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ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

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August 28, 2019

Our File No: 4813.001

Mr. Joe Sidor, Associate Planner
Monterey County RMA
1441 Schilling Place
Salinas, CA 93901



RE: River View at Las Palmas

Dear Joe:

This letter is to follow up on our discussions about the operational aspects of River View at Las Palmas (RVLP) and what distinguishes it from a senior housing project. RVLP is designed to be and will be fully licensed as a Residential Care Facility for the Elderly (RCFE). The operational aspects of RVLP and the requirements the State Health and Safety Codes will be explained later in this letter but it is important to understand the purpose and need for RVLP.

RIVER VIEW at LAS PALMAS RESIDENTIAL CARE FACILITY (aka. Assisted Living)

Continuum of Care

River View at Las Palmas (RVLP) is designed to provide a continuum of care for its residents to meet their specific, individual needs brought about largely by the aging process.

Maintain an Appropriate Level of Independence

As a person ages and traditionally simple tasks become challenging and confusing, whether due to normal memory loss and/or physical impairment, the loss of their independence and having to depend on others becomes a primary fear. The primary fear in the loss of independence may stem from not being able to drive or live on their own, inability to manage their financial affairs, making medical decisions and similar activities. That fear may drive more rapid debilitation. By having a facility and a program that includes addressing the early stages of challenges to independence, residents are given the opportunity for more gradual transition from a family home to a community setting. With the continuum of care, residents will be able to maintain

their independence and dignity, under an appropriate level of care and supervision, consistent with their ability and needs.

Reduce the Trauma of Their Transition

As much as an aging person fears losing independence, they may fear change even more. Changing where they live, their living accommodations and the people they are accustomed to seeing on a regular basis are all potentially traumatic events to individuals who may at the same time be losing some of their physical, mental and emotional ability to cope with change.

The continuum of care facility and services design addresses each stage of aging and dependence to mitigate those fears as residents move from minimal needs and supervision, to moderate care, including physical assistance with activities of daily living, then more substantial assistance. This provides the residents a more comfortable transition at each life stage as needed, within a community where friendships, support and comradery have developed, and trust and care are part of everyday life.

Receive an Appropriate Level of Care Based on their Individual Needs

Although RVLP has been referred to as an assisted living facility it is, under the terms of the California Health and Safety Codes a Residential Care Facility for the Elderly¹ (RCFE) where persons receive an agreed to level of care and supervision² based on entry and follow-up assessments. RVLP, including the casitas, will be fully licensed as an RCFE.

¹ "Residential Care Facility for the Elderly" means a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents. (HSC1569.2,p.1)

² Level I—Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

Level II—Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

Level III—Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment that required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations. (HSC 1569.70)

Operations

Assessment:

Prospective occupants are required by the Health and Safety Code to undergo an assessment, performed by professionals, to determine their needs and appropriate level of care³. The assessment may be done in an individual interview with the prospective resident. It is often done by a combination of an interview with the prospective resident, those responsible for their daily care, their physicians and may include an observation of their physical condition. If there is “a fit” between the prospective occupant and RVLVP, that person is eligible to become a resident⁴.

Living Assignments:

Persons with a relatively high level of independence would typically begin their residency at RVLVP in the assisted living casitas. Those initially needing a higher level of care would begin in the main unit but could start in larger units with more independence farther from care stations. If a significant degree of care is required, they could start in the units closer to care stations and services. Persons with dementia, Alzheimer’s or similar conditions become residents of the memory care unit.⁵

Cost of Services:

There is a one-time fee to become a resident. There is a rental fee and a monthly service fee for each resident based on the level of care to be provided to that resident. The base monthly service fee includes meals in the facility dining rooms, weekly cleaning and linen service, laundry and transportation. Additional fees are added for other needed services such as medication management, dressing, room service for meals, personal hygiene assistance, etc.

Continuum of Care:

When a person becomes a resident at RVLVP they receive the services they need. As their needs increase, so do those services. A casita resident is anticipated to eventually move to the main unit. Main unit residents may then move to different locations in the main unit as their level of need increases. They may eventually need to relocate to the memory care unit. RVLVP residents have first priority to move through the units at RVLVP.

³ With limited exceptions, an RCFE cannot accept persons who are in need of 24-hour, skilled nursing or intermediate care or if the person is bedridden,

⁴ So partners or family members may stay together there may be situations where the partner of resident will also become a RVLVP resident even though they may not need the services provided by RVLVP.

⁵ Memory care residents are inclined to wander. The memory care unit is fully secured with controlled entrance and exit.

Mr. Joe Sidor, Associate Planner
Monterey County RMA
August 28, 2019
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Residents stay at RVLP until they or those persons responsible for them choose to relocate them or the level of care they need exceeds that provided by RVLP, including but not limited to, skilled nursing.

Summary

RVLP is not a senior housing project. It is not open to everyone. Only individuals who need the services identified in their assessment are eligible to become residents. Once a resident, they will be able to receive an increasing level of support and living arrangements as their needs increase. As long as RVLP can provide, within the limits of the Health and Safety Codes, the necessary level of care and the persons ultimately responsible for the residents agree, RVLP is their home.

Sincerely,



Dale Ellis
DE/af

Sidor, Joe (Joseph) x5262

From: Pete Andresen <wahkahchim@aol.com>
Sent: Monday, September 23, 2019 2:46 PM
To: Sidor, Joe (Joseph) x5262
Subject: Please don't approve the Las Palmas Senior Care Facility

[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, I'm a citizen of Salinas.

It seems to me that with global warming, commuting issues, lack of water, infrastructure overcrowding (Highway 68 is often a parking lot) and emergency services, that development would be better off inside existing Salinas City limits, on previously developed ground such as Abbott Street, NOT out on the 68 corridor.

Thanks and be well.

Peter G. Andresen, voter, 831-809-6999.

Sidor, Joe (Joseph) x5262

From: Roy Gobets <roygobets@aol.com>
Sent: Tuesday, September 24, 2019 2:25 PM
To: Getzelman, Paul C.
Cc: Sidor, Joe (Joseph) x5262
Subject: Upcoming PC Workshop on RVLP

[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.]

Hello Paul,

My name is Roy Gobets. I live in Las Palmas I off River Road in Salinas and am writing you in reference to upcoming PC agenda items [on October 9](#) (workshop) and again [on Oct 30](#) (regular session) when the RVLP (PLN 150372) project will be reviewed. I understand from on-line information that you are the PC Chair.

Here is the note I received from Joe Sidor. (He has done a great job of responding to my many requests):

From Planning (Joe Sidor):

The Final Subsequent Environmental Impact Report for the River View project was posted 9/19/19

<https://www.co.monterey.ca.us/government/departments-i-z/resource-management-agency-rma/planning/current-major-projects/river-view-at-las-palmas-assisted-living-senior-facility>

In addition, the RMA will schedule a project workshop at the Planning Commission [on October 9th](#). I believe the agenda will only accommodate 2 hours for River View, so the Chair may limit public comment.*

The Planning Commission (PC) public hearing on the project (i.e., when the PC may make its recommendation to the Board of Supervisors) is tentatively scheduled for [October 30th](#).

As a long time LPI resident I (unofficially) represent a sizable ad hoc group of concerned homeowners who plan to deliver extensive public comment at these upcoming hearings. In that role I work with the LPI speakers to keep such public comment concise, on target and constructive.

I understand from Joe Sidor that there is no scheduled site visit as yet. Instead I believe the two hour workshop is planned to help with the anticipated strong level of public interest and high number of speakers.

While I think there is ample merit in the spirit of workshop dialogue, I also believe that in this case a site visit is not merely desirable, but absolutely essential. A workshop simply cannot substitute for a site visit.

I have two requests:

1) May I meet with you for maybe a half hour (soon) before the [10/9](#) workshop to introduce myself, make your acquaintance and get some guidance for a productive session with the PC? It can be a cup of coffee anywhere. On your schedule - I am retired.

2) Please come and see the site. Come as a full PC or come individually, but do visit.

I can host you if you think it appropriate. Bring good hiking shoes. Planning could host you if you request. I believe a workshop may help but there is nothing like SEEING the proposed site to place the many concerns you will hear in useful context.

Regards,

Roy Gobets

[235-1701](tel:235-1701) Call anytime.

Sent from my iPad

Sidor, Joe (Joseph) x5262

From: rlong296 <rlong296@yahoo.com>
Sent: Wednesday, September 25, 2019 7:27 PM
To: Sidor, Joe (Joseph) x5262
Subject: Las palmas road use

[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.]

As an ex las palmas 1 resident i think it is ridiculous you dont have an alternative entrance. Built an entrance road with your own stoplight.

Sent from my Verizon, Samsung Galaxy smartphone

October 9, 2019

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Terrence R. O'Connor

Timothy J. Baldwin

** Charles Des Roches*

** Leslie E. Finnegan*

Ana C. Toledo

** Robert D. Simpson*

Lindsey Berg-James

Nicholas W. Smith

Danny J. Little

*Harry L. Noland
(1904-1991)*

*Paul M. Hamerly
(1920-2000)*

*Myron E. Etienne, Jr.
(1924-2016)*

*Peter T. Hoss
(1934-2018)*

** CERTIFIED SPECIALIST IN
PROBATE, ESTATE PLANNING,
AND TRUST LAW BY
THE CALIFORNIA BOARD OF
LEGAL SPECIALIZATION
STATE BAR OF CALIFORNIA*

Re: Parcel Q and Las Palmas Ranch Master Association No. 1

To Whom it May Concern:

Our firm has represented the Las Palmas Ranch Master Association No. 1 for the past 15 years. Parcel Q is not member of the Las Palmas Ranch Master Association No. 1 ("HOA").

Parcel Q was part of the original Las Palmas Subdivision map entitled - "Amended Map of Las Palmas Ranch Corey House Area/Unit 1 Tract No. 1086A, filed June 15, 1989, in Volume 16 of Cities and Towns at Page 70, in the Office of the County Recorder of Monterey County, California".

Although Parcel Q is shown on the subdivision map, it is not governed by the "Master Declaration of Covenants, Conditions and Restrictions" recorded on June 16, 1989, in Reel 2377, Page 261, Official Records of Monterey County, ("Declaration" or "CC&Rs"), which govern the Las Palmas HOA.

The CC&Rs' Recital B references most of the Las Palmas lots in the various Las Palmas Area 1 maps, but does not include Parcel Q.

The HOA Articles of Incorporation (Articles IV & VI) and the Bylaws (Section 2.10) apply to the "Lots" required by the Declaration to be a Member of the Association. A Member (Section 2.11) is defined as a person entitled to Membership, as provided in the Declaration.

Parcel Q is not a member of the HOA. The HOA members currently pay a month dues of \$155.00/mos. Parcel Q has never paid HOA monthly dues, annual, or special assessments (Article IV) required under the CC&Rs, nor does Parcel Q have voting rights in the HOA (Article III) under the CC&Rs, nor has the Parcel Q owner submitted their Project plans to the HOA Architectural Committee for approval (Article VI) as required by the CC&Rs.

To Whom it May Concern

October 9, 2019

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Moreover, Parcel Q has no deeded right to access any of the Common Area owned and managed by the HOA, except for limited access granted to Parcel Q in the Parcel Q deed, recorded at Document 2013046807, July 24, 2013, Official Records of Monterey County.

The Parcel Q deed provides for a non-exclusive easement expressly for, and limited to, ingress, egress, road and utilities over that portion of River Run Road and Woodridge Court, being a portion of Common Area Parcel C and Las Palmas Road being Common Area Parcel A as shown on Las Palmas Tract Map1086A.

Unlike the rights granted to the HOA members in their deeds, the Parcel Q deed does not grant the Parcel Q owner any other rights to the HOA "Common Areas" described in the CC&Rs.

The Las Palmas subdivision roads are private roads owned and maintained by HOA. Parcel Q has only limited defined access over only a small portion of the private HOA roads.

The Parcel Q owners pay the HOA a nominal fee of \$40/mos. for road maintenance costs, but there is no written road agreement between the HOA and the Parcel Q owner.

Other than as expressly granted in the Parcel Q deed, the Parcel Q owner has no right to use any of the other HOA Common Area, private HOA roads, other HOA private property, or other owner's private property, within the Las Palmas Ranch Master Association No. 1 area.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation


Christine G. Kemp

CGK:aac

HOA Board of Directors

Received by RMA-Planning on November 8, 2019. This revised letter supersedes previous letter with same date.

HORAN | LLOYD

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File No. 8125.01

November 7, 2019

Via Electronic and Regular Mail

Brandon Swanson
Joseph Sidor
Monterey County
Resource Management Agency
1441 Schilling Place
Salinas, CA 93901

Re: River View at Las Palmas Assisted Living Senior Facility – PLN150372

Dear Messrs. Swanson and Sidor:

This firm represents residents of Las Palmas I, and this letter is to comment on the procedural violations that have occurred in the processing of the above-referenced application. Specifically, the application process failed to include the requirements set forth in Monterey County Code section 21.64.320, commonly referred to as the “Proof of Access” ordinance. Additionally, the applicant did not engage the Monterey County Water Resources Agency (“MCWRA”) in an attempt to prove long-term, sustainable water supply for the project as required under Policies PS-3.1 and PS-3.2 of the 2010 Monterey County General Plan. The applicant must adhere to the procedures set forth in the Monterey County Code and Monterey County General Plan prior to any further proceedings before the County’s decision-making body.

A. Proof of Access Ordinance

Section 21.64.320.D.1 of Monterey County Code states that an application “will not be deemed complete” until the following information or documentation is provided by the applicant:

- A. A copy of the private road agreement.
- B. A copy of the private road maintenance agreement.

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- C. Written permission to use a private road for the project from a private road governing structure.
- D. A site plan that includes documentation showing existing access limits and minimum access requirement from the project to the primary public road or right-of-way. If access does not meet minimum requirements of the local Fire Authority and Monterey County Resource Management Agency – Public Works Department, the applicant must demonstrate the ability to meet the minimum level of improvements required.

The applicant has not provided the required documentation and thus, the application should not have been deemed complete.

