\_\_

2. Indicate appellant's interest in the decision by checking the appropriate box:

- Applicant
- Neighbor
- Other (please state) \_\_\_\_\_

3. If you are not the applicant, please give the applicant's name:

\_\_\_\_\_

4. What is the file number of the application that is the subject to this appeal?

Indicate the file number of the application that is the subject of the appeal and the decision making body (i.e., Zoning Administrator, Director of Planning, Minor Subdivision Committee).

- a) File Number PLN220054-ROSSEEL
- b) Decision Making Body Planning Commission

5. What is the nature of the appeal?

- a) Is the appellant appealing the approval  or the denial  of an application? (Check appropriate box)
- b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

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6. Check the appropriate box(es) to indicate which of the following reasons form the basis for the appeal:

- There was a lack of fair or impartial hearing; or
- The findings or decision or conditions are not supported by the evidence; or
- The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Planning Commission will **not** accept an application for appeal that is stated in generalities, legal or otherwise. If the appellant is appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary).

In order to find that approving the application would be inconsistent with MCC section 21.64.280, the Planning Commission had to find that the Alta Tierra Association is a homeowner's association, under the Davis-Stirling Act. This finding was not supported by the evidence in front of the Commission, and it is contrary to state law. See attached.

7. As part of the application approval or denial process, findings were made by the decision making body (Director of Planning, Zoning Administrator, or Minor Subdivision Committee). In order to file a valid appeal, you must give specific reasons why the appellant disagrees with the findings made. (Attach extra sheets if necessary).

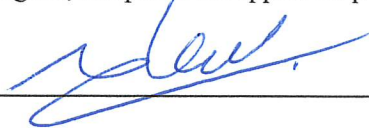
See attached for explanation of why this finding was not supported by the evidence and is contrary to state law.

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8. Your appeal is accepted when the Secretary of the Planning Commission accepts the appeal as complete on its face, receives the filing fee, and places the appeal for public hearing on the Planning Commission agenda.

APPELLANT SIGNATURE  DATE 6/16/2023

ACCEPTED \_\_\_\_\_ DATE \_\_\_\_\_  
 SECRETARY OF THE PLANNING COMMISSION



# SCALE LLP

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June 16, 2023

To: Board of Supervisors in and for the County of Monterey, State of California  
PO Box 1728 Salinas CA 93902  
Phone: (831)-755-5066  
Fax: (831)-755-5888  
cob@co.monterey.ca.us

Re: Appeal of PLN220054-ROSSEEL. Mailed on June 06, 2023.

Ladies and Gentlemen of the Board of Supervisors,

I represent appellants, Geert Rosseel and Tracy Powell (“*Appellants*”). Appellants are the owners of the home that is the subject of application PLN220054-ROSSEEL (“*Property*”).

Pursuant to MCC 21.80.040, Appellants wish to appeal Resolution No. 23-018 (“*Decision*”), denying their application for a short-term rental permit. The Appellants have an interest in the Decision because it was their application that was denied, and the Decision interferes with their ability to enjoy full use of the Property. Under the Decision, the Planning Commission in and for the County of Monterey, State of California (“*Commission*”) erroneously found that the “[t]he Project, as proposed, is not consistent with all the applicable regulations regarding development for the proposed use.” Specifically, paragraph (c) of the portion describing the evidence for this finding is erroneous. That paragraph states that:

[t]he subject property is subject to a mutual water and road agreement that created both a common interest development and a governance structure for that common interest development, i.e., a homeowner’s association. Staff received a resolution from the Alta Tierra Association, representing as a homeowner’s association with powers to enforce conditions, covenants and restrictions pursuant to the October 29, 1963 agreement, objecting to the issuance of the permit in a Resolution adopted May 4, 2023 and submitted to the County on May 11, 2023. To be considered a homeowner’s association, an entity need not be registered or formally incorporated, they only need binding, recorded covenants and management of a common interest development. Therefore, approving the permit would be inconsistent with MCC section 21.64.280 unless the objection is withdrawn or the right of the

applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.

(Decision, at 2, emphasis added.) The conclusion that the October 29, 1963, agreement (“*Agreement*”) the Planning Commission considered created “both a common interest development and a governance structure for that common interest development, i.e., a homeowner’s association” is both unfounded and in conflict with California law. (*See*, Decision attached hereto as Exhibit 1, and Agreement attached hereto as Exhibit 2.)

### ***Relevant Facts***

The Appellants bought their home on February 9, 2022. In connection with the purchase of their home, they were provided certain recorded documents by the title company. Among them was the Agreement. The Agreement establishes the Alta Tierra Association to provide for the “maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels...” (Agreement at p.2.). Meetings of the Alta Tierra Association were to be held “for the purpose of establishing charges for water and the maintenance of the roadway and water system.” (*Id.*) Prior to closing on their home, the Appellants specifically researched whether the property was subject to a homeowners association. They searched for any entity registered with the California Secretary of State as a homeowner’s association on the Secretary of State’s website, and found nothing. They diligently reviewed all of the documents provided by the title company to ascertain whether there were any restrictions on short-term rental use of the property. Seeing none, they closed on their purchase. Their intent was to live at the home for six months of the year, and to rent it out to others while not there in order to pay for improvements to the home.

The Appellants applied to the County for a permit to use their home as a short-term rental from time to time. After submitting all the requisite application fees and documentation, their application came on for a public hearing before the Commission on April 12, 2023 and again on May 31, 2023. Prior to the second hearing, several citizens registered their objections to their application (as was their right to do). One letter, though, asked for a second hearing, and was signed by Appellants’ neighbors. (See attached as Exhibit 3.) The letter stated that the neighborhood is “governed by two homeowner (sic) associations named the Alta Tierra Association and Meadow Lark.” It further stated that “[t]he majority of Alta Tierra and all of Meadow Lark are in opposition to any level of this commercial use of the property.” (Exhibit 3 at p.1.)

That their property was subject to the governance of not one, but two, homeowners associations was news to the Appellants. The Alta Tierra Association then, for the first time, sent Appellants a notice of a meeting to be held to discuss their



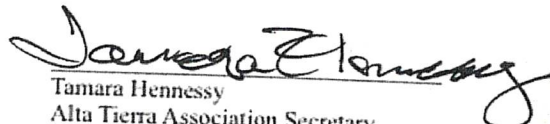
short-term rental permit application. Appellants were not able to attend the meeting, but received word that on May 4, 2023, the Alta Tierra Association passed a resolution purporting to object to their application because “water use for short term rentals / transient use is not a domestic use of water.” (See Resolution, attached as Exhibit 4, and reproduced in an image below.)

**RESOLUTION OF AGREEMENT RE: ADDITIONAL WATER  
USE FOR TRANSIENT USE OR SHORT TERM RENTALS**

At a meeting of the Homeowners comprising the Alta Tierra Association, held on May 4, 2023, having been duly noticed, and a quorum being present, the following Resolution was adopted by unanimous vote of all attending:

**RESOLVED** that the Alta Tierra Association objects to the issuance of a permit concerning the ROSSEEL GEERT & POWELL TRACY TRS application (PLN220054) because water use for short term rentals / transient use is not a domestic use of water and is not permitted under the Water Use Agreement dated October 29, 1963, and no additional use for water for short term rentals / transient use has been requested or approved.

I, the undersigned Secretary of the Alta Tierra Association, hereby certify that the foregoing is a full, true, and correct copy of the Resolution passed by the Alta Tierra Association homeowners held on the day and at the place therein, and that said Resolution has never been revoked, rescinded, or set aside, and is now in full force and effect.

  
Tamara Hennessy  
Alta Tierra Association Secretary

One or more members of the Alta Tierra Association then met with Phil Angelo, an Associate Planner for Monterey County. From what Appellants gathered from their communications with Mr. Angelo, it seemed the Association’s first argument was that the short-term rental use would violate the Agreement because it would not be a “domestic use of water,” and thus denial was proper under Monterey County Code (MCC) section 21.64.280.D.2.g, which states “[t] indicates “[t]he use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property.” This argument’s limitations soon became apparent, and in an email to Mr. Rosseel, Mr. Angelo stated that “the plain language of the water agreement doesn’t restrict [the Appellants’ proposed short-term rental] use.” (See Email attached as Exhibit 5.)

This argument regarding “commercial” use of water made it into the discussion points for the Planning Commission to consider. The implications of accepting this argument as valid are rather staggering. It would mean that domestic water use would only apply to family use and domestic water supply could not be used for commercial purposes. The Planning Commission, understanding that this is a

policy minefield, had this language stricken from the discussion points. But that it was even included evinces the lengths to which Staff went to accommodate Appellants' neighbors.

Staff and the Alta Tierra Association then turned to the latter portion of the relevant code provision that states that should an "affected" homeowner's association object to the issuance of a permit, that the Planning Commission must deny the application. To support its finding that the Alta Tierra Association is a homeowner's association, Staff relied on the resolution received "from the Alta Tierra Association, representing as a homeowner's association with powers to enforce conditions, covenants and restrictions pursuant to the October 29, 1963 agreement, objecting to the issuance of the permit in a Resolution adopted May 4, 2023 and submitted to the County on May 11, 2023." (Decision at p. 2.) It further stated, "[t]o be considered a homeowner's association, an entity need not be registered or formally incorporated, they only need binding, recorded covenants and management of a common interest development." (*Id.*) Staff further relied on "[t]he mutual water and road agreement recorded on October 26, 1963, in County Recorder's Reel 245 Page 326, and supporting materials submitted by interested party Scott Hennessey, which demonstrate the property in the project file PLN220054 is in a homeowner's association." (*Id.*) The supporting materials, comprising the Agreement, as well as emails and notes from past meetings of the Alta Tierra Association, are attached as Exhibit 6.

The discussion at the Planning Commission meeting revolved largely around the water use argument raised by the Association. Appellants' arguments for why this conclusion by the Association contravenes California state law and common sense may be found in Appellants' letter to Mr. Angelo, attached as Exhibit 7. The issue of whether the Alta Tierra Association can be defined as a homeowner's association for purposes of the Monterey County Code was also discussed. The sentiment among the Planning Commission was that this is a homeowner/association squabble with which the County does not want to get involved. Counsel for the Appellants countered that finding that the Alta Tierra Association is a homeowners association *is* getting involved. It allows the *ultra vires* actions of the Alta Tierra Association to enjoy the imprimatur of the County of Monterey.

Nevertheless, the Planning Commission voted and denied Appellants' application based on the foregoing.