Section 21.64.320.D.3 of the Monterey County Code sets forth special noticing requirement. Section 21.64.320.D.3 states, “The Director of Planning shall provide notice of a project to all parties to a private road and interested parties within (10) working days of submittal of an application.” The notice is to provide “the opportunity for any party to a private road to object to the use of the private road, for purposes of the project.” The purpose of this special noticing procedure is to “provide an opportunity for resolution of disputes prior to consideration of the project by the appropriate authority or for staff to consider recommendation following the provisions of this Section.”

Because the access road and the property on which the emergency access is proposed are owned by individuals with partial interest in the real property, each owner with property interest must be notified and provided an opportunity to object.

It is important to note that the exemption set forth in Section 21.64.320.D.4.d does not apply to the emergency access that would need to be constructed for the project. This section exempts, “projects whose use of a private road is limited to emergency access only.” There is no existing private road for use for emergency access. The applicant is proposing to construct emergency access on land he does not own. This exemption only applies to existing private road that may be used during an emergency, which clearly is not what is available to the applicant for this project.

B. Long Term Sustainable Water Supply

Long Term Sustainable Water Supply is defined in the 2010 General Plan as “a water supply from any source (e.g., groundwater, surface water, aquifer storage recovery project or other) that can provide for the current and projected future demand for water from that source as determined pursuant to the criteria required to be adopted by *Policy PS-3.2.*” Section PS 3-1 states “new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development.” Although there is a rebuttable presumption in the Zone 2C assessment district

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of a long term sustainable water supply, the presumption was rebutted when the Department of Water Resources declared the 180-400 Foot Aquifer Subbasin ("180-400 Subbasin") in critical overdraft, which finding cannot be overcome by California Water Company's "will serve" letter.

The Draft Subsequent EIR ("DSEIR") only describes water resources for the project in general terms and greatly relies on the "will serve" letter rather than adequately describing the specific wells and well system of California Water Company that would provide water service to the project. The well locations, the number of wells, etc. are critical details because if the supply wells are located in the 180-400 Subbasin (which is apparent in the DSEIR's general discussion), the project cannot be approved pursuant to Policy PS 3-1. Additionally, because water for the project would be supplied from the 180-400 Subbasin, the project would clearly result in new significant environmental impacts triggering the need for a subsequent EIR for recirculation.

The procedure the applicant should have undergone, as required in Policy PS-3.2, is to confer with the MCWRA to determine if there is Long Term Sustainable Water Supply and an Adequate Water Supply System for the project. Policy PS-3.2 states, "A determination of a Long Term Sustainable Water Supply shall be made upon the advice of the General Manager of the Water Resources Agency." To comply with this policy, the MCWRA would work with the applicant to model the affected subbasins (180-400 and El Toro Basins) based on the project's water supply well locations and the projected water consumption to determine if the project would result in cumulative impacts, cause negative effects on in-stream flows, etc. as set forth in Policy PS-3.2. This required procedural step was completely disregarded by the applicant, and the application must not go before any decision-making body until the applicant complies with these General Plan policies.

It is clear the applicant elected to bypass the requirements to avoid disclosing significant environmental impacts. There was clearly no consultation with the MCWRA because the MCWRA submitted a comment letter to the DSEIR, dated April 25, 2018, which states, "The DEIR should evaluate consistency with PS-3.1 and PS-3.2, the presumption of long-term sustainable water supply for the project."

These procedural violations are fatal flaws. Should the application proceed and is approved, it would be clear the County failed to proceed in a manner required by law by ignoring its own ordinance and General Plan policies. We request that you remedy these procedural defects immediately by following the procedures set forth in the Monterey County Code and General Plan.

Sincerely,



Pamela H. Silkwood

RESOLUTION NO. 2019-01

LAS PALMAS RANCH MASTER ASSOCIATION

**AFFIRMING ASSOCIATION PRIVATE PROPERTY RIGHTS AND OBLIGATIONS
WITH REGARD TO PARCEL Q**

WHEREAS, Las Palmas Ranch Master Association (also known as the Las Palmas Ranch Master Association No. 1) is a duly formed Nonprofit Mutual Benefit Corporation providing for the management, administration, maintenance, preservation, and architectural control of the initial phase of the Las Palmas Planned Unit Development Subdivision (“Association”);

WHEREAS, the initial phase of the Las Palmas Planned Unit Development Subdivision includes five unit areas, consisting of residential lots and common area lots, shown on recorded Tract Maps as Corey House Area Unit 1 (Tract Map 1086A), Corey House Area Unit 2, (Tract Map 1087A), Corey House Area Unit 3 (Tract Map 1088A), Corey House Area Unit 4 (Tract Map 1089A), and Corey House Area Unit 5 (Tract Map 1090A) (collectively “Las Palmas Ranch Phase 1”). The Tract Maps listed in the preceding sentence are collectively referred to as “Corey House Area Unit Maps”;

WHEREAS, the Association governs Las Palmas Ranch Phase 1, including ownership of the Las Palmas Phase 1 common areas and Las Palmas Ranch Phase 1 private roads shown on the Las Palmas Ranch Phase 1 Corey House Area Unit Maps;

WHEREAS, the private road system developed as part of Las Palmas Ranch Phase 1 shown on the Corey House Area Unit Maps, is for the common use of the Las Palmas Ranch Phase 1 members, is owned by the Association, and the maintenance and repair of the private road system is paid by the Association through Association membership dues;

WHEREAS, on or about May 27, 1998, the Association purchased Parcels E and F, as shown on the Corey House Area Unit 1 Map, located between Woodridge Court and County Park Road, from the developer, Las Palmas Ranch Development Company, Inc., for the benefit of the use of the Association’s members for open space and recreational purposes.

WHEREAS, at the time of the purchase of Parcels E & F, the Association and its membership, contemplated no development was to occur on Parcels E & F, including no road development, other than minor development incidental to recreational use;

WHEREAS, the Las Palmas Ranch 1 developer also dedicated, for private use, drainage easements to permit the construction, maintenance and operation of drainage facilities on, over and under certain strips of land within the Las Palmas Ranch 1 area for the purpose of conveying drainage from the natural drainage tributary to each easement, which drainage facilities are owned and maintained by the Association. The developer also dedicated storm drainage easements to County Service Area #72;

WHEREAS, the existing storm drainage system for Las Palmas Ranch 1 is believed to be only adequately sized for the number of residences built as part of Las Palmas Ranch Phase 1;

WHEREAS, Parcel Q is shown on Tract Map 1086A, but it is not part of the five Corey House Area Unit residential lots, easements, and common areas, making up Las Palmas Ranch Phase 1;

WHEREAS, Parcel Q remains undeveloped and is now owned by River View at Las Palmas, LLC;

WHEREAS, Parcel Q is not a member of the Association, has not paid membership dues to the Association, has no ownership interest in any of the Association's common areas, private easements, private roads (including Country Park Road), or private property, other than having only limited access rights over a portion of the Association's private roads (portions of River Run, Woodridge Court, and Las Palmas Road) pursuant to the Grant Deed recorded at Document 2013046807, July 23, 2013, Official Records of Monterey County, California ("Parcel Q Deed");

WHEREAS, it has been well-established in California law that the extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired. (California Civil Code §806). When an easement is granted for a specific use, there may not be an increase in the burden of the easement (California Civil Code §807), and the servient tenement owners have the right to insist that so long as the easement is enjoyed, it shall remain substantially the same as it was at the time the right accrued; and

WHEREAS, the Association Board of Directors seeks to protect the Association's private property, including its common areas, easements, and private roads.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Directors of Las Palmas Ranch Master Association

1. affirms that use of the Association private roads within Las Palmas Ranch Phase 1 remains limited to residential use;
2. affirms that Parcel Q has no right to use of any of the Association's private roads, but for the limited scope of use set forth in the Parcel Q Deed;
3. will insist that the scope of Parcel Q's limited use of the Association private roads remains substantially the same as they were at the time the right to use the private road easements accrued;
4. affirms that use of the Association's Parcels E & F remains consistent with the intent of the Association at the time it purchased said parcels, and consistent with the subsequent use thereon by its members, which is recreational use, and that no development, including road construction, is allowed thereon other than for recreational purposes;

5. affirms that Parcel Q has no right to use of any of the Association's common areas, including, but not limited to, community parks, sidewalks, open space areas, Parcels E & F, or the grass median at the eastern terminus of Country Park Road;
6. affirms that the use of the storm drainage system developed for Las Palmas Ranch Phase 1 subdivision remains limited to residential use by Las Palmas Ranch Phase 1, as built out; and
7. will insist upon the use of the storm drainage system easements, and facilities thereon, remaining substantially the same as they were at the time the right to the easements accrued.

PASSED AND ADOPTED by the Board of Directors of the Las Palmas Ranch Master Association at a special meeting held on the 18th day of December 2019 by the following vote:

AYES, and all in favor, thereof, Directors: Denise Benoit, Otavio Bernardo, Jennifer Lukasik, Mishalin Modena and David Tucker

NOES, Directors: None

ABSENT, Directors: Roberta Pastorino and Fred Rowland

ABSTAIN, Directors: None

Sidor, Joe (Joseph) x5262

From: Kemp, Christine <CKemp@nheh.com>
Sent: Tuesday, January 14, 2020 4:49 PM
To: Sidor, Joe (Joseph) x5262
Cc: Swanson, Brandon xx5334; Spencer, Craig x5233
Subject: River View at Las Palmas PLN150372
Attachments: 2020-01-13 Peer Review 19-0745 River View at Las Palmas.pdf

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Joe Sidor
Monterey County Planning RMA

Dear Joe –

Attached please find the Las Palmas Ranch Master Association’s expert opinion/peer review report on the Noise impact analysis in the Environmental Impact Report for the Riverview at Las Palmas project (PLN150372) . This expert opinion finds that the Riverview EIR Noise analysis failed to fully consider potential significant impacts, as well as, failed to provide adequate mitigation for potential significant impacts.

Moreover, the Draft EIR found that noise impacts were considered “Effects Not Found to be Significant”, yet an entire new analysis of noise impacts was added to the Final EIR without further public notice, review, or circulation. Pursuant to CEQA Guideline 15088.5, a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. Given the fact significant new information on noise impacts was added to the EIR after the Draft EIR public review period ended, the County is required to recirculate the EIR for public review and comment before bringing the EIR back to the County’s decision making body for certification.

Sincerely,

Christine G. Kemp

NOLAND, HAMERLY, ETIENNE & HOSS

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13 January 2020

Ms. Christine Kemp
Noland, Hamerly, Etienne & Hoss
333 Salinas Street
PO Box 2510
Salinas, CA 93901
Email: ckemp@nheh.com

Subject: **River View at Las Palmas Assisted Living Senior Facility
Peer Review of Draft EIR/Final EIR**
Salter Project: 19-0745

Dear Ms. Kemp:

We reviewed the noise sections of the draft¹ and final² environmental impact reports (EIR) for the River View at Las Palmas Assisted Living Senior Facility in Salinas. Our efforts focused on potential noise impacts to off-site land uses, particularly the residences to the east and south of the proposed River View site. This letter summarizes our comments.

The Draft EIR includes a discussion of noise in Section 11.0: *Effects Not Found To Be Significant*. The Draft EIR does not include a detailed study of operational noise sources, construction noise, or traffic noise impacts. Environmental noise measurements were not completed as part of the Draft EIR to establish baseline conditions. The Final EIR includes updates to the Draft EIR language in Topical Response H: *Noise*. The following comments relate to this.

Existing Noise Environment

For the Final EIR, one 24-hour noise measurement and four short-term spot measurements were taken near the proposed River View at Las Palmas site. The short-term noise measurements were taken for periods of 20 to 30 minutes at midday. After reviewing the information in the Final EIR, we identified the following items of concern:

1. The data sheets in Appendix J indicate that the short-term noise measurements were taken with sound level meters set to "fast" weighting. For environmental noise measurements, "slow" weighting is typically used³. This change could result in a noise level reduction of several decibels, which would make the ambient environments quieter than presented in the Final EIR. It appears that the 24-hour noise measurement properly utilized "slow" weighting.

¹ Draft EIR: Draft Subsequent Environmental Impact Report, River View at Las Palmas Assisted Living Senior Facility, 29 January 2018

² Final EIR: Final Subsequent Environmental Impact Report, River View at Las Palmas Assisted Living Senior Facility, September 2019

³ "Fast" weighting is typically used for short-duration measurements, such as a motor vehicle pass-by.

Charles M. Salter, PE
Eric (Broadhurst) Mori, PE
Philip N. Sanders, LEED AP
Thomas A. Schindler, PE
Durand R. Begault, PhD, FAES
Ken Graven, PE, RCDD, CTS-D
Anthony P. Nash, PE
Jason R. Duty, PE
Eric A. Yee
Joshua M. Roper, PE, LEED AP
Ethan C. Salter, PE, LEED AP
Alexander K. Salter, PE
Jeremy L. Decker, PE
Heather A. Salter
Dylan B. Mills, CTS
David L. Buza
Andrew J. McKee
Valerie C. Smith, PE
Benjamin D. Piper
Ryan G. Raskop, AIA, RCDD
Michael L. Bolduc, CPP
Davis H. Keith, CTS-D
Felipe Tavera
Diego Hernandez
Brian C. Wourms
Greg R. Enenstein
Dennis R. Mill
Blake M. Wells, LEED GA
Sybille M. Roth
Justin P. Reidling
Adrian L. Lu, PE
Katherine M. Moore
Lauren von Blohn
Winter R. Saeedi
Jake M. Schpero
Hester Ng
Matthew D. Hsiung
Nathan N. Sistek
Skyler Carrico
Aidan Nelson
Kenny Chong
Andrena Rodriguez
Michael Hoelt
Ben Bieryla

2. The data sheets in Appendix J indicate that at noise measurement Locations NM-2 and the 24-hour measurement location, the sound level meters were set to measure a "Level Range" of 40 to 100 dB. However, several noise levels shown during the measurement window are below 40 dB. It should be confirmed that the noise levels reported below 40 dB are accurate, and that these noise levels are included in the L_{eq} calculated by the sound level meter.
3. Measurement data is presented in Table 11-1 as " L_{eq} " noise levels, which is defined as the "equivalent" (i.e., average) noise level over a given period of time. For the short-term noise measurements, the L_{eq} can be representative of the noise environment.

However, for the 24-hour noise measurement, a single L_{eq} value does not present an accurate picture of the on-site noise level. Consider that the noise level during the day continuously varies but is generally lower during nighttime hours. By presenting a single noise level, without separate ranges for daytime and nighttime noise levels, there is no clear picture of the noise environment or ambient noise levels during the daytime and nighttime hours.

Appendix J shows a wide range in the measured noise levels from the 24-hour noise monitor. During daytime hours, $L_{eq}(4\text{-min})$ were typically 60 to 73 dBA, and 30 to 40 dBA during quiet nighttime periods.

Given the above, it seems that the noise levels presented in the Final EIR do not accurately reflect the existing noise environment at the Las Palmas site.

Noise Impacts – Operational Phase

The Final EIR lists several potential noise impacts from operational activities at the proposed River View site. The following summarizes our comments:

4. The Final EIR notes that rooftop equipment with a noise level of 70 dB at 15 feet will be reduced to 46 dB at 250 feet, the distance of the closest residences. Since rooftop mechanical equipment at residential facilities can operate continuously (e.g., 24 hours a day), it is assumed that this equipment will need to meet both daytime and nighttime noise ordinances.

The Monterey Code of Ordinances limits nighttime noise levels to 45 dBA (per Section 10.60.040, Table 1). If the stated rooftop mechanical equipment operates during the nighttime hours of 9 p.m. to 7 a.m., the L_{eq} 45 dBA limit would be exceeded. The Final EIR does not indicate that the equipment will not operate during nighttime hours, or what mitigation would be used to ensure the rooftop equipment will not exceed the nighttime noise ordinance limit.

5. The Final EIR indicates that rooftop equipment typically generates noise levels of "up to L_{eq} 70 dBA at a distance of 15 feet from the source". At a project of this size, we would expect to see multiple pieces of rooftop equipment in close proximity, which would result in louder cumulative noise levels. This does not seem to have been factored into the noise analysis.
6. The Final EIR indicates that rooftop HVAC equipment would not have a substantial impact because the noise level at the adjacent residences (L_{eq} 46 dBA due to equipment) would be below the measured noise level of L_{eq} 70 dBA. As shown in Appendix J, there are large portions of the nighttime hours when the noise level is at or below 46 dBA.

7. Per Draft EIR Section 4.0: *Project Description*, the assisted living and mental care facilities will include dining facilities and laundry services available for the residents. The Final EIR does not address noise from the delivery trucks serving these uses, nor from any medical supply delivery trucks that we assume will also serve the facility. Potential sources of noise include the truck traffic increase along Woodridge Court, noise generated by on-site loading docks, and back-up beepers associated with the delivery trucks and unloading equipment. The Final EIR does not address the number and timing of daily delivery trucks, nor does it address the location of the loading dock and necessary noise mitigation to the nearby residences.
8. Per Draft EIR Section 4.0: *Project Description*, the assisted living and mental care facilities will include transportation available for the residents. The noise analysis does not seem to address the shuttle service mentioned in the Draft EIR, Section 9.0: *Transportation*. It is assumed that noise from arriving, departing, and idling shuttle buses would contribute to the noise environment at the adjacent residences, but this is not addressed.
9. The Final EIR notes that emergency vehicles would be used “on occasion” to transport seniors needing emergency care. The Final EIR indicates that there is an agreement that the subdivision will be a “no-siren zone”, but does not expand on the information contained in the agreement. The Final EIR does not indicate how many additional trips are expected from emergency vehicles along Woodridge Court, the extent of the “no-siren zone”, and the noise impact from additional emergency vehicle trips with sirens along River Road.
10. The Final EIR does not address trash collection, including the anticipated frequency and types of trash collection. Potential sources of noise include trash truck traffic along Woodridge Court and noise associated with the collection (e.g., dumpster moving, debris falling), but these are not addressed.
11. The entrance to the proposed River View site is along Woodridge Court, which would have a steep grade along that portion of the roadway. The analysis does not seem to account for this steep grade adjacent to the residences, which would likely increase noise from vehicles (e.g., cars, shuttle buses, delivery vehicles, emergency vehicles, trash trucks) entering the site.
12. The HUD Traffic Noise analyses referenced in this section (and contained in Appendix J) are focused on River Road. An analysis is not provided for Woodridge Court, which is the entrance for all traffic to the River View at Las Palmas facility. We would expect that traffic will increase along Woodridge Court, leading to an increase in noise level at the residences adjacent to Woodridge Court. In particular, there could be an increase in medium and heavy trucks due to the delivery trucks, shuttle buses, trash trucks, and emergency vehicles, which would typically have louder engines than standard automobiles.
13. Per Draft EIR Section 4.0: *Project Description*, there will be several outdoor plazas, but the use of these plazas is not defined. The Final EIR does not address any on-site operational noise from residents (e.g., amplified music at outdoor areas, outdoor events, outdoor dining). Will these be part of the project design?

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14. The Final EIR does not indicate if there will be any building-wide alarm systems or any regular testing of these alarm systems. Depending on the alarm type, the frequency of alarms, and the response vehicles (e.g., fire trucks), this could create a noise impact.

As indicated above, the Final EIR does not provide intended mitigation strategies to reduce noise levels that are above the noise ordinance, nor does it provide an analysis of noise levels on the road nearest the residences. Noise from loading docks or outdoor-use spaces are not addressed in either the Draft or Final EIR.

*

*

*

This concludes our comments on the noise portions of the River View at Las Palmas EIR. Should you have any questions, please call.

Sincerely,

CHARLES M. SALTER ASSOCIATES



Valerie Smith, PE
Senior Associate

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Security

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Sidor, Joe (Joseph) x5262

From: Kemp, Christine <CKemp@nheh.com>
Sent: Wednesday, January 15, 2020 4:17 PM
To: Sidor, Joe (Joseph) x5262
Subject: RE: Request for River View Information

[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.]

Joe –

Thank you for the information below. My comments, on behalf of the Las Palmas Ranch Master Association (“Association”), to the information you provided, are in blue bold font below:

County Comment :

The EMS spreadsheet shows ambulance calls for similar operations for the 2-year timeframe 10/2017 - 10/2019. The Applicant received the EMS figures from the Health Dept., and contacted the facilities directly for the bed numbers. Based on the numbers provided, it averages to about 1 call every three days for a similarly-sized facility.

Las Palmas Association Response:

The Association will review this information. We sent you a Sound Consultant peer review report delineating the flaws in the EIR regarding the noise analysis. The EMC information is also new information that was not included in the EIR noise analysis, as required.

The Applicant’s agent has also informed RMA-Planning staff via discussions of the following:

- The grant deed for the project parcel includes a non-exclusive easement for ingress, egress, road and utilities from River Road to the property. There is nothing in the easement language that limits the use. RMA-Planning concurs
- with this information based on our review of the grant deed submitted with the initial application.

Las Palmas Association Response:

The Parcel Q grant deed provides only for ingress and egress over a “portion” of three roads: Las Palmas, River Run, and Woodridge Court. These are limited rights to use certain portions of certain roads. The Parcel Q owner has no right to use any of the Associations other private roads or portions thereof.

- The Applicant pays monthly fees to the HOA. No further information has been provided to RMA-Planning, nor has the Applicant provided any agreement regarding the purpose or use of the monthly fees.

Las Palmas Association Response:

Parcel Q is not a member of the Association. The Parcel Q owner pays the Association a nominal amount of \$40/month for minor reimbursements for road maintenance, as they are using portions of Association roads over which they have an easement. This is a hand-shake “Gentlemen’s” arrangement, and as far as I know, is not memorialized in writing. It is not Association dues. Current homeowners pay \$155 per lot in Association dues. There is also no indication that the Parcel Q owners have ever paid any of the increases in Association dues that homeowners have been required to pay, nor has the Parcel Q owner been subject to the other Association rules and regulations, including Architectural Review. If the Parcel Q owner were subject to the rules of the Association, we believe, they would have been required to sign documents in escrow, just like the other homeowners/Association members acknowledging the Association documents. As far as we know, they have not done that. Parcel Q owners have also never paid any special assessments which may occasionally be required of the homeowners.

- The storm drains have been connected since installation of the system, and the system has been accepting drainage from the project parcel.*

* Based on RMA-Planning research, the Applicant pays annual property taxes to CSA 72. Also, per current development regulations, development drainage is required to be retained on site.

Las Palmas Association Response:

As we understand, the storm drain system was designed for the Las Palmas 1 initial phase of the Las Palmas build out. An assisted living facility on Parcel Q was not envisioned as part of the initial Las Palmas 1 build out, so it is unlikely the drainage system was sized to support such a project. How is the County assuring that all drainage will remain on site? Is it retained – and slowly drains off site, or detained to remain on the site? There have already been issues with drainage on the hillside above Las Palmas 1 on Parcel Q, causing the hillside to erode and mud flow/clogging of the Las Palmas drainage system behind Country Park Road.

The Applicant also provided a copy of the access and utilization agreement (attached) to cross Parcels E and F with a line for reclaimed wastewater.

Las Palmas Association Response:

As we understand, there is an existing “recycled” water pipe running to somewhere on to Parcel Q for recycled water distribution from the sewer plant to Parcel Q (as is the case for Las Palmas 1, Las Palmas 2 and the Kinship Center), which end users can use the recycled water for irrigation water. This Access and Utility Agreement pertains solely to this pipeline, which we also understand has already been installed. The Association does not take issue with the already installed recycled water line to Parcel Q. That Agreement, however, has no bearing on Parcel Q’s limited ingress and egress rights over Association property.

I would also appreciate you forwarding any additional information you obtain from the Parcel Q owner regarding the Association or Association property. At one point there was a claim being made by the Parcel Q owner that he had, or would obtain, access rights for emergency fire access across Parcel E, Parcel F, or County Park Road. The Association wants to go on record again, reiterating that Association is not amenable to granting the Parcel Q owner additional rights in any of the Association’s property. Can you please let me know what is the latest proposal is regarding emergency fire access.

As always, thank you for your help.

Christine

Christine G. Kemp

NOLAND, HAMERLY, ETIENNE & HOSS

A Professional Corporation

333 Salinas Street

P.O. Box 2510

Salinas, CA 93901

(831) 424-1414 ext. 271

(831) 424-1975 (fax)

ckemp@nheh.com

www.nheh.com

Serving the Central Coast Since 1928

From: Sidor, Joe (Joseph) x5262 [mailto:SidorJ@co.monterey.ca.us]

Sent: Sunday, January 12, 2020 11:38 AM

To: Kemp, Christine

Subject: Request for River View Information

Christine,

Please see the attached files re information recently submitted by the Applicant for the River View project.

The EMS spreadsheet shows ambulance calls for similar operations for the 2-year timeframe 10/2017 - 10/2019. The Applicant received the EMS figures from the Health Dept, and contacted the facilities directly for the bed numbers. Based on the numbers provided, it averages to about 1 call every three days for a similarly-sized facility.

The Applicant's agent has also informed RMA-Planning staff via discussions of the following:

- The grant deed for the project parcel includes a non-exclusive easement for ingress, egress, road and utilities from River Road to the property. There is nothing in the easement language that limits the use. RMA-Planning concurs with this information based on our review of the grant deed submitted with the initial application.
- The Applicant pays monthly fees to the HOA. No further information has been provided to RMA-Planning, nor has the Applicant provided any agreement regarding the purpose or use of the monthly fees.
- The storm drains have been connected since installation of the system, and the system has been accepting drainage from the project parcel.*

* Based on RMA-Planning research, the Applicant pays annual property taxes to CSA 72. Also, per current development regulations, development drainage is required to be retained on site.

The Applicant also provided a copy of the access and utilization agreement (attached) to cross Parcels E and F with a line for reclaimed wastewater.

Best regards,
Joe

Joseph (Joe) Sidor, Associate Planner
Monterey County RMA-Planning
1441 Schilling Place, Salinas, CA 93901
(831) 755-5262 direct
(831) 755-5025 main reception

Dear Clerk/Staff,

Kindly distribute to each of the
Monterey County Supervisors.

File other - as required.

more needed? Contact me 831-455-8229

Sign me,
a citizen who knows we
need more senior housing

Nancy Dresser

Thank you.

Nancy Riddle Iversen
Las Palmas Ranch
21091 Old Ranch Ct.
Salinas, CA 93908-1409

RECEIVED
MONTEREY COUNTY

2020 JAN 28 AM 8:45

CLERK'S TIME BOARD

RECEIVED



Dear Supervisor, *Luis Gelo,*

*Jan 29
2020*

You are aware of a proposal for Senior Housing making its way (slowly) through the Mty Co. Planning Commission. This is the Riverview at Las Palmas project for cottages, Assisted Living and Dementia Care Unit.

There is a group, a well organized group who oppose this project. They stay in touch with each other regularly via email. And they contact you and your staff in order to "soften you up." (their term).

I however, support senior housing, thus support this project. I do not think you need constant prodding. I believe you are aware that people live longer, that Monterey County is a favorite spot for retirees, that as people age, probability of need for senior housing increases. I count on your independent knowledge and judgement.

District 1

I spent time going to various parts (of Mty Co) talking to people about senior housing, folks in your district know the problem. I collected signatures to a letter of support from over 500 people; various ages and income levels.

I feel that issues that can be mitigated, should be mitigated (lights at night) (sight into Las Palmas subdivisions) (limitation to easement ingress/egress)

I feel that issues that cannot be mitigated, be accepted. (East #68 traffic) (River Road traffic)

I do not have a private attorney (like Pamela from Carmel Valley) nor money to fight this. I depend upon you.

Nancy Riddle Iversen
Las Palmas Ranch
21091 Old Ranch Ct.
Salinas, CA 93908-1409

Sincerely,
Nancy Iversen
Nancy Iversen

455-8229

Enclosed-a list of resources, including your own agency, with facts and figures on senior housing.

Information i.e. Riverview

Senior Magazine. (Best of Monterey County) 2019-2020
Resource Guide (annual mag)

Monterey County Area Agency on Aging/area plan

CA State Dept. of Finance

58 county projections - statistics on incoming college/jobs/retirement
Alliance on Aging (on site)

Realtors – no statistics maintained on age of buyers. But increases in both advertising and staff size in the last 10 years tell the story.