### ***Argument***

The Alta Tierra Association is not a homeowners association under the Davis-Stirling Act. As noted by Staff in communications with Mr. Rosseel, the term "homeowners association" is not defined by the Monterey County Code. When a term is not defined in the municipal code, California law provides the definitions. In California, homeowners associations and common interest developments are heavily regulated by the Davis-Stirling Common Interest Development Act. Civil Code section 4080 defines an "Association" as "a nonprofit corporation or unincorporated



association created for the purpose of managing a common interest development.” A “Common Interest Development” is defined as any of the following: “(a) A community apartment project. (b) A condominium project. (c) A planned development. (d) A stock cooperative.” (Cal Civ Code § 4100.) A planned development is defined as:

a real property development other than a community apartment project, a condominium project, or a stock cooperative, having either or both of the following features:

(a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with Section 5650) of Chapter 8.

(Cal. Civ. Code § 4175.) In turn, a common area may also “consist of mutual or reciprocal easement rights appurtenant to the separate interests.” (Cal. Civ. Code § 4095.)

A common interest development is created “whenever a separate interest coupled with an interest in the common area or membership in the association is, or has been, conveyed, provided all of the following are recorded: (a) A declaration. (b) A condominium plan, if any exists. (c) A final map or parcel map, if Division 2 (commencing with Section 66410) of Title 7 of the Government Code requires the recording of either a final map or parcel map for the common interest development.” (Cal. Civ. Code § 4200.)

The Planning Commission Decision stated that the Alta Tierra Association was a “homeowner’s association” based on the “...mutual water and road agreement recorded on October 26, 1963, in County Recorder’s Reel 245 Page 326, and supporting materials...” (Decision at p.2.) This document does not in any way create a common interest development. It is an agreement among property owners to “provide for the maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels described in Paragraph 1 herein.” (Agreement at p.2.) It is not a “Declaration” within the meaning of California Civil Code Section 4200.

The Agreement does describe the parties to the Agreement as the Alta Tierra Association. But the document by its very terms does not establish the Alta Tierra Association for any purpose other than to “provide for the maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels described in Paragraph 1 herein,” and to meet “for the purpose of establishing charges for water and the maintenance of the roadway and water system. It shall be the intention of the Association to establish charges sufficient to provide for

maintenance of the road and water system in a good and serviceable condition at all times.” (Agreement at p.2.)

The Appellants received no disclosure at the time of purchase that the Alta Tierra Association purported to be a homeowner’s association with the power and authority to convene to pass a resolution objecting to an application submitted by Appellants. Nor did they receive the disclosure required by law that if any provision of an association’s governing documents “prohibits the rental or leasing of any of the separate interests in the common interest development.” (Civ. Code § 4525(a)(9).)

Moreover, there was, and is, no mention of the Alta Tierra Association on the Secretary of State’s website. To the best of Appellants’ knowledge, the Alta Tierra Association has never submitted any statements of information required by Civil Code § 5405, registering it as an unincorporated association of a common interest development. (Cal. Civ. Code § 5405.) This information is required to be submitted biennially even by unincorporated associations. (*Id.*)

The Alta Tierra Association, since the Appellants have purchased their property, has never distributed an annual budget report (Cal. Civ. Code § 5300) or an annual policy statement (Cal. Civ. Code § 5310). Nor has the Association held an election of a board of directors, although there are members who hold themselves out as Directors. (*See*, Exhibit 4.)

The Alta Tierra Association is not, and has not acted as, a homeowners association. Moreover, *even if it were*, this resolution objecting to the Appellants’ application is far outside of the scope of its powers. As I noted above, while the Planning Commission made its intent to “stay out of it” clear, the County is not “staying out of it” by putting its imprimatur on the actions of an out-of-control group of neighbors, manipulating the provisions of the code to their benefit. The Agreement provides the Alta Tierra Association with a very limited purpose as noted above. It cannot repurpose itself simply for the purpose of killing a neighbor’s short-term rental permit application. Indeed, by making this finding that is contrary to law and not grounded in the evidence, the County is calling into question the property rights of all of its constituents who may live in a neighborhood with an agreement like the Agreement here, who do not know they may be subject to the whims of a neighborhood group who need only lobby the appropriate people to exert unlawful authority with the blessing of the County.

As a homeowners association or not, the Association owes its members, which includes Appellants, certain fiduciary duties. This includes not acting in bad faith. The resolution objecting to the permit application is fully outside the scope of the Association’s authority, and the Association passed it anyway. This is not an honest mistake made by the Association. The Association is operating with “furtive design or ill will.” They should not be rewarded with getting exactly what they want. Their failure to properly inform their members of what they consider their scope of power, their failure to make the lawful disclosures to new purchasers, and their failure to

conform to *any* of the laws that govern common interest developments and associations, must prevent the County from acceding to their wishes here.

And finally, Appellants note that the terms of short-term rental permits have been arbitrarily and capriciously shortened. The Appellants were urged to apply for a permit, were told the permits go with the home and were issued in perpetuity, and that a permit would boost their resale value. During the course of the application process, Staff shortened the allowable term to 7 years in the first draft of the permit, to 3 years in the next draft with no explanation or reasoning behind the change. A recent application similar to Appellants' was approved on May 23, 2023 for 7 years. Should this Board decide to grant the short-term rental permit applied for by the Appellants, they respectfully request that it be in perpetuity, but if that is not possible, for not less than a term of 7 years.

Because the Alta Tierra Association is not a homeowners association within the definition of the Davis-Stirling Act, and even if it were, its actions here are *ultra vires* and done in bad faith, we respectfully request that you approve the Appellant's application as a fair and impartial review of it will demonstrate that it meets all requirements. Please contact me at the email or phone number above to discuss if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Melissa H.D. Balough". The signature is written in dark ink and is positioned above the printed name.

Melissa H.D. Balough



# EXHIBIT 1

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

In the matter of the application of:

**ROSSEEL GEERT & POWELL TRACY TRS (PLN220054)**

**RESOLUTION NO. 23-018**

Resolution by the Monterey County Planning Commission:

- 1) Finding that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
- 2) Denying an Administrative Permit to allow transient use of a residential property for remuneration.

[PLN220054 ROSSEEL GEERT & POWELL TRACY TRS, 282 Corral De Tierra, Toro Area Plan (APN: 416-351-005-000)]

**The ROSSEEL GEERT & POWELL TRACY TRS application (PLN220054) came on for a public hearing before the Monterey County Planning Commission on April 12, 2023 and May 31, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented the Monterey County Planning Commission finds and decides as follows:**

**FINDINGS**

**1. FINDING: INCONSISTENCY** – The Project, as proposed, is not consistent with all the applicable regulations regarding development for the proposed use.

**EVIDENCE:** a) Staff has reviewed the proposed project for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- the Toro Area Plan;
- the Monterey County Zoning Ordinance (Title 21); and
- Regulations Relating to Applications Involving Use of Private Roads (Monterey County Code Chapter 16.80).

Conflicts were found to existing with the Monterey County Zoning Ordinance (Title 21).

b) Monterey County Code (MCC) section 21.64.280.D.2.g indicates “g. *The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners’ association in a manner consistent with the notice requirements for a use permit. In the event the homeowners’ association objects to the issuance of the permit, the permit shall not be approved until the homeowners’ association’s objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the*

*homeowners' association."*

- c) The subject property is subject to a mutual water and road agreement that created both a common interest development and a governance structure for that common interest development, i.e., a homeowner's association. Staff received a resolution from the Alta Tierra Association, representing as a homeowner's association with powers to enforce conditions, covenants and restrictions pursuant to the October 29, 1963 agreement, objecting to the issuance of the permit in a Resolution adopted May 4, 2023 and submitted to the County on May 11, 2023. To be considered a homeowner's association, an entity need not be registered or formally incorporated, they only need binding, recorded covenants and management of a common interest development. Therefore, approving the permit would be inconsistent with MCC section 21.64.280 unless the objection is withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.
- d) The mutual water and road agreement recorded on October 26, 1963, in County Recorder's Reel 245 Page 326, and supporting materials submitted by interested party Scott Hennessey, which demonstrate the property in the project file PLN220054 is in a homeowner's association.
- e) The County's staff report for the May 31, 2023 Planning Commission hearing and oral testimony presented during the hearing.

**2. FINDING:** **CEQA (Exempt)** – Denial of the project is statutorily exempt from environmental review.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15270 statutorily exempts projects which a public agency rejects or disapproves.
  - b) The Planning Commission's action to deny the project fits within this exemption, the County is a public agency disapproving of a project.
  - c) Statutory exemptions from CEQA are not qualified by the exceptions applicable to categorical exemptions in CEQA Guidelines section 15300.2.

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

**EVIDENCE:** In accordance with MCC section 21.80.040.D, the Board of Supervisors is the appropriate Appeal Authority for challenges to from the Planning Commission's discretionary decisions of.

**DECISION**

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

- 1) Find that denial of the project is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270; and
- 2) Deny an Administrative Permit to allow transient use of a residential property for remuneration.

**PASSED AND ADOPTED** this **31st day of May, 2023**, upon motion of Commissioner Roberts, seconded by Commissioner Diehl by the following vote:

AYES: Shaw, Diehl, Roberts, Monsalve, Getzelman, Work, Gonzalez, Mendoza, Daniels  
NOES: None  
ABSENT: Gomez  
ABSTAIN: None

DocuSigned by:  
  
9A43592588244EC  
\_\_\_\_\_  
Craig Spencer, Planning Commission Secretary

COPY OF THIS DECISION MAILED TO APPLICANT ON 06/06/2023 .

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 SECRETARY OF THE PLANNING ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 06/16/2023 .

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.

Form Rev. 1-27-2021

# EXHIBIT 2



21814

REEL 245 PAGE 326

AGREEMENT

AGREEMENT, made and entered into this 29th day of October, 1963, by and between Thomas H. Rowland and Anna Caroline Rowland, his wife, sometimes hereinafter called First Party, Barbara Robbins, sometimes hereinafter called Second Party, and Robert V. Antle and Sue M. Antle, his wife, sometimes hereinafter called Third Party,

WITNESSETH:

This Agreement is made with reference to the following facts:

(1) First party is owner of Parcels "A", "B", "C", and "D", as said parcels are shown on "Record of Survey for Tom H. Rowland", etc., filed for record August 15, 1963 in Book 6 of Surveys at page 174, Monterey County Records.

Second party is owner of Parcels "1", "2", "3" and "4" as said parcels are shown on "Record of Survey for Barbara Robbins, etc." filed for record August 15, 1963 in Book 6 of Surveys at page 192, Monterey County Records.

Third party is owner of the following described property: Property conveyed by Harry L. Rhodes to Robert V. Antle and Sue M. Antle, his wife by deed dated August 8, 1962, recorded August 15, 1962 in Reel 85 at page 282, Official Records of Monterey County, excepting therefrom that portion thereof conveyed to Barbara Robbins by deed dated October 15, 1962, recorded October 24, 1962 in Reel 108 at page 314, Official Records of Monterey County, also excepting therefrom that portion thereof conveyed to Thomas H. Rowland and Anna Caroline Rowland, his wife by deed dated October 15, 1962, recorded October 24, 1962 in Reel 108 at page 324, Official Records of Monterey County.

(2) Property of First and Second party is subject to easements for road and/or utility purposes, more particularly set forth in deed from First Party to Second Party, dated October 22, 1963; and in deed from second Party to First Party, dated October 22, 1963; both deeds being recorded concurrently herewith; and also additionally Parcel "A" as described in that certain deed from Robert V. Antle and Sue M. Antle, his wife, to Thomas H. Rowland and Caroline Rowland, his wife, dated

October 15, 1962 and recorded October 24, 1962 in Reel 108 Official Records at page 324, Monterey County Records.

(3) The parties hereto intend by this Agreement to provide for the maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels described in Paragraph 1 herein.

(4) For the purposes of this Agreement, the parties hereto will be referred to collectively as the ALTA TIERRA ASSOCIATION.

NOW, THEREFORE, it is agreed as follows:

A meeting of the Alta Tierra Association shall be held on the 15th day of November, 1963, and at times thereafter as determined by the Association, for the purpose of establishing charges for water and the maintenance of the roadway and water system. It shall be the intention of the Association to establish charges sufficient to provide for maintenance of the road and water system in a good and serviceable condition at all times.

The owners of each of the parcels of land described in Paragraph (1) herein, and subsequent owners thereof, shall be entitled to equal use of the road constructed on the easement for right of way across property of First Party and Second party herein, and shall be entitled to receive water for domestic purposes, landscaping, swimming pools, and such additional uses as may be determined by the ownership of a majority of said parcels. However, Third Party, and their successors shall be additionally entitled to water sufficient for sprinkling of that portion of their parcel westerly of barn now existing on said parcel so long as this use does not deprive other parcels of an adequate supply of water for domestic purposes, landscaping, and swimming pools.

No expenditure for maintenance or improvement of road, well, pumping system or pipe line shall be made by the Alta Tierra Association except by vote indicating concurrence by the ownership of a majority of the parcels described in Paragraph 1 herein. Each parcel shall be represented by one vote only, without regard to the number of individuals comprising ownership of any of the subject parcels.



It is covenanted and agreed that there shall be no additional parties to the water system without a majority concurrence of the ownership.

Each of the owners agree to hold harmless the other owners from any damages caused by breakage of water transmission lines upon the parcels, and each owner further waives any right of action, either at law or equity, against remaining owners for damages from breakage or failure of equipment.

Each parcel owner will install a meter or meters for measuring water consumption. Owner's prorata share of the cost of supplying water will be made in that amount as determined by actual cost plus any additional amount for contingencies as may be determined by majority vote of the ownership.

The purchasers of each parcel shall, at the time of purchase, deposit \$50.00 with the ALTA TIERRA ASSOCIATION, such deposit to be placed in a fund to be used if and when necessary for the maintenance of water system and/or roadway.

It is intended that this Agreement shall have the force and effect of a covenant running to and with the land of each of the owners, and that this agreement shall be binding upon their heirs, assigns and successors in interest.

ALTA TIERRA ASSOCIATION

By: Thomas H. Rowland

Anna C. Rowland

Barbara Robbins

Robert V. Antle

Sue M. Antle

Title Insurance and Trust Company

REF 245 PAGE 326

TO WHOM IT MAY COME (Individual)

STATE OF CALIFORNIA  
COUNTY OF Monterey

On October 22, 1963 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Thomas H. Rowland, Anna C. Rowland, Barbara Robbins, Robert V. Antle and Sue M. Antle

known to me to be the person s whose name s are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.  
(Seal)  
Signature [Signature]  
Name (Typed or Printed) G. Langenhovel

Notary Public  
END OF DOCUMENT\*

3

STAPLE HERE

# EXHIBIT 3

Craig Spencer, Chief of Planning  
Monterey Housing and Community Development  
1441 Schilling Place, Second Floor  
Salinas, CA 93901 March 6, 2023

Dear Sir:

We are requesting the County of Monterey to hold a public hearing on the request for a Short Term Renta (STR) permit in PLN 220054 for APN 416-351-005 located at 282 Corral de Tierra Road in the Rural Density Residential Zoning District of Corral de Tierra. The neighborhood is governed by two home owner associations named the Alta Tierra Association and Meadow Lark. The majority of Alta Tierra and all of Meadow Lark are in opposition to any level of this commercial use of the property for the following reasons:

1. Monterey County is working on a STR ordinance that will require environmental review and public comment before adoption. We believe the granting of STR permits in advance of the final adoption of the STR ordinance is a de facto change to our zoning district without due process by allowing commercial use of residential property. Exempting this project from CEQA by citing CEQA section 15301 as the County has done for many STR permits is piecemeal development because the magnitude of the STR permits being granted by the county is resulting in re-zoning throughout the county without due process.

The 4-23-18 minutes of the Toro Area Land Use Project Referral Sheet has an in-depth discussion of the STR issue with the comment that this intensification of use could be a major problem for the Toro Area Plan with significant issues regarding inadequate water, unsafe roads, septic issues which would be greatly impacted by intensification of use resulting from use of homes as STRs. To date none of these infrastructure issues have been addressed by the county.

STRs have been banned in Peninsula cities and other areas of the county. Why should our area be subject to a rental activity that has been banned in other areas?

2. The property is located at the end of a private narrow one lane road 0.4 miles long with a single lane bridge and limited locations for two cars to pass, is steep in places and with limited sight distance and blind spots when

sun angle is low. The road services 12 residences and a yet to be developed lot. The maintenance and repair of the road is shared equally by each family.

3. Children, senior residents, pets, cyclists, wildlife, horseback rider and walkers use the road and vehicle drivers unfamiliar with these conditions can pose a threat to their safety. Speeding vehicles on the road present a substantial hazard.
4. Water service to both Associations is provided by private wells that have recently experienced record low water levels and the water use in both Associations is allocated on the number of residents at each home.
5. Based upon the 11-23 state fire map the project is in the High Fire Risk Zone. Short term renters not familiar with the fire risk of the area may not understand the high fire danger of the locale. With careless actions associated with smoking, barbequing, fire-works, car parking and other fire related activity the safety of the community could be at risk.
6. The neighborhood is a peaceful, remote and very quiet. It is also a neighborhood watch area where residents are familiar with neighbors and their vehicles. To have frequent and high-volume non-residents entering the neighborhood creates unnecessary safety concern for those living here. The maintenance workers required to service the STR also add additional non-resident traffic. The instability and constantly changing of rental occupants with no ties to the neighborhood may create inappropriate level of noise and other disturbing activities and security issues. Simply put, STR use does not contribute to peaceful use of one's home.
7. The Sheriff's department is at least 30 minutes away and calls made by residents to address STR renter issues may be slowly responded to or of low priority creating an untenable situation for residents. We understand that current County code enforcement of STR conditions is on the third level (Lowest).
8. Property values of homes adjacent to a short term rental may be negatively impacted as potential buyers could consider such use unfavorable and a responsible real estate sales person would disclose the fact of the STR permit.

The attached list of resident names are from the two home owner's associations directly impacted by the project and are in opposition to granting this permit.

Submitted by Scott Hennessy, [hennessyst@comcast.net](mailto:hennessyst@comcast.net), 831-601-1119

Signatories to March 6, 2023 letter to Craig Spencer, Chief of Planning in opposition to Short Term Rental Permit PLN220054, APN 416-351-005-000

Address Numbers are all for Corral de Tierra Road

Alta Tierra Association

Robin Aeschliman 293

Michael & Sandy Cohon 276

Scott & Tamara Hennessy 294

Song Kim 278

Dennis & Jean Powell 298

Matthew & Molly Ronconi 296

Paula Taylor 280

Greg & Jennifer Wolf 284

Meadow Lark Association

Michael & Mary James 272A

Scott & Susan Naylor 272

Gerry & Patti Wiley 274

# EXHIBIT 4



**Meeting of the Alta Tierra association took place at 280 Corral de Tierra, Taylor residence.**

**In attendance: Paula Taylor, Jennifer Wolfe, Scott and Tamara Hennessy, Mike Cohon, Denny and Jean Powell, Robin Aeschliman, Molly Kennedy.**

**Meeting began at 6:10 p.m.**

**Agenda:**

- 1) Short term rental at 282 Corral de Tierra**
- 2) Water system update and treatment assistance**
- 3) Potential road repair, summer 2023**

**1) Short term rental, see below**

**2) Water System Report 5-4-2023**

**The water level in well has been monitored since March 20, 2015 by dropping a sounding device attached by a cable through a port at top of well head. Once the device is lowered to the water level a signal is received and the depth is measured by the length of the marked cable. The well is approximately 100 ' deep and the pump is set at that depth.**

**Since 2015 the water level has ranged from 38' to 57' below the ground surface with the long term and annual levels impacted the amount of rainfall and water use.**

**The Arsenic level of the water has ranged from 10 ppb to 38 ppb as documented by county health department sampling since 5-6-2005. 10 ppb is the maximum considered safe level by the State of California. All residents are advised to treat the water before consumption.**

**3) Potential road repair—no action taken.**

**A gathering/meeting will be held in late summer at the Aeschliman's barn. Details to follow.**

**Meeting adjourned 7:10p.m. by Paula Taylor, seconded by Jennifer Wolfe**

**Respectfully submitted  
Tamara Hennessy**



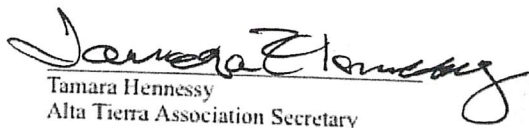
---

**RESOLUTION OF AGREEMENT RE: ADDITIONAL WATER  
USE FOR TRANSIENT USE OR SHORT TERM RENTALS**

At a meeting of the Homeowners comprising the Alta Tierra Association, held on May 4, 2023, having been duly noticed, and a quorum being present, the following Resolution was adopted by unanimous vote of all attending:

**RESOLVED** that the Alta Tierra Association objects to the issuance of a permit concerning the ROSSEEL GEERT & POWELL TRACY TRS application (PLN220054) because water use for short term rentals / transient use is not a domestic use of water and is not permitted under the Water Use Agreement dated October 29, 1963, and no additional use for water for short term rentals / transient use has been requested or approved.

I, the undersigned Secretary of the Alta Tierra Association, hereby certify that the foregoing is a full, true, and correct copy of the Resolution passed by the Alta Tierra Association homeowners held on the day and at the place therein, and that said Resolution has never been revoked, rescinded, or set aside, and is now in full force and effect.