(Also personal anecdotes)

US Census data 2000/2010....2020

Quote

Margaret Huffman, Director Monterey County AAA

“1 in 5 Monterey County residents will be age 60 - 2020”
(that’s tomorrow)

“1 in 4 Monterey County residents will be age 60 - 2030”

“Planning & needed services has NOT kept pace with demographics.”

Dear Supervisor, *John Phillips*

Jan 29 2020

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Las Palmas Ranch
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Salinas, CA 93908-1409

Sincerely,
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Dear Supervisor, *Christopher Lapey*

*Jan. 29
2020*

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Las Palmas Ranch
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Salinas, CA 93908-1409

Sincerely,
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Dear Supervisor, *Jane Parker*

*Jan 29
2020*

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Dear Supervisor, *Mary Adams,*

*Jan 29
2020*

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There is a group, a well organized group who oppose this project. They stay in touch with each other regularly via email. And they contact you and your staff in order to “soften you up.” (their term).

I however, support senior housing, thus support this project. I do not think you need constant prodding. I believe you are aware that people live longer, that Monterey County is a favorite spot for retirees, that as people age, probability of need for senior housing increases. I count on your independent knowledge and judgement.

I spent time going to various parts (of Mty Co) talking to people about senior housing, folks in your district know the problem. I collected signatures to a letter of support from over 500 people; various ages and income levels.

I feel that issues that can be mitigated, should be mitigated (lights at night) (sight into Las Palmas subdivisions) (limitation to easement ingress/egress)

I feel that issues that cannot be mitigated, be accepted. (East #68 traffic) (River Road traffic)

I do not have a private attorney (like Pamela from Carmel Valley) nor money to fight this. I depend upon you.

Sincerely,

Nancy Iversen

Enclosed-a list of resources, including your own agency, with facts and figures on senior housing.

Information i.e. Riverview

Senior Magazine. (Best of Monterey County) 2019-2020
Resource Guide (annual mag)

Monterey County Area Agency on Aging/area plan

CA State Dept. of Finance

58 county projections - statistics on incoming college/jobs/retirement
Alliance on Aging (on site)

Realtors – no statistics maintained on age of buyers. But increases in both
advertising and staff size in the last 10 years tell the story.

(Also personal anecdotes)

US Census data 2000/2010....2020

Quote

Margaret Huffman, Director Monterey County AAA

“1 in 5 Monterey County residents will be age 60 - 2020”
(that’s tomorrow)

“1 in 4 Monterey County residents will be age 60 - 2030”

“Planning & needed services has NOT kept pace with demographics.”

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MONTEREY COUNTY REGIONAL FIRE DISTRICT



19900 Portola Drive Salinas, California 93908
(831) 455-1828 Fax (831) 455-0646

www.mcrfd.org

Michael B. Urquides, Fire Chief
David J. Sargenti, Deputy Chief

Miles J. Schuler, Division Chief/Operations & Training
Eric Ulwelling, Division Chief/EMS & Safety
Kevin Kamnikar, Division Chief/Fire Prevention

Joe Sidor, Associate Planner
Monterey County RMA – Planning
1441 Schilling Place
Salinas, CA 93901

January 29, 2020

Planning File No. PLN150372
Applicant: River View at Las Palmas, LLC
Request: Senior Assisted Living Facility

APN: 139-211-035
Address: Las Palmas Ranch 1
Subject: **Fire Access, Evacuation & Wildfire Risk**

Dear Mr. Sidor

Pursuant to your request, this letter is sent to discuss the fire access, site evacuation and wildfire risk at the site for the proposed senior assisted living facility, River View at Las Palmas, LLC in Las Palmas Ranch 1.

The proposed facility does not present an increased hazard for fire access to the site. The fire district's emergency vehicles will be able to access the site using the existing roads from River Road through Las Palmas to the facility with the two-way private road that will be built for two-way traffic in accordance with California Fire Code design specifications. Also, with any response to locations in a residential subdivision, the fire district's responding personnel will not have to use their sirens once they leave River Road.

In the event of an emergency that would require evacuation, the private roadway on the site, along with the existing roads leading to River Road will provide sufficient means of egress for vehicles evacuating the site during an emergency. The lengths of the roads will provide a safe queue of traffic making their way onto River Road. All vehicles in Las Palmas will have the opportunity to use both the Las Palmas Road and Riverview Court located at the north and south ends of Las Palmas 1, respectively.

Finally, the construction of the proposed River View at Las Palmas facility will not create a significant increase in the wildfire hazard either to the site itself or to the Las Palmas 1 neighborhood. Both California Building Code and the California Residential Code have incorporated building standards designed to help the building "*resist intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.*" Together with the required automatic fire sprinkler systems inside the building and vegetation management around the buildings, the facility will be designed to resist fire and reduce the spread of fire off site.

If you have any questions about this information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Priolo".

DOROTHY PRIOLO
Deputy Fire Marshal

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
CODY J. PHILLIPS

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

February 19, 2020

Our File No: 4813.001

Wendy S. Strimling
Senior Deputy County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

RE: River View at Las Palmas Proof of Access

Dear Wendy:

During the Planning Commission's February 12 public hearing on the River View project it was stated that the applicant was required to have a private road agreement or road maintenance agreement in place to meet the requirements of the County's regulations for the use of private roads. I have reviewed the relevant County Code sections and do not believe we need an agreement. While the regulations may have been moved to Title 16, it is my understanding the regulations have not changed in a significant manner and we can rely on the regulations currently shown in County Code Section 21.64.320.

Section 21.64.320 F(1) provides that "If the appropriate authority finds, based on substantial evidence in the record, that a *substantive dispute exists regarding the use of a private road* for a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with proof of access demonstrating that the dispute has been satisfactorily resolved..."

In this case, there is no dispute over the right to use of the right of way. The grant deed (County Recorder's document 2013046807, a copy of which is attached) for the property clearly shows the applicant has a non-exclusive easement for "ingress, egress, road and utilities" over a prescribed route from River Road to the property. There is no limitation on the use of that road. That right of access has been confirmed by the County staff and in Christine Kemp's October 9, 2019, letter to the County (a copy of which is attached).

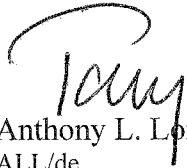
Section 21.64.320 F (2) provides that " if a *substantive dispute exists regarding the costs of repairing or maintaining a private road* as it relates to a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with adequate documentation demonstrating that the dispute has been satisfactorily

Wendy S. Strimling
Senior Deputy County Counsel
County of Monterey
February 19, 2020
Page | 2

resolved.” There is not now or has there ever been a dispute over costs of repairs and maintenance of the existing road. The owners of River View have been billed and paid all road maintenance assessments they have received from the HOA. The County Code states “Maintenance of any private road will be subject to a private road maintenance agreement, or if no such agreement exists, then County recognizes that parties may have recourse pursuant to California Civil Code Section 845...” would be applicable. As I explained at the hearing, the provisions of Section 845 will apply in this instance.

There is no dispute over the right to use the easement. There is no dispute over costs of maintenance and repair. The applicant has acknowledged repeatedly they know they have a responsibility to repair any damage done to the roads by the construction activity. They also have acknowledged their responsibility to pay their proportionate share of the road’s maintenance costs. The conditions of approval of River View at Las Palmas should not include a requirement that an access or road maintenance agreement be obtained from the HOA.

Sincerely,



Anthony L. Lombardo
ALL/de
Enclosures

cc: Carl Holm
Brandon Swanson
Dale Ellis
Client

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Garrett Shingu
607 Charles Avenue, Suite C
Seaside, CA 93955

DOCUMENT: **2013046807**

Titles: 1/ Pages: 4



Fees.....	21.00
Taxes....	154.00
Other....	2.00
AMT PAID	<u>\$177.00</u>

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s):
Documentary Transfer Tax is \$ 154.00.

- computed on full value of property conveyed, or
- computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area: County of Monterey

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

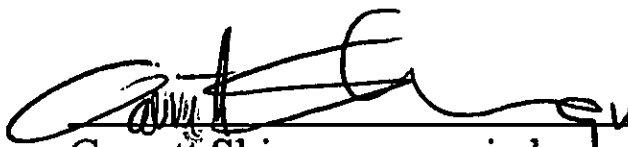
Garrett Shingu, a married man as his sole and separate property as to an undivided 1/3 interest; and
Derek Etow, a married man as his sole and separate property as to an undivided 1/3 interest; and
Mark Vucina, a married man as his sole and separate property as to an undivided 1/3 interest

hereby GRANTS to

River View at Las Palmas, LLC, a California limited liability company


All of their right, title and interest in the following described real property in the
County of Monterey, State of California:

See Exhibit A attached hereto and incorporated herein by this reference.



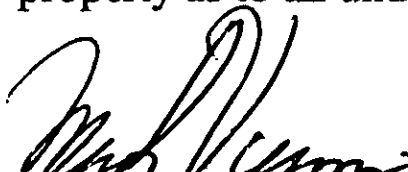
 Garrett Shingu, a married man as his sole and separate
 property as to an undivided 1/3 interest

Dated: 7/11/13



 Derek Etow, a married man as his sole and separate
 property as to an undivided 1/3 interest

Dated: 7/10/13



 Mark Vucina, a married man as his sole and separate
 property as to an undivided 1/3 interest

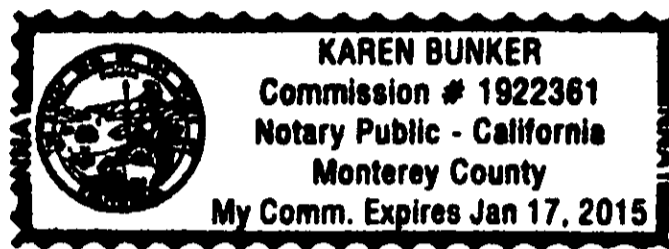
Dated: 7/10/13

State of California)
County of Monterey) ss.

On July 11, 2013 before me, Karen Bunker, Notary Public, personally appeared Garrett Shingu, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



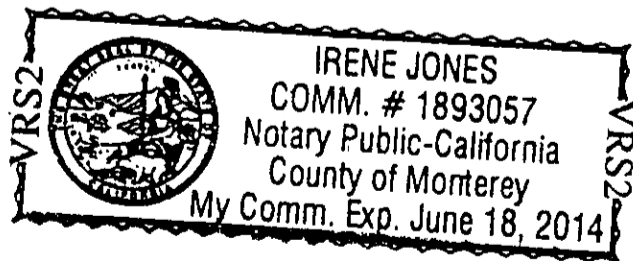
Signature Karen Bunker, Notary Public

State of California)
County of Monterey) ss.

On July 10, 2013 before me, Irene Jones, Notary Public, personally appeared Derek Etow, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Irene Jones

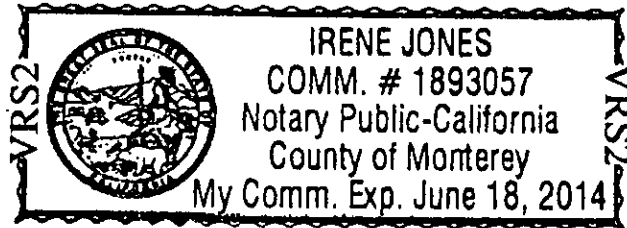
State of California)
County of Monterey) ss.

On July 10, 2013 before me, Irene Jones, Notary Public, personally appeared Mark Vucina, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Irene Jones



Escrow No.: 11-52113497-JM
Locate No.: CACTI7727-7727-4521-0052113497
Title No.: 11-52113497-JF

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SALINAS, COUNTY OF Monterey, STATE OF California AND IS DESCRIBED AS FOLLOWS:

PARCEL I:

Parcel Q, as said Parcel is shown on that certain map entitled "Amended Map of Las Palmas Ranch Corey House Area/Unit 1" filed June 15, 1989 in the Office of the Recorder of Monterey County, California in Volume 16, of "Cities and Towns", Page 70.

EXCEPT THEREFROM all underground water rights as described in the Deed to California Water Service Company, a California corporation recorded October 25, 1989 in Reel 2427, Page 476, Official Records.

PARCEL II:

A non-exclusive easement for ingress, egress, road and utilities over that portion of River Run Road and Woodridge Court being a portion of Common Area Parcel C and Las Palmas Road being Common Area Parcel A as shown and designated on that Map entitled Amended Map of Las Palmas Ranch Corey House Area/Unit 1 Tract 1086A filed June 15, 1989, in Volume 16 of Cities and Towns at Page 70 in the Office of the County Recorder of Monterey County, California. Said easement shall be appurtenant to Parcel Q as shown and designated on the above referred to Map of Tract 1086A.

APN: 139-211-035

END OF DOCUMENT

October 9, 2019

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Terrence R. O'Connor

Timothy J. Baldwin

** Charles Des Roches*

** Leslie E. Finnegan*

Ana C. Toledo

** Robert D. Simpson*

Lindsey Berg-James

Nicholas W. Smith

Danny J. Little

*Harry L. Noland
(1904-1991)*

*Paul M. Hamerly
(1920-2000)*

*Myron E. Etienne, Jr.
(1924-2016)*

*Peter T. Hoss
(1934-2018)*

** CERTIFIED SPECIALIST IN
PROBATE, ESTATE PLANNING,
AND TRUST LAW BY
THE CALIFORNIA BOARD OF
LEGAL SPECIALIZATION
STATE BAR OF CALIFORNIA*

Re: Parcel Q and Las Palmas Ranch Master Association No. 1

To Whom it May Concern:

Our firm has represented the Las Palmas Ranch Master Association No. 1 for the past 15 years. Parcel Q is not member of the Las Palmas Ranch Master Association No. 1 ("HOA").

Parcel Q was part of the original Las Palmas Subdivision map entitled - "Amended Map of Las Palmas Ranch Corey House Area/Unit 1 Tract No. 1086A, filed June 15, 1989, in Volume 16 of Cities and Towns at Page 70, in the Office of the County Recorder of Monterey County, California".

Although Parcel Q is shown on the subdivision map, it is not governed by the "Master Declaration of Covenants, Conditions and Restrictions" recorded on June 16, 1989, in Reel 2377, Page 261, Official Records of Monterey County, ("Declaration" or "CC&Rs"), which govern the Las Palmas HOA.