  
Tamara Hennessy  
Alta Tierra Association Secretary

# EXHIBIT 5

## RE: PLN220054-ROSSEEL - Public Correspondence &amp; HOA

From: Angelo, Philip (angelop@co.monterey.ca.us)

To: gpgr\_61@yahoo.com

Date: Wednesday, March 22, 2023 at 04:46 PM PDT

Hi Geert,

I understand, but respectfully disagree. However, I think in this instance it may be a "distinction without a difference" as our understanding is that the plain language of the water agreement doesn't restrict this use.

I would recommend being prepared to speak regarding the water system and association at the hearing however. I've attached the most recent draft conditions. I believe the only change is that the duration is three years similar to what was recently approved.

Best,



**Phil Angelo**  
**Associate Planner**  
Monterey County - Housing & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Direct: (831) 784-5731  
[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <gpgr\_61@yahoo.com>  
**Sent:** Wednesday, March 22, 2023 3:28 PM  
**To:** Angelo, Philip <AngeloP@co.monterey.ca.us>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Hi Phil :

I respectfully disagree:

There is precedent at that, i a 2008 interpretation of the intent of this section, we see the following.

7. The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, the permit shall not be approved until the homeowners' association's objection has

been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association; ***The property is not encumbered by any covenants or homeowner's association.***

There is a clear separation between Covenants and Homeowner's association.

Best Regards,

Geert

On Wednesday, March 22, 2023 at 02:36:27 PM PDT, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

How this section has been applied is that "HOA" refers to an association with the power to enforce covenants, conditions, or restrictions.

The example used is that the Pebble Beach Company is the "de-facto" HOA for Pebble Beach.

Best,



**Phil Angelo**

**Associate Planner**

[Monterey County - Housing & Community Development](#)

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>  
**Sent:** Wednesday, March 22, 2023 1:11 PM  
**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hi Phil:

I read this differently.

There are 2 sections to this, and they should be read independently

*(1) The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property*

*(2) The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, **the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise***

*(1) If the water and road agreements are considered covenants, then PLN220054 does not violate any covenant. There is no restriction on water and road usage specified in any covenant.*

*(2) "IF there is an HOA", then the HOA must be given notice, etc ...*

*Regarding (2), there is no HOA. We have established that. A covenant does not imply or require the existence of an HOA to support that covenant.*

*All there is, is (1) water and road covenants and we are not violating any covenant.*

*Best Regards,*

*Geert*



On Wednesday, March 22, 2023 at 10:50:38 AM PDT, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

Yes.

Per Title 21 section 21.64.280.D.2.g, the use can't violate any covenants, conditions, or restrictions on real property, and if an HOA objects to the permit, it can't be approved until the associations objection has been withdrawn or the use has been validated by a Court/arbitrator/other appropriate entity.

*"The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, **the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.**"*

I don't know about the Meadow Lark Association, but the "Alta Tierra Association" that theoretically manages the road and water system is formed by a covenant that runs with the land in perpetuity. Based on what you've told me it's no longer organized/convening.

Best,



**Phil Angelo**

**Associate Planner**

[Monterey County - Housing & Community Development](#)

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>  
**Sent:** Wednesday, March 22, 2023 10:39 AM  
**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hi Phil,

Should I ask them ?

Thanks

Geert

On Wednesday, March 22, 2023 at 09:40:46 AM PDT, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

You're welcome, and glad to hear it.

Are you sure there's no association/structure for the Alta Tierra Association or Meadow Lark Association? I believe this issue will come up at the hearing.

Best,



**Phil Angelo**  
**Associate Planner**  
Monterey County - Housing & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Direct: (831) 784-5731



| [AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>  
**Sent:** Monday, March 20, 2023 11:19 AM  
**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hi Phil :

Good news - thanks a lot.

I am preparing for the hearing ... I believe I can address all the concerns that have been raised.

Thank you so much,

Best Regards,

Geert

On Monday, March 20, 2023 at 09:32:48 AM PDT, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

As an update we aren't going to refer the project to the LUAC, but we're still on track for the April 12, 2023 Planning Commission hearing. I'm working on my staff report.

For the ordinance, I can't be exactly sure what such an ordinance would entail or if it would be adopted, but staff's current report on this is agenda item 13 of the March 21, 2023 Board of Supervisors agenda, which can be found below. It appears that it would entail suspending all current pending application and refunding the permit fees:

<https://monterey.legistar.com/Calendar.aspx>

I recommend you take a look at this agenda item and if you have comments regarding the item I recommend attending the March 21, 2023 Board of Supervisors hearing.

Best,



**Phil Angelo**

**Associate Planner**

[Monterey County - Housing & Community Development](#)

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>  
**Sent:** Tuesday, March 14, 2023 3:54 PM  
**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Also - reconfirming

April 12 is good for me

Thanks a lot

Geert

On Tuesday, March 14, 2023 at 03:51:49 PM PDT, geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)> wrote:

Hi Phil,

Would I not be grandfathered in under such an ordinance? It seems that such an ordinance would stop new application, but the original application was filed under the previous ordinances.

Best Regrds,

Geert

[Sent from Yahoo Mail on Android](#)

On Tue, Mar 14, 2023 at 2:48 PM, Angelo, Philip

<[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)> wrote:

Hi Geert,

I'm re-scheduling the PC meeting to April 12, 2023, let me know if you have any concerns with this.

Staff were informed that the Board of Supervisors may be considering an ordinance suspending short term rental application processing on April 18, 2023; I don't have additional information on this, but placing the PC hearing after that date may be a concern.

Best,



**Phil Angelo**

**Associate Planner**

[Monterey County - Housing & Community Development](#)

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>

**Sent:** Thursday, March 9, 2023 7:04 PM

**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>

**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hi Phil

I am available on both days .

Please go ahead and set up the hearings

Thanks a lot for all your help

Regards

Geert

On Thursday, March 9, 2023 at 09:58:07 AM PST, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

Does Monday at 1PM work for the site visit?

Can I give you a call tomorrow to discuss the LUAC/project?

Best,



**Phil Angelo**

**Associate Planner**

[Monterey County - Housing & Community Development](#)

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>

**Sent:** Thursday, March 9, 2023 9:51 AM

**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>

**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hi Phil.

Does Monday/Tuesday next week work for a site visit ?

I think I understand the scope of the Planning commission meetings ( I have watched the on-line meetings), but I do not understand the scope of the Toro Land Use meeting.

Can we discuss briefly. I may need more time to prepare ..

Best Regards,

Geert

On Thursday, March 9, 2023 at 09:41:58 AM PST, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hi Geert,

Looking into it more we don't believe these are HOAs. I believe the next steps would be to have the project scheduled for a Land Use Advisory Committee meeting and a public hearing:

- Could you be available March 27, 2023 for a Toro Land Use Advisory Committee Meeting?
- Could you be available April 26, 2023 for a Planning Commission hearing?

I think a site visit would be helpful for staff's report, is there a day that works for you next week or the week after?

Best,



**Phil Angelo**

**Associate Planner**

Monterey County - Housing & Community Development

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731



[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

**From:** geert rosseel <[gpgr\\_61@yahoo.com](mailto:gpgr_61@yahoo.com)>  
**Sent:** Wednesday, March 8, 2023 8:08 PM  
**To:** Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Cc:** Quenga, Anna V. <[QuengaAV@co.monterey.ca.us](mailto:QuengaAV@co.monterey.ca.us)>  
**Subject:** Re: PLN220054-ROSSEEL - Public Correspondence & HOA

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Hello Philip.

These entities are not HOA's.

My understanding is that HOA's in California are governed by clear regulations, most notably the Davis-Stirling Common Interest Development Act, which governs among other things, the structure, the reporting requirements, financial structure and board elections of HOA.

As far as I have researched this, these two associations are not legal entities.

The fact that these entities refer to them as associations does not mean that they have any legal relevance as HOA's,

Best Regards,

Geert

On Wednesday, March 8, 2023 at 04:53:07 PM PST, Angelo, Philip <[angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)> wrote:

Hello Geert,

Yesterday we received four comment letters regarding PLN220054, attached. Scott Hennessy's letter requests a public hearing on the matter, and staff are removing the project from the March 15, 2023 Administrative Hearing date and plan to schedule the matter for a public hearing, date to be determined.

However, Scott's letter references two homeowner's associations. Title 21 section 21.64.280 does require that if a property is subject to a homeowner's association (HOA's), the permit cannot be approved until the homeowner's associations objection has been withdrawn. The property appears to be in the Alta Tierra Association (Road & Water Agreement Attached). Have you secured permission from the Alta Tierra association from the project? I am not familiar with the Meadow Lark association, is the property subject to any other HOA's or other entities that enforce covenants, codes, and restrictions?

*"g. The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association."*

Best Regards,



**Phil Angelo**

**Associate Planner**

Monterey County - Housing & Community Development

1441 Schilling Place, South 2<sup>nd</sup> Floor

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)



Exhibit B Attachment 1 - Conditions.pdf  
70.3kB

# EXHIBIT 6

## A Brief Alta Tierra Association History 1963 to 2023

The first meeting of the Alta Tierra Association (ATA) was held on November 15, 1963 and was to occur at times thereafter as determined by the ATA for the purpose of establishing charges for water and maintenance of the road and water system. No expenses for maintenance of road or water system is to occur without a majority vote of members.

The ATA with a name change was incorporated in 1991 as Steinbeck Country Neighbors. The corporate status of the ATA/Steinbeck Neighbors was abandoned in 2004 as being too cumbersome for the small organization. The ATA has continued to operate with the 1993 agreement for road and water use in full force. Since 2004 the ATA has met on an as-needed basis in meetings or phone calls with consensus for all operational or maintenance expenditures.

A significant amount of operational history was lost when the President, Jeff Taylor unexpectedly died in December 2020. The ATA also did not meet in person due to Covid concerns until May 4, 2023. During this period no unexpected expenditures occurred that would have required a ATA board approval.



Alta Tierra Association Tentative Agenda 5-4-2023

Meeting time: 6:00 PM

Location: Taylor Residence 280 Corral de Tierra

1. Short Term Rental at 282 Corral de Tierra
2. Water system update and Treatment assistance
3. Potential road repair Summer 2023

**RESOLUTION OF AGREEMENT RE: ADDITIONAL WATER  
USE FOR TRANSIENT USE OR SHORT TERM RENTALS**

At a meeting of the Homeowners comprising the Alta Tierra Association, held on May 4, 2023, having been duly noticed, and a quorum being present, the following Resolution was adopted by unanimous vote of all attending:

**RESOLVED** that the Alta Tierra Association objects to the issuance of a permit concerning the ROSSEEL GEERT & POWELL TRACY TRS application (PLN220054) because water use for short term rentals / transient use is not a domestic use of water and is not permitted under the Water Use Agreement dated October 29, 1963, and no additional use for water for short term rentals / transient use has been requested or approved.