The CC&Rs' Recital B references most of the Las Palmas lots in the various Las Palmas Area 1 maps, but does not include Parcel Q.

The HOA Articles of Incorporation (Articles IV & VI) and the Bylaws (Section 2.10) apply to the "Lots" required by the Declaration to be a Member of the Association. A Member (Section 2.11) is defined as a person entitled to Membership, as provided in the Declaration.

Parcel Q is not a member of the HOA. The HOA members currently pay a month dues of \$155.00/mos. Parcel Q has never paid HOA monthly dues, annual, or special assessments (Article IV) required under the CC&Rs, nor does Parcel Q have voting rights in the HOA (Article III) under the CC&Rs, nor has the Parcel Q owner submitted their Project plans to the HOA Architectural Committee for approval (Article VI) as required by the CC&Rs.

To Whom it May Concern

October 9, 2019

Page 2

Moreover, Parcel Q has no deeded right to access any of the Common Area owned and managed by the HOA, except for limited access granted to Parcel Q in the Parcel Q deed, recorded at Document 2013046807, July 24, 2013, Official Records of Monterey County.

The Parcel Q deed provides for a non-exclusive easement expressly for, and limited to, ingress, egress, road and utilities over that portion of River Run Road and Woodridge Court, being a portion of Common Area Parcel C and Las Palmas Road being Common Area Parcel A as shown on Las Palmas Tract Map1086A.

Unlike the rights granted to the HOA members in their deeds, the Parcel Q deed does not grant the Parcel Q owner any other rights to the HOA "Common Areas" described in the CC&Rs.

The Las Palmas subdivision roads are private roads owned and maintained by HOA. Parcel Q has only limited defined access over only a small portion of the private HOA roads.

The Parcel Q owners pay the HOA a nominal fee of \$40/mos. for road maintenance costs, but there is no written road agreement between the HOA and the Parcel Q owner.

Other than as expressly granted in the Parcel Q deed, the Parcel Q owner has no right to use any of the other HOA Common Area, private HOA roads, other HOA private property, or other owner's private property, within the Las Palmas Ranch Master Association No. 1 area.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation


Christine G. Kemp

CGK:aac

HOA Board of Directors

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
CODY J. PHILLIPS

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

March 3, 2020

Our File No.: 4813.001

Mr. Joe Sidor, Associate Planner
Monterey County RMA
1441 Schilling Place
Salinas, CA 93901

Re: River View at Las Palmas

Dear Joe:

We have reviewed the findings and evidence that were presented to the Planning Commission. We do have some amendments we believe should be carried forward to the Board of Supervisors. Most critical of these are the findings and evidence concerning the installation of grass pavers at the Country Park Road and Woodridge Court and the requirement for a road maintenance agreement.

Grass Pavers: The evidence presented in the report which is based on your conversations with Chief Fulcher (?) and the letter from Monterey Regional Fire Protection District are clear that no additional access is required. The mitigation upon which the grass paver requirement is based were prepared before that information was known. Additionally, we have to question the effectiveness of such a measure given the area in questions and other sections of Country Park Road have been blocked by bollards placed by the HOA.

Road Maintenance Agreement: MCC Section 21.64.320 F (2) provides that “ if a *substantive dispute exists regarding the costs of repairing or maintaining a private road* as it relates to a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with adequate documentation demonstrating that the dispute has been satisfactorily resolved.” There is not now or has there ever been a dispute over costs of repairs and maintenance of the existing road. The owners of River View have been billed and paid all road maintenance assessments they have received from the HOA. The applicant has acknowledged repeatedly they know they have a responsibility to repair any damage done to the roads by the construction activity. They also have acknowledged their responsibility to pay their proportionate share of the road’s maintenance costs.

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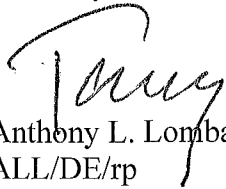
Mr. Joe Sidor
March 3, 2020
Page 2 of 2

explained at the Planning Commission hearing, the provisions of Civil Code Section 845 will apply in this instance.

There is no dispute over the right to use the easement. There is no dispute over costs of maintenance and repair. The conditions of approval of River View at Las Palmas should not include a requirement that an access or road maintenance agreement be obtained from the HOA.

We request that these changes be included in the RMA's recommendation to the Board of Supervisors.

Sincerely,



Anthony L. Lombardo
ALL/DE/rp

cc: Brandon Swanson
Craig Spencer
Clients

ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

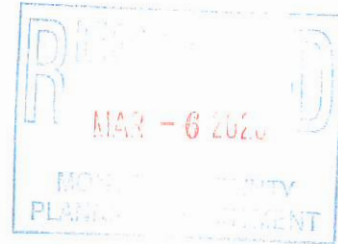
ANTHONY L. LOMBARDO
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JOSEPH M. FENECH
CODY J. PHILLIPS

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

March 4, 2020

Our File No: 4813.001

Mr. Joe Sidor, Associate Planner
Monterey County RMA
1441 Schilling Place
Salinas, CA 93901



RE: River View at Las Palmas Below Market Rate Program

Dear Joe:

During the course of the Planning Commission's hearing February 12th several Commissioners referred to the cost of living at River View at Las Palmas (RVLP) and the possibility of Below Market Rate (BMR) program. At the conclusion of the Planning Commission hearing, although under no obligation to do so, we said we would voluntarily commit a portion of the River View project to be BMR.

River View is not considered to be residential development and is not subject to the inclusionary housing requirements and programs required by the County's Inclusionary Housing Ordinance (MCC Chapter 18.40). Because the BMR program is not required by the Ordinance and it has not been required of similar projects, we had no template to follow so we were forced to be thoughtful and creative in developing our proposed program.

RVLP is pleased to offer BMR on select units as an integral part of its community. The BMR program is detailed in the attached program description. The program is designed to make units more accessible to resident candidates who qualify as "lower income" per HUD standards. RVLP will provide 15 beds at a price 15% below market rate for the rental package. This program would allow qualified residents the use of the facility's amenities, food, cleaning, shuttle and other services similarly included for its market rate offerings.

We look forward to discussing this proposal with you.

Sincerely,

Anthony L. Lombardo
ALL/de
Enclosure

RIVER VIEW AT LAS PALMAS BELOW MARKET RATE PROGRAM

Considerations

In developing this program, a number of factors were considered:

- The focus of the community is CARE...to provide one source for the aging to be looked after in both good times and importantly, in challenging times.
- Aging in place is often the choice of seniors, but the practicality of so doing is both a challenge for family members and oftentimes debilitating to themselves;
- The AL Suites and AL Memory Care units are designed for moderately priced income levels, not higher incomes;
- Providing a below market rate program at River View at Las Palmas is fully voluntary and is not required by County policy or ordinance nor has it been required of similar projects in the County.
- The costs are generally higher to run a home (mortgage, property taxes, utilities, repairs and maintenance, food, transportation, service providers, etc.), without the benefit of 24-hour security, organized recreation, amenities, and readily available support provided in a well-run and equipped facility. All of those costs, plus the social benefits are included in the rent package we propose.

The Below Market Rate Program

At RVLP, BMR units will not be distinguishable from market rate units. RVLP was designed to address the following aspects that are believed to enhance all residents' well-being. RVLP will provide:

- Safe and easily-accessible accommodations that are welcoming but not extravagant;
- Adequately-sized bedrooms to provide comfort and clean conditions for rest;
- Well designed and staffed common areas for safety, security, socialization, companionship, group-activity participation, and general daily interaction of their choice;
- Peaceful enjoyment of the natural beauty of the RVLP site and surroundings that engenders a calm and relaxed security.
- A Community for residents of differing means and needs and sheltering them from the loss of necessary care they so badly need as the aging process accelerates.

The foregoing principles are embedded in the physical design of the 15.7 acres, the focus on "care", with an average of approximately 1 caregiver to 6 residents, and the concept of achieving daily engagement at a time when isolation and loneliness could easily set in.

The BMR program will include:

- A total of 15 beds to be dedicated to the BMR program. Those beds will be primarily in the Assisted Living (AL) Suites. The balance of beds offered will be from Assisted Living Memory Care. (See Exhibit 1, attached).
- The rent package will be priced 15% below the market rate for similar units.
- The rent package will provide the same basic services provided all residents, including:
 - Three meals and snacks daily
 - Weekly housekeeping
 - Linen change
 - Laundry
 - On-site security
 - Shuttle use for daily needs and activities
 - Use of all on-site amenities and;
 - Recreation and off-site excursions provided to market rate residents.¹
- The BMR program will provide 13 beds in the Assisted Living Facility. Twelve beds will be in the Shared Companion units (527 to 587 SF) and 1 bed will be in the One Bedroom AL Suites category (360-395 SF).
 - The Companion Units are particularly well-suited as residents will benefit from the friendship and comradery that emanates from such association while also benefiting from appropriate privacy by architectural design. Companion units also provide an opportunity for partners to continue to live together.
 - The one-bedroom AL Suite provides an option for candidate residents preferring some privacy and are able to afford that option.
- The BMR program will provide 2 beds in the Shared AL Companion (435 SF) Memory Care category for applicants in the later stages of life or are in a condition that requires the higher degree provided in the MC facility.

Below Market Rate Program Administration

The BMR program will be administered generally along the following parameters:

1. All RVLP applicants, regardless of income level, are required to provide a financial statement setting forth the individual(s)' net-worth, and annual income. The financial statement will be accompanied by supporting information substantiating the assets and income sources to facilitate the evaluation. The applicants will also be asked to supply the last two years' Federal and State Tax Returns.

¹ RVLP will also offer to all residents excursions to events which may be outside the normal service area and may include event admissions. All residents, regardless of income level, will be required to pay for those excursions.

2. The applicant's income level will be compared to the Low-Income Limits as published annually by the Department of Housing and Urban Development (HUD).
3. Should the applicant's income fall at or below the maximum of HUD's index (*See Exhibit 2, attached*), the candidate(s) will qualify for a BMR unit and, if accepted under other entrance criteria similar to those for market rate applicants, will be eligible for a BMR unit based on availability at the time of qualification.
4. Once a resident of RVLP, no further annual qualification is necessary until the resident moves or passes away. From time-to-time, when a rent package rate increase is necessary, residents will need to provide evidence of changed annual income.
5. Annual rent increases for BMR units will be limited to the annually adjusted HUD low income limit.
6. BMR beds will be provided to candidate and existing residents, as applications are submitted, qualifications are met, and appropriate beds are available, with priority given to existing RVLP residents needing to move up to a higher care category. A waiting list will be maintained and serviced accordingly.

River View at Las Palmas

Below Market Rate Program Offer

15 Beds/15% Contribution

<u>Facility</u>	<u>Number of Units/Beds</u>	<u>Unit Type</u>	<u>Size Sq. Ft</u>	<u>Average Contribution Per Month (Year) Per Bed</u>	<u>Distribution of BMR Beds</u>
Assisted Living Casitas	10	1-bd 1 ba	893		
	12	2-bd, 2 ba, 1-car garage	1138		
	4	2-bd 2.5 ba, + study + 2-car garage	1307		
	26/42				
Assisted Living Suites	12/(24beds)	Shared (Companion)	527-587		12
	9	Small Private	360-395		1
	19	Large Private	413		-
	40/52				
Assisted Living Memory Care Suites	9/(18 beds)	Shared (Companion)	453		2
	30	Studio Private	316-368		
	39/48				
Total Units/Beds	105/142			\$675/\$8,100	15
Average Annual Contribution, Year One (\$8,100 x12= \$121,500)				\$121,500	



FY 2019 INCOME LIMITS DOCUMENTATION SYSTEM

HUD.gov [HUD User Home](#) [Data Sets](#) [Fair Market Rents](#) [Section 8 Income Limits](#) [MTSP Income Limits](#) [HUD LIHTC Database](#)

FY 2019 Low-Income Income Limits Calculation

In general, most 4-person low-income limits are the higher of 80 percent of the area median family income or 80 percent of the State non-metropolitan median family level. However, calculating low-income limits as 80 percent of the area median family income may produce anomalies inconsistent with statutory intent because the very low-income limits are not always based on 50 percent of the median (e.g., very-low income limits could be higher than low-income limits).

The calculation normally used, therefore, is to set the 4-person low-income limit at 1.6 (i.e. 80%/50%) times the relevant 4-person very low income limit. The only exception is that the resulting income limit may not exceed the U.S. median family income level (\$75,500 for FY 2019) except when justified by high housing costs. Use of very low-income limits as a starting point for calculating other income limits tied to Section (3)(b)(2) of the U.S. Housing Act of 1937 has the effect of adjusting low-income limits in areas where the very low-income limits have been adjusted because of unusually high or low housing-cost-to-income relationships.

1. The first step of calculating low-income limits is to establish the preliminary 4-person income limit. This is derived by multiplying the 4-person very low-income limit by 1.6 (80%/50%) and rounding the product to the nearest 50.

Area	4-Person Very Low-Income Limit	Preliminary 4-Person Low-Income Limit
Salinas, CA MSA	\$44,900	\$71,850

2. Next, a comparison is made to ensure that the preliminary 4-Person low-income limit is not greater than the U.S. median family income level:

Area	US Median Family Income	Comparison	Result
Salinas, CA MSA	\$75,500	Is \$71,850 > \$75,500? No	No Adjustment 4 Person LIL = \$71,850


3. Next, a check is made to see if the area qualifies as a high housing cost area. This is similar to the high housing cost adjustment made for very low-income limits. An area's income limit is adjusted due to high housing costs if 85% of the area's annual 2 bedroom FMR is greater than 35% of the US median income. As we are deriving the low-income limit, the 85% of the annual 2-BR FMR is augmented by 1.6:

Area	2BR FMR	Annual 2BR FMR	Annual 2BR FMR* 1.6*85%	35% of US Median Income	Comparison	Result
Salinas, CA MSA	\$1,540	\$18,480	\$25,133	\$26,425	Is \$25,133 > \$26,425? No	No Adjustment 4-Person LIL = \$71,850

4. Subsequent to the comparisons above, low-income limits are calculated for each person size family between 1 and 8 persons. As is done with the very low-income limits, the 1-person limit is calculated by multiplying the 4-person limit by 70%, the 2-person is obtained by multiplying the 4-person limit by 80%, the 3-person by multiplying the 4-person by 90%, the 5-person by multiplying the 4-person by 108%, the 6-person by multiplying the 4-person limit by 116%, the 7-person by multiplying the 4-person limit by 124%, and the 8-person by multiplying the 4-person limit by 132%. The low-income limits for these family size are then rounded up to the nearest \$50.