I, the undersigned Secretary of the Alta Tierra Association, hereby certify that the foregoing is a full, true, and correct copy of the Resolution passed by the Alta Tierra Association homeowners held on the day and at the place therein, and that said Resolution has never been revoked, rescinded, or set aside, and is now in full force and effect.

  
Tamara Hennessy  
Alta Tierra Association Secretary

## Water System Report 5-4-2023

The water level in well has been monitored since March 20, 2015 by dropping a sounding device attached by a cable through a port at top of well head. Once the device is lowered to the water level a signal is received and the depth is measured by the length of the marked cable. The well is approximately 100 ' deep and the pump is set at that depth.

Since 2015 the water level has ranged from 38' to 57' below the ground surface with the long term and annual levels impacted the amount of rainfall and water use.

The Arsenic level of the water has ranged from 10 ppb to 38 ppb as documented by county health department sampling since 5-6-2005. 10 ppb is the maximum considered safe level by the State of California. All residents are advised to treat the water before consumption.

## Alta Tierra Association Expense History last 23 years

Checking account Doing Business As the Alta Tierra Association with Bank of Salinas and successor bank companies since 1994. The Association was formed in 1963 but I have yet to dig through the files to assemble the history before 1994.

These expenses were approved by the Association members in meetings, phone calls or in bid for work verbal approvals.

Bridge Repair/Construction	\$58,018
Water System Repair/upgrade	\$26,050
Road signs/traffic control	\$1,663
Roadside Vegetation management	\$11,485
Road Repair	\$44,838

Payment for power to pump water and water communication system is an additional cost.

The annual communication system cost is approximately \$820 and power cost annual cost is approximately \$3000.

For water use cost to each residence is based upon a unit system allocated to each member according to number of residents, swimming pools, horses, landscaping. The change from water meters to the unit system was approved by the Association on December 20, 1999.

Monthly Association dues are \$25.00. Members are billed for all costs annually.



Alta Tierra Association

Date: July 16, 2022

Location: Aeschilman's Barn 293 Corral de Tierra

An informal gathering of residents for a picnic and water use discussion .

No action taken

**From:** hennessyst@comcast.net,

**To:** [REDACTED]

**Subject:** 3:00 pm meeting for our Association on the 16th

**Date:** Thu, Jul 7, 2022 7:06 am

Meeting is on for the 16th at 3:00. Light snacks/beverages and chairs, I'll bring large table. Thanks

Sent from my iPhone

From: henessyst@comcast.net,

To:



Subject: Meeting with Chief Kevin Kamnikar

Date: Tue, Jun 29, 2021 6:57 pm

Susan Naylor, Robin Aeschliman and I had a very positive meeting and road walk with Kevin and he gave us some suggestions to both immediately improve our fire safety and for the long term and to forward our effort to become a Firewise community. We will get bids for a small amount of tree work that we believe is beyond our capacity to safely complete. We also will place a sign with the bridge load capacity and be certain all residences have clear address numbers. I will give each residence a check list to complete describing/assessing the individual residence fire risk for completion to then be compiled as part of our Firewise application. Thanks

Sent from my iPad

Alta Tierra Association 12-15-2020

Minutes

Location: At intersection of Alta Tierra and Meadow Lark Association Roads

Discussion: Fire Clearance of roads

Action: To pay S V Landscaping \$2750 to remove overhanging vegetation



From: hennessyst@comcast.net,  
To: john@blazerwilkinson.com,  
Cc: [REDACTED]

Subject: Re: Tree work

Date: Sat, Aug 29, 2020 8:53 pm

We will also get a bid from Mike Sleck who Scott Naylor suggested. Mike has a fire clearing and excavation company and will come by next week, he is familiar with our road and is totally aware of how and what needs to be done to meet safety standards. Thanks

Sent from my iPad

> On Aug 29, 2020, at 7:49 AM, John Wilkinson <[john@blazerwilkinson.com](mailto:john@blazerwilkinson.com)> wrote:

>

> He's the best! Go head on

>

> John Wilkinson

> BlazerWilkinson Affiliated Companies

> Phone: 831.455.3700 • Cell: 831.596.1649

> Fax: 831.455.3705 • Email: [john@blazerwilkinson.com](mailto:john@blazerwilkinson.com)

> [www.blazerwilkinson.com](http://www.blazerwilkinson.com)

>

>

>

>

>

>

>

> -----Original Message-----

> From: Scott Hennessy [mailto:[hennessyst@comcast.net](mailto:hennessyst@comcast.net)]

> Sent: Friday, August 28, 2020 6:02 PM

> To: [REDACTED] d

> Subject: Re: Tree work

>

> The tree man estimated it would be 2 days of work to cleanup and make the road fire safe for us and the fire department. His daily rate for a full crew and equipment is \$4500 so roughly \$9,000. He did a great job doing my 2 large oaks today.

>

> Sent from my iPad

>

>> On Aug 24, 2020, at 2:57 PM, Scott Hennessy <[hennessyst@comcast.net](mailto:hennessyst@comcast.net)> wrote:

>>

>> In the next day or 2 Dean from the tree man tree service is going stop by and look at what I should do to reduce fire hazard on my property. Since we dodged the fire bullet for the moment I am thinking we should do some fairly major clearing on our roadway from Corral to the top, it is currently a potential fire tunnel If a fire started on the Corral end and could prevent our escape or fire fighters from coming up to defend our homes. At the moment I would rather invest in that clearing than repair the road surface. Dean might not be the service we use for the road edge clearing but he could give us an estimate, his oak tree work on my property has been pretty good. Your thoughts?

>>

Alta Tierra Association

Minutes 7-20-19

Location: On the Association Road

Discussion of road repair

Consent to hire Boyds Asphalt to repair Road for total cost \$27162

Alta Tierra Association  
Minutes March 11, 2019  
Location : 278 CdT, OConnor Residence

General discussion of water use and road conditions, no action taken

Alta Tierra Association

Minutes 1-11-17 phone calling polling for road repair

Action: Con sent to hire and pay Boyd's Asphalt \$181838 to do road repair

From: henessyst@comcast.net,

To:



Subject: Fwd: Site Map Attached

Date: Mon, Sep 19, 2016 1:14 pm

Attachments:

---

From: "Jeff Taylor" <jeff@thegoodnewsherald.com>

To: "scott hennesy" <henessyst@comcast.net>, "Scott Naylor" <jsn54@hotmail.com>

Sent: Monday, September 19, 2016 10:10:13 AM

Subject: Fwd: Site Map Attached

Hi Scott's,

Here is a map provided by Boyd's Asphalt Services. I will follow this email with the bids from Boyd's and Ace. These bids are not apples to apples as you can see, although they are close enough to have a conversation.

Please forward to our respective membership.

Blessings, Jeff

Begin forwarded message:

From: Josh Estassi <josh@boydsasphalt.com>

Subject: **Site Map Attached**

Date: August 24, 2016 at 12:09:11 PM PDT

To: [jeff@thegoodnewsherald.com](mailto:jeff@thegoodnewsherald.com)

--

Joshua Estassi

Office Manager / Estimator

**Boyd's Asphalt Services**

**1350A Burton Ave**

**Salinas, CA, 93908**

**831-754-1224**

**831-262-0088**



From: hennessyst@comcast.net,

To:

Cc:

Subject: Re: Further Correction to Final bridge billing

Date: Wed, Jan 8, 2014 5:52 pm

When billing is corrected for the 13 lots in place of the 12 lot number I used the per lot cost due has been reduced to \$2252.36. At least the cost is going down, sorry for the confusion. I have corrected the calculation in the below email.

From: "Scott Hennessy" <hennessyst@comcast.net>

To:

Cc:

Sent: Wednesday, January 8, 2014 2:53:11 PM

Subject: Re: Correction to Final bridge billing

A couple of corrections to final billing : Naylor Construction total \$56442.82. Engineering total of \$2187.90, Treework total of \$3150 for a grand total cost of \$61,780.72 or \$5148.40 per lot(12). Alta Tierra has paid Naylor Construction \$25000 and covered the tree work and engineering costs. Alta Tierra will have collected \$32,500 when all lots (13) have paid the initial payment of \$2500 per lot. To cover the balance due Naylor (\$31,442.82) each lot owes an additional \$2252.36. I hope this now makes sense, let me know if otherwise.

From: "Scott Hennessy" <hennessyst@comcast.net>

To:

Cc:

Sent: Wednesday, January 8, 2014 7:39:03 AM

Subject: Final bridge billing

Bridge cost breakdown: Naylor Construction-\$57053.33 (\$25000 paid) \$32053.33 due, Tree work \$3150, Engineering \$2182.90

Total due: \$37386.23 divided by 12 lots = \$3115.52 per lot

The Alta Tierra Association has paid all bills except for the balance due Scott Naylor Construction. I need to pay Scott ASAP so please submit your payment either by mail or drop-off at my house. The bridge looks great and is very strong, as soon as there is an indication rain is on the way I will spread a wildflower mix in the bridge area.

Thanks,

scott hennessy

Alta Tierra Association

Minutes 12-11-13

Location : Bridge by entry

Discussion: Based upon engineer's survey our bridge needs to be replaced as it is failing and cannot be repaired.

Action:

An engineered new bridge design was presented and consent was given for Naylor Construction to build bridge for total cost of \$54,190



**From:** hennessyst@comcast.net,

**To:** [REDACTED]

**Subject:** Re: Street Sign Layouts

**Date:** Fri, Nov 1, 2013 8:04 am

I will add the Aeschlimans at 293 to the main sign on CdT road. I will also ask for cost of the individual address signs for each residence. I know the Powells want one and I think it would be a good idea for us all to have the uniform and reflective signs to be easily seen at night for each house. How many want the individual sign?

---

**From:** "Scott Hennessy" <hennessyst@comcast.net>

**To:** [REDACTED]

**Sent:** Thursday, October 31, 2013 8:01:29 PM

**Subject:** Fwd: Street Sign Layouts

Here are the sign layouts, will not do the sign for the 3 meadowlarks unless they are willing to pay tho the sign on Corral de Tierra will include all. Dark green background with 4" white reflective numbers to meet Fire's requirement. I will get a bid to all for your approval.

---

**From:** "Chris Signs" <Chris@mikesigns.com>

**To:** "Scott Hennessy" <hennessyst@comcast.net>

**Sent:** Thursday, October 31, 2013 2:37:41 PM

**Subject:** RE: Street Sign Layouts

Here are the signs with the 4" numbers

**From:** Scott Hennessy [mailto:hennessyst@comcast.net]

**Sent:** Thursday, October 31, 2013 12:58 PM

**To:** Chris Signs

**Subject:** Re: Street Sign Layouts

I'll review and get back to you. White reflective might be good, thanks.