Salinas, CA MSA								
Income Limit	1-person	2-person	3-person	4-person	5-person	6-person	7-person	8-person
FY2019 Low-Income Limits	\$50,300	\$57,500	\$64,700	\$71,850	\$77,600	\$83,350	\$89,100	\$94,850

Low-Income Limit Calculation For Families With More Than 8 People

Select family size 

Calculate

May 18, 2020

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Terrence R. O'Connor

Timothy J. Baldwin

** Charles Des Roches*

** Leslie E. Finnegan*

Ana C. Toledo

** Robert D. Simpson*

Lindsey Berg-James

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Ashley N. Garvey

Jennifer A. Mancera

Anthony Mendoza

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stirlingw@co.monterey.ca.us

Wendy Strimling

Senior Deputy County Counsel

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Joseph Sidor, Associate Planner

Monterey County Resource Agency – Planning

1441 Schilling Place, 2nd Floor

Salinas, CA 93901

Re: RiverView at Las Palmas – PLN 150372
Access over Las Palmas Private Roads

Dear Ms. Strimling and Mr. Sidor:

I am writing on behalf of the Las Palmas Ranch Master Association No. 1 (“Association”) to address Mr. Lombardo’s letters dated February 19, 2020 and March 3, 2020, submitted on behalf of the RiverView at Las Palmas developer.

The Association does not agree with Mr. Lombardo’s claim that:

1. There is no dispute over developer’s rights to use the private Association roads for the RiverView at Las Palmas project (“Project”); and
2. Therefore there is no need for a condition of approval requiring a Road and Maintenance Agreement with the Association.

While the Association has acknowledged that Parcel Q has limited rights of access over a portion of the Association’s private roads, there is remains disagreement regarding:

* CERTIFIED SPECIALIST IN
PROBATE, ESTATE PLANNING,
AND TRUST LAW BY
THE CALIFORNIA BOARD OF
LEGAL SPECIALIZATION
STATE BAR OF CALIFORNIA

Wendy Strimling
Joseph Sidor
Monterey County Planning
May 18, 2020
Page 2

1. The historic level of the use permitted; and
2. The implications of both the significant use, and financial, impacts to the Association.

Parcel Q has only limited access rights over the Association's private Las Palmas Road (the main entry gate to Las Palmas No. 1) and portions of River Run Road and Woodridge Court within Las Palmas Ranch No. 1, in the areas shown with a red-line on the attached Aerial Map.

The proposed Project will, admittedly, concentrate at least 383 additional daily trips on these three private Association roads (Applicant's traffic report).

The Association's traffic consultant, TJKM, has opined that the stated traffic counts are low and do not consider the wide range of vehicles and full spectrum of traffic that will actually be generated by the proposed Project¹ (see TJKM letter, attached).

The Association has consistently maintained that the proposed Project will create significant traffic impacts to the Association's private roads.

At the time the original access easement to Parcel Q was created in 2000, no one anticipated a major commercial operation on the Parcel Q area, with the commensurate increase in traffic involving a steady stream of emergency vehicles (fire trucks and ambulances), large delivery trucks required for medical supplies, food service/dining room, laundry, etc., as well as, employees, guests, and residents required with such a facility.

The Association has also stated the Project is inconsistent with the rural residential nature of the Las Palmas subdivision and the overall Las Palmas Ranch

¹ **Trip Generation**

We question the applicability of trip rates used for this project, particularly for the casitas where the residents can have their own cars, and commercial operations at the facility. There is concern that the rates used for the casitas units may not accurately reflect traffic from employed residents, visitor travel, caregiver trips and even medical visits. Can the applicant demonstrate that the ITE rates utilized apply to this project? The facility will also have a host of other commercial operations, including full food service and other resident services. Traffic to the facility will not be just cars and shuttle vehicles, but larger delivery trucks for the commercial needs, along with medical response vehicles. The impact of these vehicles does not appear to be addressed.

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Specific Plan for the Las Palmas area, and that introducing a large senior residential care facility was never contemplated in the Las Palmas Specific Plan.

It has been well-established in California law that the extent of servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired. (California Civil Code §806). When an easement is granted for a specific use, there may not be an increase in the burden of the easement (California Civil Code §807), and the servient tenement owners have the right to insist that so long as the easement is enjoyed, it shall remain substantially the same as it was at the time the right accrued.

The question then becomes:

1. What was the anticipated use of the Parcel Q access easement at the time the Parcel Q access easement was first created; and
2. Is a commercial Assisted Living Facility use of Parcel Q a surcharge on the access easement?

Under the 1983 Las Palmas Ranch Specific Plan (LPRSP), the Parcel Q area is shown as part of Area A designated as “Medium Density Residential” on the Las Palmas Ranch Specific Plan Map (see LPRSP Figure E, attached), with the total LPRSP “Residential Units” capped at 1031, as shown on Las Palmas Ranch Specific Plan Land Use Table (see LPRSP Figure D, attached).

Other areas of the Las Palmas Ranch Specific Plan area were designated for Commercial/Recreational, School/Church sites, etc., and in particular, the commercial area for Las Palmas Ranch No. I is shown as Area B in the Specific Plan (see LPRSP Figures D and E, attached).

Likewise, the Parcel Q area is shown as “Medium Density Residential” in the 1983 Toro Area Plan, which also specifically states “1031 Max. Units” for the Las Palmas Ranch Specific Plan area, along with the designated commercial use areas (see 1983 Toro Area Land Use Plan, attached).

Six years after the Las Palmas Ranch Specific Plan and Toro Area Plan were adopted by the County Board of Supervisors in 1983, Parcel Q was created by subdivision map recorded at Volume 26 Cities and Towns page 70, June 15, 1989 (map signed by Michael Fletcher Sr. on behalf of Las Palmas Ranch Development Company, Inc.).

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At the same time, the Las Palmas Ranch developer recorded Covenants, Conditions, and Restrictions (CC&Rs) for the Las Palmas Ranch Planned Unit Development (Recorded at Document 33378, June 16, 1989).

The CC&Rs state that the development will consist of approximately 1,031 residential units however phasing could be changed, and acknowledges that Las Palmas Ranch Phase I Lots D, E, and F are designated for commercial uses. Parcel Q is not one of the commercially designated lots. Lot D is the Corey House. The Association subsequently purchased Lots E and F.

The access easement over the Association's private property to Parcel Q was first created in 2000 by deed from Las Palmas Ranch Development Company, Inc. (signed by Michael Fletcher, Jr.) to James Fletcher and Lisa Fletcher on September 29, 2000.

Over the 11 year period between when Parcel Q was created (1989), to the time of the grant of the access easement (2000), all of the Las Palmas Ranch Phase I and Las Palmas Ranch Phase II subdivision maps had been recorded, except for Las Palmas Ranch II - Unit 11 which was recorded on December 15, 2000, establishing the maximum buildout for the Las Palmas Ranch development, substantially consistent with the Las Palmas Ranch Specific Plan, Toro Area Plan, and recorded CC&Rs.

Had Parcel Q been used for residential uses, consistent with its residential designation under the 1983 Las Palmas Ranch Specific Plan and 1983 Toro Area Plan, within the cap of residential units allowed, use of the access easement to serve a limited number of homes on Parcel Q would have been a consistent use. The developer, however, chose to shift the residential density off Parcel Q, and develop the 1031 residential units elsewhere in the development.

At the time the Parcel Q access easement was created in September 2000, the Las Palmas Ranch project was essentially completed with the residential units and commercial uses distributed throughout the Las Palmas Ranch Plan area, in substantial conformance with the overall residential density and commercial land uses set forth in the 1983 Las Palmas Ranch Specific Plan and 1983 Toro Area Plan, and, to date, 1029 residential units of the 1031 residential unit cap, have been built out.

Moreover, in 2000, when the access easement was granted, it was not contemplated in either the Las Palmas Ranch Specific Plan or Toro Area Plan that Parcel Q would be a commercial use, and certainly not anticipated that it would be used for a commercial Assisted Living Facility.

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Joseph Sidor
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Accordingly, use of the access easement over the Association's private roads to serve the proposed Assisted Living Facility commercial use, is a substantial increased burden, and surcharge on, the access easement, well beyond the scope of the allowed property uses contemplated when the access easement was created in 2000.

On December 18, 2019 the Association Board adopted Resolution 2019-01 (copy attached) confirming that the Association will insist that the scope of Parcel Q's limited use of the Association's private roads remains substantially the same as they were at the time the right to use the private road easement accrued.

The Project Applicant admits he needs a Specific Plan Amendment to move forward with the Project. This is a marked departure from the established land use plan for this rural residential community set forth for the Las Palmas Ranch Specific Plan, particularly, where the entire Las Palmas Ranch development has since been built out in substantial compliance with the Plan and properties subsequently purchased by the Las Palmas residents.

The Association believes use of the Parcel Q access easement for a commercial Assisted Living Facility, with all of the associated commercial services, is a surcharge and burden on the access easement, in excess of, and inconsistent with, the anticipated rural residential use of the access easement.

Additionally, if the proposed project does go forward, there will be substantial damage caused to the Association's private roads, as detailed in the TJKM report² (see TJKM report attached), requiring written responsibility for reimbursement, repairs, and payments.

² **Private Street Pavement Impacts by Construction Trucks**

The EIR describes a two-year construction period and an import requirement of 34,500 cubic yards of fill in addition to the normal heavy construction traffic. For this amount of fill, this would generate nearly 3,000 loaded 12-yard pickup trucks driving on River Road, Las Palmas Road, River Run Road and Woodridge Road, and an equal number of returning empty dump trucks. The construction truck traffic is likely to cause damage to these private streets which have not been designed to accommodate this type and volume of construction traffic. The damage would include heavy wear and tear on the asphalt concrete pavement. In addition, three intersections along the route to the new development have hand-placed concrete brick pavement, which typically rests on a sand base. Regardless of the base, the brick pavement is unlikely to withstand the impacts of 3,000 fully loaded dump trucks. Typical damage is broken or displaced bricks.

Wendy Strimling
Joseph Sidor
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Page 6

Accordingly, there is clearly a dispute regarding use of the access easement over the Association's private roads for this Project.

As set forth in County Code sections 21.64.320 (1) and (2), a Road and Maintenance Agreement between the developer and the Association is required as a condition of approval of the Project, should it be approved, because there is a dispute regarding use of the access easement and the associated costs related thereto.



To date there has been minimal use of the access easement, as Parcel Q is a vacant lot. The nominal \$40/month being paid on a "handshake" agreement with the Association is not indicative of a full Road and Maintenance Agreement between the parties for use of and maintenance of the Association's private roads which will be substantially impacted if this Project goes forward.

Moreover, simply allowing the developer to rely on Civil Code Section 845 to address the road easement issues and associated road maintenance costs, as suggested by the developer, sets the Association up for litigation, requiring the Association to file a lawsuit to have a court determine the amounts owed.

The County adopted its proof of access requirements to avoid these types of situations. The rules apply here and should not be removed.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation


Christine Kemp 

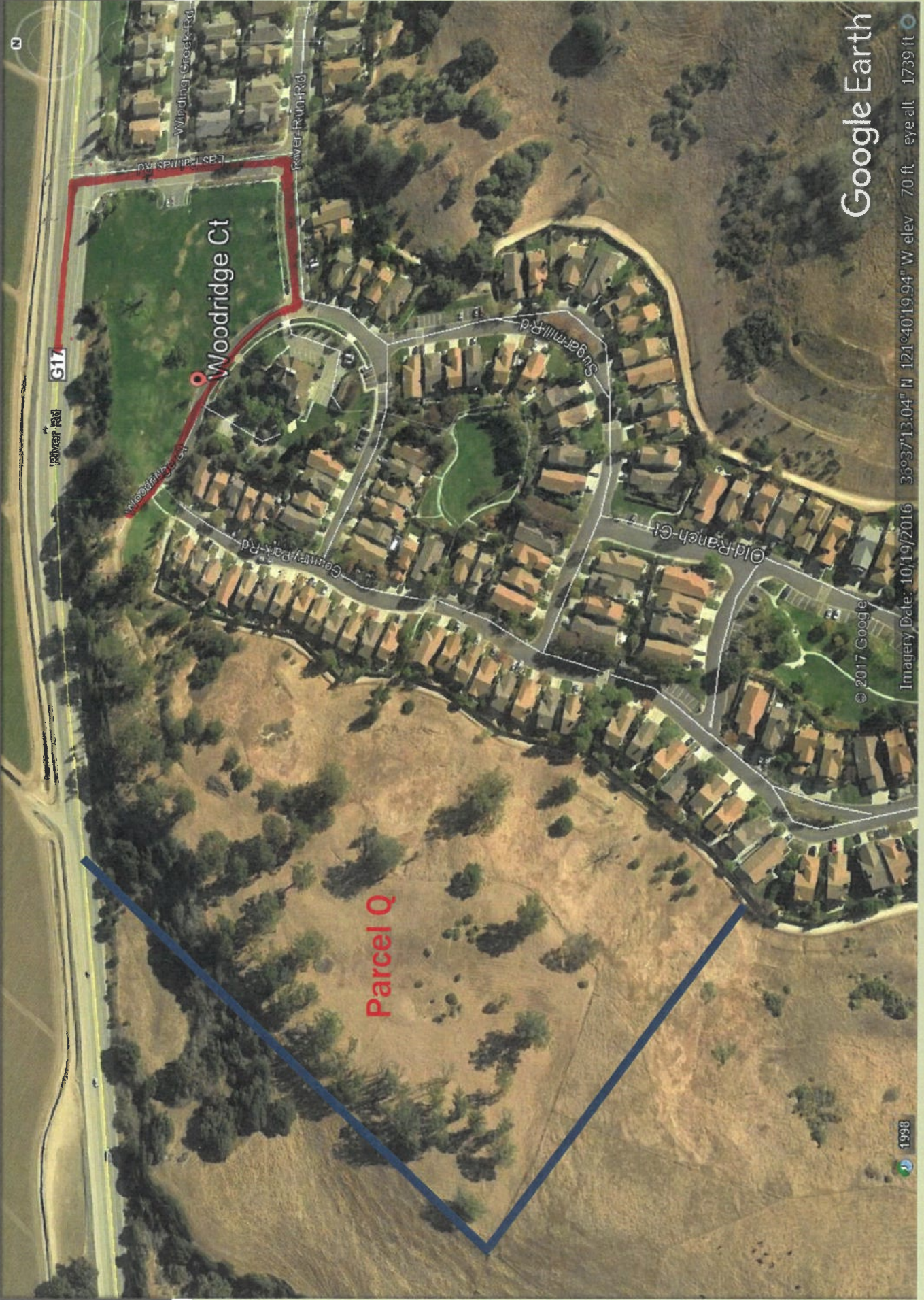
cc: Las Palmas Ranch Master Association No. 1 Board of Directors