---

**From:** "Chris Signs" <Chris@mikesigns.com>

**To:** HENNESSYST@COMCAST.NET

**Sent:** Thursday, October 31, 2013 10:50:10 AM

**Subject:** Street Sign Layouts

Good morning!

Attached are the layouts for the street signs you talked to Mike about. I have the dimensions next to each sign and everything is drawn to scale. Please let me know if you have any changes or comments. Also, did you want to use regular white or reflective white letters?

Chris Signs

From: hennessyst@comcast.net,

To:



Subject: Annual meeting notes

Date: Thu, Nov 15, 2012 6:28 am

Hello All: The meeting was a discussion of additional house number signage/direction on the road, installation of a surveillance camera near bridge, speed control on our road, and the intersection of our road and CdT road challenges due to oak, gravel, and parking in front of the Bridges residence. John and I will work on signage for speed control on the road, I will have address direction signs made and investigate the camera, and Denny will develop letter to Director of County Public Works to be cc'd to Dave Potter regarding the intersection.

I reported that our current balance is \$13,549 and when all dues are submitted we will have approximately \$21,000 in the account.

I also reported on water system generally meeting county health standards but for the arsenic level that we have been aware of and that we all are treating for at our individual residences.

Thanks to the O'Connor's for hosting the meeting.

scott hennessy

From: hennessyst@comcast.net,

To:



Subject: Bridge

Date: Mon, Oct 14, 2013 9:08 am

The fire district had a concern over the condition of our bridge so I contacted an engineer who did a bridge inspection and found our bridge in a sad state due to rot in the wood of all structural parts in contact with the ground. We will have to post the bridge with a weight limit that will be soon determined, I have called fire and waste management for their truck weights. The bridge will have to be replaced next summer as it is quickly deteriorating. The big pine remaining near the bridge will also have to be removed as its roots have substantially invaded the bridge structure and the bridge work will necessitate cutting these roots. The engineer will develop a letter stating the bridge condition and said bridge will have to be replaced as the wood is structurally unsound, once I have the report we should have an Association meeting and invite all residents using the bridge as we all will be in for a shock as to the price to replace the bridge. If someone has the memory or knows of the agreement that allowed the other 3 residences to opt out of the Association we should examine before we meet with them. It is the engineers belief that California law requires all residents benefitting from use of the bridge to help pay for its maintenance, we will need all to participate in the cost as I expect the replacement to be \$100,000+. If anyone is anticipating a construction project at their residence that involves heavy trucks you might consider re-scheduling until after bridge is replaced as I think weight limit may restricted to personal vehicles. Sorry for the bad news.

scott hennessy



**From:** hennessyst@comcast.net,

**To:**

**Subject:** Fwd: Happy Easter

**Date:** Sun, Apr 8, 2012 7:16 am

Hello and Happy Easter to ALL! Robin has an invitation below. Please stop by and say hello to the Aeschlimans and view their re-roof project.

scott hennessy

---

**From:** "Robin Aeschliman" <robinaeschliman@aol.com>

**To:** hennessyst@comcast.net

**Sent:** Saturday, April 7, 2012 8:52:02 PM

**Subject:** Happy Easter

Scott,

Please forward this to all.

We will celebrate Easter at the barn. We'll have the sample roofing material and information on it with us.

Anyone who would like to see it is welcome to stop by..... and.... if you spy an easter egg, it's yours to keep!

With gratitude,

Robin Aeschliman

Sent from my iPad - which is responsible for most of the typos, run-on words, and errors. :-)

**From:** jeankpowell@gmail.com,  
**To:** robinaeschliman@aol.com,  
**Subject:** Re: Barn roof  
**Date:** Mon, Jul 16, 2012 5:57 pm

they both sound fine.....just not purple.....the Powells

On Sun, Jul 15, 2012 at 8:45 PM, Robin Aeschliman  
<[robinaeschliman@aol.com](mailto:robinaeschliman@aol.com)> wrote:

> Thank you. :-)

>

>

> robin...

> on the iPad :-)

>

> On Jul 15, 2012, at 7:40 PM, Scott Hennessy <[hennessyst@comcast.net](mailto:hennessyst@comcast.net)> wrote:

>

> Hello All: Here is a communication from Robin regarding her re-roof of the  
> barn. Robin would like a letter from the association approving of her color  
> selection. Also I have chlorinated the water system twice after the health  
> department notified us that we had a coliform contamination (nothing new  
> about this) and provided a water sample to the department for their testing  
> over a week ago, so far no report.

>

> scott hennessy

>

>

> From: "Robin Aeschliman" <[robinaeschliman@aol.com](mailto:robinaeschliman@aol.com)>

> To: [hennessyst@comcast.net](mailto:hennessyst@comcast.net)

> Sent: Wednesday, July 11, 2012 9:18:40 AM

> Subject: Barn roof

>

> Scott,

>

> Could you please forward this to the Alta Tierra HOA.

>

> After a bit of a sidebar, we are again ready to reroof the barn. The  
> material remains the same: Corrugated Weathering Steel. We have chosen Old  
> Zinc Grey as the color. Second choice is Old Town Grey.

>

> We would like a letter from the president of the HOA stating that the  
> material and color choice is acceptable to the association. The County  
> Building Dept requires that letter in order to proceed with issuing the  
> permit.

>

>

> Close approximation of the material:

> <http://www.mpetheatreco.com/Box%20Office.htm>

>

> Online version of the color:

> [http://www.metalsales.us.com/files/colors-finishes/24Ga-Nationwide\\_Color\\_Guide.pdf](http://www.metalsales.us.com/files/colors-finishes/24Ga-Nationwide_Color_Guide.pdf)

>

> Thank you, Scott, for facilitating this process.

Alta Tierra Association  
10-22-08 Phone call polling

Topic : Road Sealing project

Action: Consent was given to reimburse Jeff Taylor for his \$26,000 payment for road sealing service by contractor.

Dear Neighbors,

I left the recent HOA (5.7.07) meeting with a couple concerns/questions. Because we don't live there and the chance opportunity to meet 'neighbors' doesn't exist, I've chosen to write to each of you.

One:

I have a somewhat complete set of HOA documents dating to the early 70's. These were gathered when I represented Eleen Auvil Hall when she sold her property to the O'Connors.

Well and road discussion has been a constant at HOA meetings since our purchase of the barn parcel from Eleen Auvil and Tom Hall in 1988. (I've included a summary.)

Because I have the capability, I researched the County record: the *only* parcel of record owned by the Alta Tierra Association is the 1.33 acre parcel for the lane -- from CDT Road to the back portion of the barn lot.

I reviewed Greg's and my purchase documents and find that the well site, the piping, and the tank sites are *easements* which both burden and benefit the property owner according to the relationship of their property to the well, the piping, the tank. There is reference to *one well-site only* in the documents. I'm confused by the statement that the HOA owns another well-site.

Two:

I think that as homeowners we should consider the aesthetics of any changes proposed to the tanks or tank site and how those changes may impact the view of the adjacent property owners.

Three:

As the association ages and changes (death and/or moving on), I'm also concerned about losing the verbal history -- that the association has relied on -- particularly with respect to the well and the upper part of the road.

*Robin Aeschliman 6.17.07*

Robin Aeschliman  
Barn lot

ALTA TIERRA HOMEOWNERS ASSOCIATION

AGENDA:

DATE 11-01-05

WELCOME TO NEW MEMBERS: Pam and John

CALL TO ORDER:

*Not here; Mages, Taylors, Bridges*

No. of lots represented and by whom.

MINUTES OF LAST MEETING:

To be read, corrected with any additions and omissions, and approved.

TREASURER'S REPORT:

Expansion of billings, if necessary. Approval of report.

OLD BUSINESS:

Acknowledge that the old pine tree at top of hill near water tanks was removed.

Discussion of continued use of our water system by lot on CdeT that installed its own well. How to bill?

NEW BUSINESS:

*Water Report*

Decide locations of mirrors for each curve on our private, shared road.

Any other items for discussion. Perhaps the condition of the bridge should be discussed, plus the large hole in road near curve between the Hennessy and Powell lots.

Adjournment.



Minutes of Alta Tierra Homeowners Association Meeting of November 1, 2005

The meeting was held in the home of Bill and Gay O'Connor. First item on the Agenda was the welcoming of new members, Pam and John. Dennis Powell was selected to ask the meeting to come to order, as the President, Jeff Taylor was late. The call to order showed there was a quorum of members present, with Mayer and Taylor absent. The Eschelmans came in later.

Finally it was determined Jeff was out of the state and Dennis called him by telephone to participate and answer any questions.

The minutes were approved as read. The Treasurer's Report showed a balance on hand of \$8,751.00. Putting aside some dollars to build a reserve was suggested. It was moved by O'Connor, seconded by Hennessey to create such reserves.

A new billing list, with paid bills included, was handed out. Possible adjustment of units was discussed. The bill for two mirrors was \$135.24 and they have since been installed by Scott H. The possibility of purchasing one more mirror was raised. A question was raised about the tax to the county and it was explained that it must be on the 'pigtail' part of the road that is owned by the Association. The Treasurer's report was approved.

The Secretary handed out copies of a report from the Monterey County Health Dept. that was received by the president. Via telephone, Jeff reported that the big tanks at the top had been chlorinated. Our understanding is that we are only 1 ppb over the new 10 ppb standard for arsenic. No other response to this notice needs action until further information is supplied by the County.

Old business included acknowledgement that the old pine tree at the top of the hill has been removed. The continued use of our water system by the lot on Corral de Tierra Rd (which now has its own well) will be looked into by Dennis P. John W. volunteered to remove the trimmings at the side of our road and to judge the condition of the bridge.

Both the Treasure and Secretary have submitted their resignations. Replacements??

Meeting was adjourned at 8:30 p.m.

Respectfully submitted,

protesting acting secretary,

Marit Evans

Alta Tierra Association Minutes

September 5, 2005 Dennis & Jean Powell Residence

6:00 PM

Attendees: Dennis & Jean Powell, Scott & Tamara Hennessy, John & Pam Wilkinson, Jeff Taylor, Gaye & Bill O'Connor, Mike Cohon, Miriam & Kevin Mayer, Marit Evans

Location: 298 Corral de Tierra

Election of Officers, approved by consent

President: Jeff Taylor

Treasurer: Scott Hennessy

Secretary: Jean Powell

Adjourned 8:12

MINUTES OF ALTA TIERRA HOMEOWNERS ASSOCIATION  
Sept. 22, 2004

Meeting was held at the home of Dennis & Jean Powell. The lots not represented were those of Chris Keith, Bridges/Evans and Kevin Mayer. New members, the Hennesseys, were welcomed to the Association.

Treasurer's report listed Pam Cohan Fox and Marit Evans being in arrears on payments. Payment of two new bills was approved, one to Salinas Pump for \$75.00 and one for \$1,838.00. \$9,065.94.? balance on hand.

The empty 5500 gallon tank on Cohan's lot was discussed and the representative said the tank will soon be moved further down on her lot.

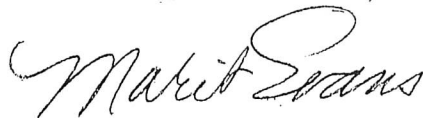
For billing on road repairs we have 9 lots. Meadowlark Mesa Homeowners Assoc. also pays shares on the pig-tail parcel when that area is repaired, including the bridge itself, as does the barn lot and the lot on CdT Rd. Since Bridges is drilling his own well, we will have only 8 lots paying for pump, line, hydrant, etc. repairs.

It was agreed that the old dead pine tree that's near the water tanks must be removed before winter arrives. If it falls, it may damage the water system and/or destroy fences. The president agreed to see that this is done expeditiously.

The need for mirrors on at least two curves in the road was discussed and Tamara Hennessy and Marit Evans agreed to look into this. This action was approved for payment for two 18" or 24" mirrors. Jean Powell provided the name of a catalog (Grainger) which carries these sizes.

Meeting was adjourned before 9:00 p.m.

Respectfully submitted,



Marit Evans, Secretary

Dear Neighbors,

I left the recent HOA (5.7.07) meeting with a couple concerns/questions. Because we don't live there and the chance opportunity to meet 'neighbors' doesn't exist, I've chosen to write to each of you.

One:

I have a somewhat complete set of HOA documents dating to the early 70's. These were gathered when I represented Eleen Auvil Hall when she sold her property to the O'Connors.

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I reviewed Greg's and my purchase documents and find that the well site, the piping, and the tank sites are *easements* which both burden and benefit the property owner according to the relationship of their property to the well, the piping, the tank. There is reference to *one well-site only* in the documents. I'm confused by the statement that the HOA owns another well-site.

Two:

I think that as homeowners we should consider the aesthetics of any changes proposed to the tanks or tank site and how those changes may impact the view of the adjacent property owners.

Three:

As the association ages and changes (death and/or moving on), I'm also concerned about losing the verbal history – that the association has relied on – particularly with respect to the well and the upper part of the road.

 6.17.07

Robin Aeschliman  
Barn lot



## Alta Tierra Association Road

Summary of road work/discussion taken from a review of available HOA minutes and attachments:

October 28, 2000

Billing for additional road work shared by Meadowlark and Steinbeck Country as follows

- Upper road, \$12,318.95, divided into 9 parcels – 1,368.77 plus 227.00 for a total of 1595.77, less 888.89 previously paid leaving a balance of 706.88
- Lower road, \$2,951.08, divided into 13 parcels – 227.00 ea.

December 20, 1999

Assessment of 888.89 for each of nine parcels for road work

May 29, 1991

Assessment of \$250.00 – 8 parcels for balance of Granite Construction road work; billing of \$2,171.00, association paid \$171.00 to make up difference. The original billing, of \$10,171.00 is dated 11/30/90 and indicates a payment of 7,000.00 on 12/31/90. Several late charges added between January and April of 1991 were dropped.

October 13, 1989

Lower road repair assessment of \$4290.00 divided into 13 parcels @ 330.00 ea. for road repair. Note: There are two proposals from Granite Construction dated 12/6/89 (9,226.00) and 10/19/89 (11,858.00). It is noted in the file on November 8, 1989 that the road was double chip sealed.

November 30, 1979

Letter indicating payment of 7,857.50 in December, 1979 to Alta Tierra Association from Edward Evans for Evans' share of road improvements at the time of subdividing one parcel into four parcels.

September 23, 1979

Unclear – minutes reflect costs of undergrounding lines and an association loan to cover the cost.

August 15, 1979

Minutes reflect necessity of payment of 1,593.91 "per family" for undergrounding.

June 21, 1979



Minutes reflect discussion of new road at a cost of approximately \$25,000 to \$30,000.

July 29, 1977

Letter to P. G. & E. to proceed with engineering to underground the electrical service for the Alta Tierra "Association.

August 19, 1976

Discussion of road and bridge repair.

April 15, 1976

Discussion of annual road maintenance

September 22, 1974

Discussion re. obtaining an engineer's report on the bridge and patching road holes prior to winter.

July 11, 1974

Discussion re. taking title to and paying for the road

August 22, 1972

Proposal to underground utilities

STEINBECK COUNTRY NEIGHBORS ASSOCIATION MEETING  
September 15th, 1999 Powell Residence

Meeting called to order at 7:40 pm by President Denny Powell.

Present: Kevin Mayer, Eleen Hall, Jean and Denny Powell, Marit and Ed Evans, Jeff Taylor, Robin and Greg Aeschliman.

Leonard Rabi was present to explain about the road repairs.

The minutes of June 9th, '99 were approved unanimously.

1. Hungerland: Denny explained that though Jacklyn Hungerland had filed for bankruptcy we were able to collect \$4375.73. This includes interest and covers a portion of the road repairs to be made and billed shortly. As you all know Jackie made no payments for the entire time she lived at 294 C.D.T. We paid the bankruptcy lawyer \$300. for help in recovering this amount.

2. Road Repair: Leonard Rabi has explored with Denny and Jeff the needs of the road. It seems that a 4' x 250' culvert needs to be replaced to stop the sheeting of water down the steep part of the road between 294 & 298 also 284 & 276. Also the road needs repair to prevent more damage. The cost for this will be \$8000. to be divided between 8 homes.

Greg wants the culvert by the barn cleaned and repaired so that it won't flood the road. He Jeff and Rabi will check this and give an estimate. Greg will call Scott Naylor to see if he could do this work.

The entrance to our private road needs help. There is a tree in the middle of the creek bed that facilitates the banks being washed out. Rabi has been shoring up the banks with concrete rip rap. Greg would like the bridge checked for loose boards.

Robin ask about a minute book, no one seems to know anything, if each person with past minutes will bring them to the next meeting we will start a book.

Foolishly Eleen offered to be treasurer but it will take some time to organize the accounts sooo patience. Denny suggested a reserve account, Marit suggested \$4000. to start

Respectfully submitted, Sub-sec. Eleen Auvil Hall

HOME OWNERS MEETING, June 9th, 1999  
Powell's Residence

Meeting called to order at 7:42 pm by Denny Powell, President.

Present: Kevin Mayer, Eleen Hall, Jean and Denny Powell, Jeff Taylor, Robin Aeschliman, Marit Evans

Minutes approved 7 yes, Marit Evans abstained.

Agenda settled on:

1. Road
2. Treasurer
3. Water
4. Mail box turn around

1. Denny Keith sent a letter which was read, detailing the fact that Leonard Roby will for time and materials fix the road; diverting the sheeting water with a berm and culverts.

A motion was made and passed that Denny Powell and Jeff Taylor talk to Roby and ask for an estimate. Robin asked that the culvert by the barn also be fixed since it floods the road. Greg reports that there is a problem with the bridge that needs looking into, Jeff will check this out.

2. Pam Cohon will mail a bill and financial report to each member. No one volunteered to be treasurer.

3. Denny Powell wants to think about a hand cranked pump for water emergencies, or a generator.

4. A motion was made to look for rip rap to secure the bank by the mail box turn around. The wire baskets to hold rocks was suggested.

5. It was suggested that the weeds on the roadside be cut. A mirror on the tight turn was suggested, also the old water pipes be replaced.

6. A discussion of the Evans B6 or B8 property on the West side and what that really means. Evidently it means that the parcel cannot be divided again.

Respectfully submitted, Sub-sec. Eleen Auvil

STEINBECK COUNTRY NEIGHBORS ASSOCIATION

INVOICE FOR ROAD REPAIRS, SEE MINUTES OF SEPT. 15,'99

Each Home owner to pay \$888.89      Due immediately

Make check payable to:

Alta Tierra Association  
278 Corral de Tierra  
Salinas, CA 93908

Don and Nicole Beucke:

We collected a portion of the road fee from Jackie so that all you owe is \$222.22. Hope you move in soon, your fence, in fact your home looks loved now. Good work.

## PROPOSAL FOR WATER BILLING SIMPLIFICATION

December 20, 1999

Because of the muddle with the billing for water and the fact that there are no meter readings from June, also the complexity and time consuming billing procedure the following is proposed for consideration and approval:

I propose to bill in units composed of the number of bodies in each household, with extra units for A. swimming pools, B. landscaping, C. Koi ponds, D. Horses. Each household will be responsible for communicating to the treasurer significant changes in water usage.

The billing for Home owners dues is \$25.00 per month. you will be billed quarterly in March, June, September & December.

Special assessments needed to keep the road in repair and the water flowing will be approved at our meetings and will be identified on your bill.

The water is shared by 9 homes, but not Aeschlimans, (barn lot).

The road is shared by 9 homes top down to where it branches into Meadowlark division. From that point to Corral de Tierra the road costs are split 13 ways. 300 CDT, Joy Evans/Dave Bridges do not share the road cost.

All enquiries and payments to be directed to Alta Tierra Association, 278 Corral de Tierra, Salinas, CA 93908...Eleen Auvil Hall

Home owners meeting of Dec. 20, 1999 the proposed billing change as outlined above was passed as a motion. and is therefore in action.

12/21/27, Eleen Auvil



MINUTES OF THE ANNUAL MEETING OF THE ALTA TIERRA ASSOCIATION  
aka STEINBECK COUNTRY NEIGHBORS

Also invited to attend the meeting and the potluck dinner were the members of the neighboring Meadowlark Mesa Homeowners Association which shares expenses re: the lower private road.

The business meeting was called to order in the early evening at the barn lot on October 31, 2000, by President Dennis Powell. Those present were Myriam Mayer and her daughter; Eleen Auvil; Chris Keith; our hosts, Greg & Robin Aeschilman; Marit Evans; Dennis and Jean Powell; Joy Evans & Dave Bridges; and Patti Willy. Therefore, seven lots of the Alta Tierra Association were represented with one vote per lot.

Eleen Auvil presented the Treasurer's report. The various expenses of the road repairs were included in her report. The balance on hand was approximately \$1700.00. Additional bills for road repairs were presented individually and checks collected. The reports were approved.

A new secretary was needed and Marit Evans volunteered to take on this office.

Dennis Powell had been President for several years and wanted to be replaced. It was moved, seconded and approved, that Dave Bridgea serve as President of the Alta Tierra Association and he accepted the office. The President of the Meadowlark Mesa Association is Jim Blandin who was absent.