Attachments:

Las Palmas Ranch No. 1 Aerial Map
TJKM Traffic Consultant letter dated April 23, 2018
Las Palmas Ranch Specific Plan Map - Figure E
Las Palmas Ranch Specific Plan Land Use Table - Figure D
1983 Toro Area Land Use Plan
December 18, 2019 Association Board Resolution 2019-01

LAS PALMAS RANCH NO. 1

AERIAL MAP



12000 ft

617

Woodridge Ct

Parcel Q

Winding Creek Rd

River Run Rd

13875 SBL

12000 ft

Country Park Rd

Sugar Mill Rd

Old Ranch Ct

© 2017 Google

Imagery Date: 10/19/2016 36°37'13.04" N 121°40'19.94" W elev 70 ft eye alt 1739 ft

Google Earth

1998

TJKM TRAFFIC CONSULTANT
LETTER DATED APRIL 23, 2018



April 23, 2018

Joseph (Joe) Sidor, Associate Planner
Monterey County
Resource Management Agency – Planning
1441 Schilling Place, 2ND Floor
Salinas, CA 93901

Re: Comments on DSEIR River View at Las Palmas Assisted Living Senior Facility

Dear Mr. Sidor:

TJKM Transportation Consultants appreciates this opportunity to provide our comments on the subject document. We are providing these comments on behalf of the Las Palmas Homeowners Association No 1. Our comments are as follows:

Traffic on SR 68

Portions of State Route 68 operate at LOS F. It appears that various large projects have been approved recently by the County with significant environmental impacts being dealt with by establishing overriding considerations. The County and other agencies could keep adding in the traffic impacts of these projects, each of which further worsens the existing peak hour congestion. Roundabouts have been discussed for installation at various locations; however, there is no indication that these roundabouts will actually be constructed nor that they will actually reduce daily congestion and delays along the SR 68 corridor.

Trip Generation

We question the applicability of trip rates used for this project, particularly for the casitas where the residents can have their own cars, and commercial operations at the facility. There is concern that the rates used for the casitas units may not accurately reflect traffic from employed residents, visitor travel, caregiver trips and even medical visits. Can the applicant demonstrate that the ITE rates utilized apply to this project? The facility will also have a host of other commercial operations, including full food service and other resident services. Traffic to the facility will not be just cars and shuttle vehicles, but larger delivery trucks for the commercial needs, along with medical response vehicles. The impact of these vehicles does not appear to be addressed.

River Road Access Details

The EIR provides no significant review of existing Las Palmas entry "gate" operations and conditions and how these may be affected by the project. In order to provide enhanced security, the home owners have placed a guard house on Las Palmas Road (the main entrance to the subdivision) immediately west of River Road, at the entrance to the subdivision and have retained security personnel to monitor and regulate incoming traffic. But even under current conditions the volume of inbound traffic during peak periods has caused the process to be relaxed (no guard check of entering vehicles) in these peaks to minimize congestion at the entrance and to avoid backups into the River Road signalized intersection. The residents have been able to live with this approach since most of the inbound traffic during busy periods are homeowners and this is the most practical solution to maintain security.

However, with the new development there will be a clear need to screen all incoming traffic. To accomplish this Las Palmas Road would need to be two long entrance lanes, one for those to be checked by the guard (visitors, delivery vehicles, etc.) and one for residents/employees with badges or vehicle stickers/placards. Entry gates would probably need to be added. The logistics of this are very awkward because of space limitations at the entrance. The entrance lanes would likely need to extend all the way to River Run Road to accommodate the volume of traffic. This would effectively cut off the existing left turn lane and movement into Winding Creek Road, which is very close to the entrance. This would create circulation issues for those residents who live along Winding Creek Road, who under the revision described above would not be able to make a left turn into their street.

The overall solution requires an additional westbound entrance lane on Las Palmas Road between River Road and River Run Road, a distance of about 400 feet. In addition, an entrance gate and entry system would need to be installed along with likely increased security personnel hours at the entrance.

This is a major concern to the residents. The EIR should investigate this issue in detail and provide a plan to provide full security and safety to existing residents and to occupants of the new development.

Woodridge Court

There are no details on the Woodridge Court access to the new project, other than it will probably be 28 feet wide. How steep is it? Since this is the only entrance to the new development, design details are important. We were unable to locate a site plan within the EIR that contains planned details of the Woodridge Court access.



Single Access Point

It is noted that there is only a single access to the site, using the aforementioned Woodridge Court. It appears that due to the property ownerships involved, there are no possibilities of a second access point or even an emergency access point. A secondary or emergency access point is a standard requirement in all developments. In a fire, or any other emergency, all 142 residents of the site (42 in casitas, 52 in assisted living and 48 in memory care) (See pages 4-5 and 4-6) would have to be evacuated out one route funneled through the Las Palmas subdivision. Any emergency vehicles would need to use the same route. The 142 residents include ambulatory, non-ambulatory, and some with diminished mental capacity making their evacuation even more challenging. Evacuating staff members would use the same route. This is a significant issue which has not been addressed.

Emergency Calls to Site

Emergency calls to the site have not been addressed. The EIR should disclose how emergency calls to the site, which could provide disturbances to existing residents, perhaps frequently, will be handled. Even without sirens, these vehicles are loud. Potential day time and night time emergency vehicle visits, should be addressed.

Private Street Pavement Impacts by Construction Trucks

The EIR describes a two-year construction period and an import requirement of 34,500 cubic yards of fill in addition to the normal heavy construction traffic. For this amount of fill, this would generate nearly 3,000 loaded 12-yard pickup trucks driving on River Road, Las Palmas Road, River Run Road and Woodridge Road, and an equal number of returning empty dump trucks. The construction truck traffic is likely to cause damage to these private streets which have not been designed to accommodate this type and volume of construction traffic. The damage would include heavy wear and tear on the asphalt concrete pavement. In addition, three intersections along the route to the new development have hand-placed concrete brick pavement, which typically rests on a sand base. Regardless of the base, the brick pavement is unlikely to withstand the impacts of 3,000 fully loaded dump trucks. Typical damage is broken or displaced bricks.

The replacement or repair of damaged asphalt concrete and brick pavement sections needs to be addressed in the DEIR.

Mitigation Measures

Figure 9-4 on DEIR page 9-19 shows level of service results for three study intersections for three scenarios. This table shows that under cumulative plus project conditions the Highway 68 EB and WB ramp conditions at Reservation Road/River Road are at LOS D, exceeding the Monterey County standards. However, there is no DEIR text dealing with



Joseph Sidor
April 23, 2018
Page 4 of 4

cumulative traffic impacts and mitigation requirements. In the project traffic impact study included as Appendix D of the DEIR, the impacts at these two intersections are described along with mitigation measures. The DEIR text indicates that the project would be required to pay regional impact fees, although such a payment is not included as a mitigation requirement. In addition to no description of cumulative impacts in the DEIR text, it is not clear which impacts the payment of regional fees is intended to mitigate. A description of cumulative impacts and more details on resolution of these impacts should be added to the DEIR.

Applicant Mitigation Measures

The applicant proposes off-peak employee shifts and the use of shuttle buses for both residents and for employees. The downside of these activities are an increased amount of early morning or late night travel through the Las Palmas neighborhood, and frequent shuttle bus travel through the same neighborhoods. The DEIR should address the impacts of these mitigation measures on the Las Palmas neighborhood.

Please contact me if there are questions on these matters.

Very truly yours,

A handwritten signature in black ink that reads "Chris D. Kinzel". The signature is written in a cursive, flowing style.

Chris D. Kinzel, P.E.
Vice President






Cc: Christine G. Kemp

LAS PALMAS RANCH SPECIFIC PLAN MAP
FIGURE E

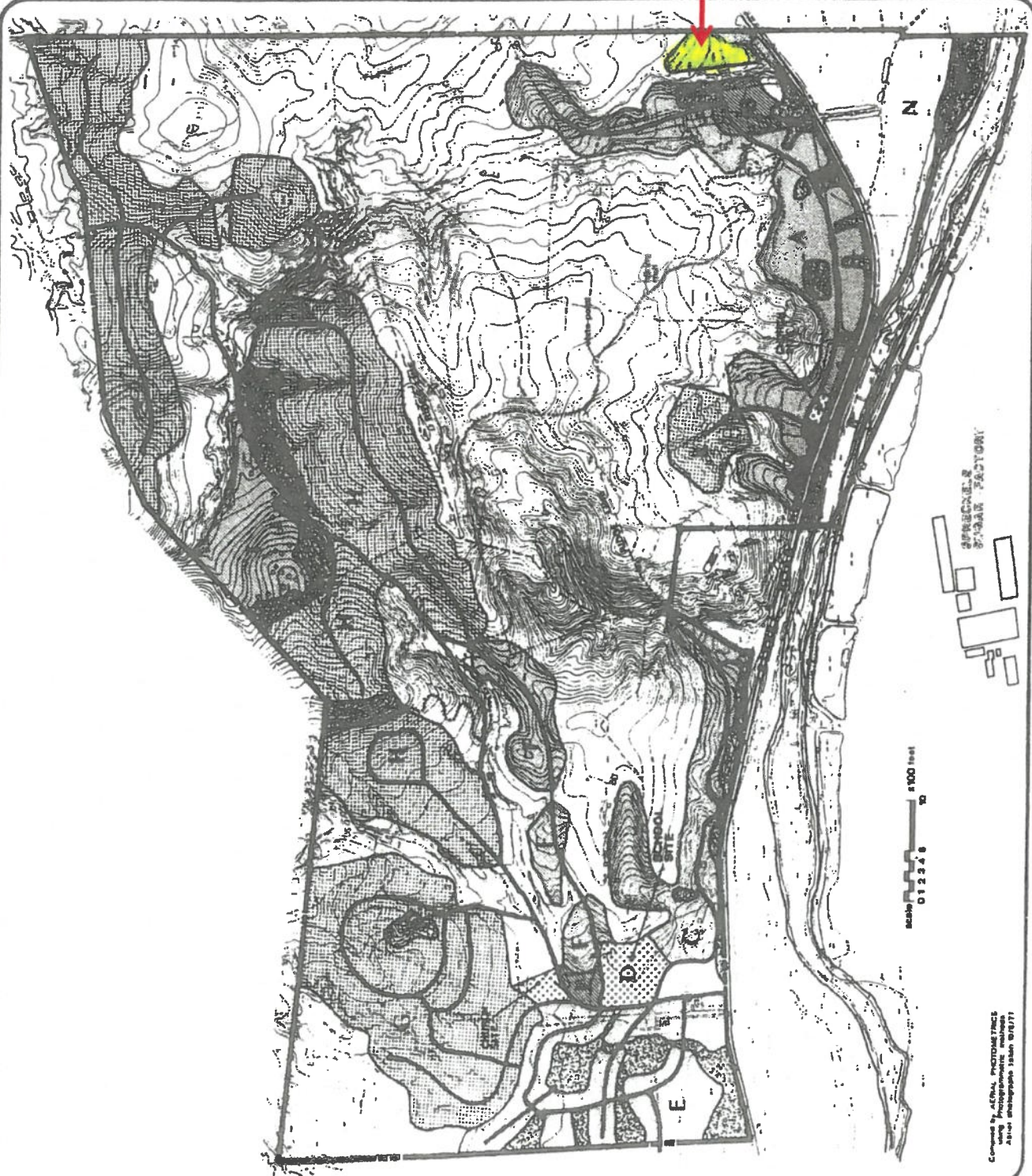
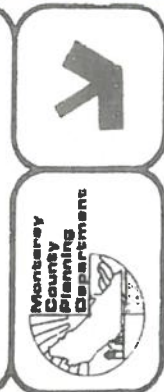
Las Palmas Ranch

FIGURE E

SPECIFIC PLAN

-  LOW DENSITY RESIDENTIAL
-  MEDIUM DENSITY RESIDENTIAL
-  QUASI-PUBLIC
-  RECREATIONAL COMMERCIAL
-  PARKS/RIPARIAN

Parcel Q



Compiled by A.C.M.A. PHOTOGRAPHIC SERVICE
 21000 Highway 168, San Jose, CA 95131
 415-948-9999

LAS PALMAS RANCH SPECIFIC PLAN

LAND USE TABLE – FIGURE D

FIGURE D: LAS PALMAS RANCH SPECIFIC PLAN LAND USE TABLE

ADC Policy Plan Areas	Residential Units		Total Units	Other Land Uses	Other Acreage	Total Acres	Density Units/AC
	Multi	Single					
A	312	0	312	COMMERCIAL/RECREATIONAL	6	104	3.00
B	-	-	-			6	N/A
C	131	0	131	SCHOOL/CHURCH SITES	15	62	2.11
D	-	-	-			15	N/A
E	0	168	168			76	2.21
F	104	0	104			32	3.25
G	0	80	80			95	.84
H	0	142	142			152	.93
I	0	46	46			28	1.64
J	0	43	43			90	.48
K	0	5	5			11	.45
L	-	-	-	COMMERCIAL OPEN SPACE:	6	6	N/A
M				RIPARIAN CORRIDOR	13		
N				AGRICULTURAL LAND	56		
O				NEIGHBORHOOD/INFORMAL OPEN SPACES	65		
				CENTRAL OPEN SPACE & FRONTAL SLOPES TOTAL OPEN SPACE	767	901	N/A
TOTAL	547	484	1031			1579	.65 AV.