Various projects were discussed and Dennis Powell volunteered to have the bridge repaired. The surface needs work as broken boards were becoming hazardous. Jeff Taylor remained in charge of the water system. The meeting was adjourned as soon as new and old business was discussed. A pleasant potluck concluded the evening meeting.

Respectfully submitted,

Marit Evans, Recording Secretary

RA

②

BILLING FOR ROAD WORK AS APPROVED BY THE STEINBECK COUNTRY  
NEIGHBORS ASSOCIATION.

October 28, 2000

Estimate of \$8,000. covered partial work as Jeff Taylor and Denny Powell looked at the job with Leonard Rabe. This was major water damage with improper drainage. This work was done to avoid having to redo the whole road.

On December 20, 1999 the Association agreed to an assessment of \$888.89 for each of 9 parcels. These were billed and paid.

Jeff Taylor and Denny Powell were to look at the balance of the road including the entrance and the mailbox turn around with Rabe to decide on the balance of road work to be done at this time.

The following is the complete billing and payment with the necessary additional assessment needed.

INVOICES PAID TO DATE, BALANCE OWING:

12/21/99	\$4034.78
1/11/00	\$3965.22
2/15/00	\$2352.68
5/30/00	\$ 201.30
9/4/00	\$ 3500.
9/4/00, not payed	<u>\$1216.05</u>
TOTAL	\$15,270.03

This is divided into upper road cost \$12,318.95 and lower road cost 2951.08. Lower road is divided into 13 parcels, or \$227. each, Meadowlark and Steinbeck Country. The Steinbeck Country parcels divide upper road \$12,318.95 by 9 parcels for \$1368.77 plus \$227 equals \$ 1595.77. These parcels have already payed the original assessment of \$888.89 therefore the balance to these parcels is \$706.88.

This needs to be approved by the members, if so consider this the billing.

Submitted by the treasurer, Eleen Auvil Hall

*Robin Ascherman - 2 pages*

①

STEINBECK COUNTRY NEIGHBORS ASSOCIATION MEETING  
December 20, 1999, Powell Residence

Meeting called to order at 7:42 pm by President Denny Powell.

As there was not a quorum the meeting was informal. The minutes of the September 19th meeting were approved as was the treasurers report. The proposal for a simplified billing system was approved.

ROAD: Rabe has done a good job on the road, there are still a few areas that need work. Jeff will ask Rabe about the two holes on the upper section. The washed out steep area in front of Beuckes will be redone and not charged for. The edge hole by the barn by the barn needs attention as does the entrance from CDT and the mailbox turn around. Jeff and Denny reviewed Rabe's bill and said that it looks reasonable. On this date the bill was \$4034.78.

New Business:

1. The water line and storage needs to be looked at with an eye to improving both, (especially with the low water flow this past summer.)
2. The bridge needs some help.

Much discussion along with good food ended the meeting.

Respectfully submitted, Eileen

Checking Account Balance

as of:

12/20/99	\$ 414.27
10/28/00	\$1063.45

PG & E Costs

12/20/99 - 10/19/00	\$2318.31
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MISC. COSTS

12/20/99 - 10/19/00	\$1379.11
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# EXHIBIT 7



# SCALE LLP

548 Market Street  
STE 86147  
San Francisco, California  
94104-5401 US

**Melissa H.D. Balough | Counsel**  
415.735.5933 | melissadb@scalefirm.com

May 22, 2023

*By Electronic Mail*

Phil Angelo  
Associate Planner  
Monterey County - Housing & Community Development  
1441 Schilling Place, South 2nd Floor  
(831) 784-5731  
*AngeloP@co.monterey.ca.us*

Re: PLN220054-ROSSEEL - May 31, 2023 Hearing

Dear Mr. Angelo:

My office has been retained by Geert Rosseel and Tracy Powell, the owners of the home that is the subject of application PLN220054-ROSSEEL (“**Owners**”). I write to dispel some of the confusion that has arisen about the ostensible homeowner’s association and some of the points that were raised at the last Planning Commission meeting. In short, their arguments are without merit, the association has no authority to act as an association in this manner, and you and the Planning Commission should approve the Owners’ application as a fair and impartial review of it will demonstrate that it meets all the requirements. We look forward to working with you on this application and we are available to answer any questions you may have after reviewing this letter.

As an initial matter, we disagree that a “transient use” of the Owners’ property would be in violation of the October 29, 1963 agreement (“**Agreement**”), and thus the Owners would “not violate any applicable conditions, covenants, or other restrictions.” (Monterey County Code, 21 § 21.64.280D.2.g.) While we appreciate the time and thought that went into your careful review of the Agreement, your conclusion that a transient use would fall under “additional uses as may be determined by the ownership of a majority of said parcels” is incorrect. Water used in a short-term rental is a “domestic use.” There is no such thing as a “transient use” of water.

As you know, the state of California regulates water appropriation and usage stringently. Its regulations covering these subjects can be found in the California Code of Regulations Title 23. This comprehensive set of regulations is very clear that:



Domestic use means the use of water in homes, resorts, motels, organization camps, camp grounds, etc., including the incidental watering of domestic stock for family sustenance or enjoyment and the irrigation of not to exceed one-half acre in lawn, ornamental shrubbery, or gardens at any single establishments. The use of water at a camp ground or resort for human consumption, cooking or sanitary purposes is a domestic use.

(CCR 23 § 660.) In contrast, other beneficial uses of water delineated in California's regulations include irrigation use, power use, mining use, and industrial uses. As you can see, "domestic use" of water explicitly includes all uses for human consumption, cooking, and sanitary purposes. Such uses certainly include use by humans temporarily occupying a residential property. Furthermore, use by short-term renters would not be greater than use by a family residing in the home full time. The use as a short-term rental would arguably use less water, as occupancy would not reach 100%.

Secondly, at the last meeting, the Alta Tierra Association also raised the issue of its well levels, implying that the water supply was low, and that the use of the Owners' property by short-term renters would somehow detrimentally affect the well levels. This is nonsensical. They did not, and cannot, identify any sources that state that transient uses increase water use as opposed to a family living in a home full time. As noted above, a family occupying the residence full time would arguably use more water than short-term renters. Moreover, to the Owners' knowledge, this issue has not been raised before with any of the homeowners, and no action has been taken to address it.

Similarly, the Alta Tierra Association claimed that the road it is responsible for maintaining is too dangerous to allow the Owners to use their property as a short-term rental. Again, this does not make any sense. First, if the road is too dangerous for routine traffic use, it is incumbent upon the Alta Tierra Association and its members to make it safe—not to restrict property owners from legal uses of their property. Second, again, they did not, and cannot, identify any sources that state that road use would be different due to use as a short-term rental as opposed to use by a full-time resident.

The sudden flurry of Alta Tierra Association activity raises the question of what its role is regarding its members. When the Owners closed on the purchase of their property, they were made aware of various reciprocal easements, as well as the Agreement. They know the Agreement is a recorded covenant that runs with the land and agreed to abide by it. This was part of the bargain they made when they purchased their home. The Owners did not, however, consent to being part of a homeowner's association that purports to have any sort of power to restrict the usage of their property beyond the restrictions found in the Agreement.

The Alta Tierra Association exists *only* for the purpose of "maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels . . ." (Agreement at p.2.)

(3) The parties hereto intend by this Agreement to provide for the maintenance of roads, well, pumping equipment, water line, storage tank, and to provide water for each of the parcels described in Paragraph 1 herein.

(4) For the purposes of this Agreement, the parties hereto will be referred to collectively as the ALTA TIERRA ASSOCIATION.

Pursuant to the Agreement, meetings of the Alta Tierra Association were to be held “for the purpose of establishing charges for water and the maintenance of the roadway and water system.” (*Id.*)

A meeting of the Alta Tierra Association shall be held on the 15th day of November, 1963, and at times thereafter as determined by the Association, for the purpose of establishing charges for water and the maintenance of the roadway and water system. It shall be the intention of the Association to establish charges sufficient to provide for maintenance of the road and water system in a good and serviceable condition at all times.

The resolution passed on May 4, 2023 and sent to you as part of the Alta Tierra Association’s plan to “object” to the Owners’ application, is invalid because it is *ultra vires*. The Alta Tierra Association has no authority to restrict the Owners’ use of their land for short-term rental use, nor does it have the authority to pass resolutions to take any sort of position on a member’s application to a County Commission. No such authority is conferred by the Governing Documents, *i.e.* the Agreement. No other such document conferring any authority to do so has been recorded or shared with the Owners. Actions taken outside the scope of an association’s authority are unenforceable and courts can and will intervene and grant injunctive relief. (*McDermott v. Bear Film Co.* (1963) 219 Ca.App.2d 607, 610-11 (“In its true sense the phrase *ultra vires* describes action which is beyond the purpose or power of the corporation.”)) This resolution should be disregarded.

The Meadowlark Association’s appearance at the last meeting to object to the Owners’ application should also be disregarded. The Owners’ property is not a part of the neighborhood the Meadowlark Association says it represents. While the public has every right to participate at Planning Commission meetings, the opinion of the Alta Tierra Association and the Meadowlark Association about this application should be given no more weight than that of any other members of the public. And these objections in no way may be used to justify a denial of the Owners’ application under title 21, section 21.64.280D.2.g of the Monterey County Code.

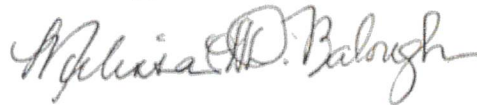
This attempt by the Alta Tierra Association, and apparently the Meadowlark Association, to confuse these issues and mislead you and the Planning Commission must fail. The Owners respectfully decline your suggestion to “coordinate a vote” with the Alta Tierra Association because the Alta Tierra Association has no power or authority to vote on anything except to establish charges for and provide maintenance to the water system and the roadway.

In a March 22, 2023 email to Mr. Rosseel you agreed that “the plain language of the water agreement doesn’t restrict this use.” It is not clear what changed your mind between your March 22 email and your April 18 email regarding the interpretation of the Agreement. We are given to believe you may have come under some pressure regarding this application. I urge you and the Planning Commission to consider the Owners’ application fairly and impartially. It is meritorious and should be granted.

In the meantime, please preserve all electronic and paper files related to this matter, and any communications with members of the Alta Tierra Association and the Meadowlark Association. Any correspondence, other action, response, or lack of any thereof is not intended to waive, nor should it be construed as a waiver, of any legal or equitable rights or remedies, all of which are expressly and unconditionally reserved.

Please contact me at the email or phone number above to discuss if you have any questions.

Sincerely,



Melissa H.D. Balough

cc:

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