NOTE: ACREAGES BOUNDARIES OF THE PLAN AREA AND NUMBER OF UNITS WITHIN EACH PLAN AREA ARE APPROXIMATE. SPECIFIC BOUNDARIES, AND NUMBER AND MIX OF UNITS WILL BE DETERMINED AT THE TIME OF FINAL ENGINEERING, PROVIDED THAT THE TOTAL NUMBER OF RESIDENTIAL UNITS SHALL NOT EXCEED 1,031. DEVELOPMENT MAY NOT OCCUR IN THE ALPHABETICAL ORDER IN WHICH THE PLAN AREAS ARE LETTERED ON THE PLAN.

1983 TORO AREA LAND USE PLAN

1983 Toro Plan Map



DECEMBER 18, 2019

ASSOCIATION BOARD RESOLUTION 2019-01

RESOLUTION NO. 2019-01

LAS PALMAS RANCH MASTER ASSOCIATION

**AFFIRMING ASSOCIATION PRIVATE PROPERTY RIGHTS AND OBLIGATIONS
WITH REGARD TO PARCEL Q**

WHEREAS, Las Palmas Ranch Master Association (also known as the Las Palmas Ranch Master Association No. 1) is a duly formed Nonprofit Mutual Benefit Corporation providing for the management, administration, maintenance, preservation, and architectural control of the initial phase of the Las Palmas Planned Unit Development Subdivision (“Association”);

WHEREAS, the initial phase of the Las Palmas Planned Unit Development Subdivision includes five unit areas, consisting of residential lots and common area lots, shown on recorded Tract Maps as Corey House Area Unit 1 (Tract Map 1086A), Corey House Area Unit 2, (Tract Map 1087A), Corey House Area Unit 3 (Tract Map 1088A), Corey House Area Unit 4 (Tract Map 1089A), and Corey House Area Unit 5 (Tract Map 1090A) (collectively “Las Palmas Ranch Phase 1”). The Tract Maps listed in the preceding sentence are collectively referred to as “Corey House Area Unit Maps”;

WHEREAS, the Association governs Las Palmas Ranch Phase 1, including ownership of the Las Palmas Phase 1 common areas and Las Palmas Ranch Phase 1 private roads shown on the Las Palmas Ranch Phase 1 Corey House Area Unit Maps;

WHEREAS, the private road system developed as part of Las Palmas Ranch Phase 1 shown on the Corey House Area Unit Maps, is for the common use of the Las Palmas Ranch Phase 1 members, is owned by the Association, and the maintenance and repair of the private road system is paid by the Association through Association membership dues;

WHEREAS, on or about May 27, 1998, the Association purchased Parcels E and F, as shown on the Corey House Area Unit 1 Map, located between Woodridge Court and County Park Road, from the developer, Las Palmas Ranch Development Company, Inc., for the benefit of the use of the Association’s members for open space and recreational purposes.

WHEREAS, at the time of the purchase of Parcels E & F, the Association and its membership, contemplated no development was to occur on Parcels E & F, including no road development, other than minor development incidental to recreational use;

WHEREAS, the Las Palmas Ranch 1 developer also dedicated, for private use, drainage easements to permit the construction, maintenance and operation of drainage facilities on, over and under certain strips of land within the Las Palmas Ranch 1 area for the purpose of conveying drainage from the natural drainage tributary to each easement, which drainage facilities are owned and maintained by the Association. The developer also dedicated storm drainage easements to County Service Area #72;

WHEREAS, the existing storm drainage system for Las Palmas Ranch 1 is believed to be only adequately sized for the number of residences built as part of Las Palmas Ranch Phase 1;

WHEREAS, Parcel Q is shown on Tract Map 1086A, but it is not part of the five Corey House Area Unit residential lots, easements, and common areas, making up Las Palmas Ranch Phase 1;

WHEREAS, Parcel Q remains undeveloped and is now owned by River View at Las Palmas, LLC;

WHEREAS, Parcel Q is not a member of the Association, has not paid membership dues to the Association, has no ownership interest in any of the Association's common areas, private easements, private roads (including Country Park Road), or private property, other than having only limited access rights over a portion of the Association's private roads (portions of River Run, Woodridge Court, and Las Palmas Road) pursuant to the Grant Deed recorded at Document 2013046807, July 23, 2013, Official Records of Monterey County, California ("Parcel Q Deed");

WHEREAS, it has been well-established in California law that the extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired. (California Civil Code §806). When an easement is granted for a specific use, there may not be an increase in the burden of the easement (California Civil Code §807), and the servient tenement owners have the right to insist that so long as the easement is enjoyed, it shall remain substantially the same as it was at the time the right accrued; and

WHEREAS, the Association Board of Directors seeks to protect the Association's private property, including its common areas, easements, and private roads.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Directors of Las Palmas Ranch Master Association

1. affirms that use of the Association private roads within Las Palmas Ranch Phase 1 remains limited to residential use;
2. affirms that Parcel Q has no right to use of any of the Association's private roads, but for the limited scope of use set forth in the Parcel Q Deed;
3. will insist that the scope of Parcel Q's limited use of the Association private roads remains substantially the same as they were at the time the right to use the private road easements accrued;
4. affirms that use of the Association's Parcels E & F remains consistent with the intent of the Association at the time it purchased said parcels, and consistent with the subsequent use thereon by its members, which is recreational use, and that no development, including road construction, is allowed thereon other than for recreational purposes;

5. affirms that Parcel Q has no right to use of any of the Association's common areas, including, but not limited to, community parks, sidewalks, open space areas, Parcels E & F, or the grass median at the eastern terminus of Country Park Road;
6. affirms that the use of the storm drainage system developed for Las Palmas Ranch Phase 1 subdivision remains limited to residential use by Las Palmas Ranch Phase 1, as built out; and
7. will insist upon the use of the storm drainage system easements, and facilities thereon, remaining substantially the same as they were at the time the right to the easements accrued.

PASSED AND ADOPTED by the Board of Directors of the Las Palmas Ranch Master Association at a special meeting held on the 18th day of December 2019 by the following vote:

AYES, and all in favor, thereof, Directors: Denise Benoit, Otavio Bernardo, Jennifer Lukasik, Mishalin Modena and David Tucker

NOES, Directors: None

ABSENT, Directors: Roberta Pastorino and Fred Rowland

ABSTAIN, Directors: None

ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
CODY J. PHILLIPS

144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
FAX (831) 751-2331

June 3, 2020

Our File No: 4813.001

Wendy S. Strimling
Senior Deputy County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

Joe Sidor, Associate Planner
Monterey County RMA
1441 Schilling Place
Salinas, CA 93901

RE: River View at Las Palmas (RVLP)

Dear Wendy and Joe:

This letter is in response to Ms. Christine Kemp's May 18, 2020, letter regarding our client's right to access their property for the residential care facility for the elderly recently recommended for approval by the Planning Commission. The only dispute over that right is the one created by Ms. Kemp's clients in their effort to prevent the development of Parcel Q.

The intent of this letter is not to argue points of law. We have long ago established our legal right to access the property. We write to correct several of the incorrect and misleading statements in Ms. Kemp's letter.

- Our client's right to access their property is described in their deed. The deeded right of way is a nonexclusive easement and has no limits, stated or implied, to its use.
- The Final Subsequent Environmental Impact Report (FSEIR) for the project examined the assertions in the TJKM letter and concluded the 383 trips per day projected for the project, which is the trip number without mitigations of scheduling, carpooling and shuttles, was accurate. The Planning Commission in their recommendation for approval of the project found the FSEIR adequate and recommended that it be certified by the Board of Supervisors.
- The TJKM letter "questions the trip rate" used by Keith Higgins, TE in his traffic studies. If TJKM had substantive and supportable concerns over the trip rate it would have been expected they would have stated what they believed the correct rate would be. They did not.

expected they would have stated what they believed the correct rate would be. They did not.

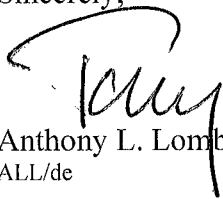
- Ms. Kemp's assertion that no one anticipated "major commercial" traffic using the project entrance is wholly unsupported and is contrary to the history of Las Palmas Ranch. The entrance to Las Palmas Subdivision #1 was always expected to be used for access to commercial development:
 - The Las Palmas Ranch Specific Plan (LPRSP) designated the 3.3 acres of land along Las Palmas Road, River Run Road and Woodridge Court (the RVLV easement) for the construction of a shopping center. The 2010 General Plan and Toro Area Plan designate that same property Commercial. It is zoned Light Commercial.
 - The traffic study and Final Environmental Impact Report for the LPRSP estimated commercial traffic generation would be 116 trips/day/1,000SF. At 25% site coverage (the Light Commercial district allows coverage up to 50%) estimated traffic would be just under 4,200 trips per day.
 - The area on which the River View Project is proposed is and has been always designated for the construction of up to 42 homes which generate an equivalent amount of traffic except there would be greater morning and afternoon peak hour traffic trips.
- Ms. Kemp asserts there would be a "steady stream of emergency vehicles" and associated noise from emergency vehicles. Based on data provided by the Monterey County Health Department, there would be approximately 1 emergency vehicle trip every 3 days. The Monterey Regional Fire Protection representatives have stated fire truck and ambulance sirens are turned off when they exit River Road into the Subdivision.
- Ms. Kemp states that our clients have said an amendment to the LPRSP is needed for the RVLV project. That is not true. Our clients do not believe an amendment was or is necessary but acceded to the request of the RMA to include the amendment request in their application. We do not believe an amendment is needed because in our opinion the LPRSP is no longer a part of the 2010 General Plan or the Toro Area Plan.
 - The 2010 General Plan and Toro Area Plan both designate Parcel Q for Medium Density Residential use. Parcel Q is zoned Medium Density Residential. The MDR district clearly allows for the Riverview Project subject to a use permit. No amendment to the General Plan, Toro Area Plan or zoning is needed.
 - The previous General Plan and Toro Area Plan incorporated the LPRSP by reference. Although the 2010 General Plan and area plans incorporate the Carmel Valley Ranch and East Garrison specific plans by reference, they do not incorporate the LPRSP. Given the many years of scrutiny of the 2010 General Plan and that the adopting resolution clearly stated it was a comprehensive update which replaced previously existing documents, it is fair to conclude the LPRSP is no longer in effect.

Wendy S. Strimling, Senior Deputy County Counsel
Joe Sidor, Associate Planner
June 3, 2020
Page | 3

- Even if an amendment were needed, the River View project is a public/quasi-public use and would not be subject to the 1031-unit cap on new homes constructed in the LPRSP.
- There is no dispute over our client's responsibility to repair any damage done to the roads if damage occurs during the course of construction. They are required to do so as a matter of law. Our clients have stated repeatedly they will repair any damage done to the road caused by construction.
- The \$40 monthly fee paid to the HOA is set by the HOA. The HOA has not at any time approached our clients about increasing that contribution. At such time as the Riverview facility is constructed, my clients fully anticipate the fees paid for road maintenance to be increased accordingly.
- Ms. Kemp states that a judicial action will be needed to determine the amounts owed for road maintenance is without any basis in fact. California law defines the contributions which parties must make to road maintenance based on relative use and the owners of the Riverview Project intend to follow the law.

Please let us know if you would like to discuss any of these issues in greater detail.

Sincerely,



Anthony L. Lombardo
ALL/de

cc: Clients

June 7, 2020

Joseph Sidor, Associate Planner
Monterey County Resource
Management Agency - Planning
1441 Schilling Place, 2nd Floor
Salinas, CA 93901
(831) 755-5025



Re: Comments - Plan # PLN150372;
SCH # 2017031025

Mr. Sidor,

I am opposed to the development of 'Parcel Q' located directly above my home on at 21017 Country Park Road. My original feelings changed from develop the parcel - but whoever the developer is, they need to install their own stoplight intersection directly onto River Road and by no means cram all of their senior center road traffic through our Private Las Palmas Property.

One proposal from this developer was to plow through the Cory Park. His vision was slamming a roadway directly atop our greenbelt (this section of land had formerly been zoned commercial). The Las Palmas HOA voted to imposed an increase of the monthly dues to afford to purchase the commercial frontage land along River Road, in order to maintain our greenbelt as undeveloped.

When my wife and I purchased our home 7 years ago, this was our own retirement investment. The Monterey County Planning Department has already approved Parcel Q to be developed with a total of three (3) residential housing units on the bluff. The 'Parcel Q Easement' usage of our roadways, our guardhouse, our stoplight intersection, was approved by the Board of the Las Palmas HOA for only three (3) households - period. The County does not own any part of Las Palmas Phase One: roads, surface drainage system, sewer system. All of these parts and pieces including the greenbelt secondary watering system has been paid for by the residence of each of these homes.

I attended the public meeting regarding 'Parcel Q' along with many of my neighbors from Las Palmas Phase One. Many voices were sounded that in unity opposed this development as stated (Senior Living Facility). This is a business with a Theater.

Monterey County is currently considering amending a former County Planning Department decision that honors the original covenantal Easement that would give three residential housing units use of our stoplight intersection, our guardhouse, our roadways for these three residential housing units. Moving forward with the approval of this Senior Housing project with complete disregard to the standing Real Covenantal Easement would be a grave mistake.

This Parcel Q developer is selling a dream, by doing legwork for County approved permits, his environmental studies bypass the real voices of a real and fully populated developed PUD who all bought in to the Las Palmas vision as built with a prevision for three households on the bluff. This developer cares nothing about the residents of Las Palmas One. I sure pray and hope that you do. Do not move forward with this man's dream of a commercial business on the bluff.

Kent Tegtmeier
21017 County Park Rd.
Salinas, CA 93908

Received by RMA-Planning
on July 8, 2020.

Sidor, Joe (Joseph) x5262

From: Spencer, Craig x5233
Sent: Wednesday, July 8, 2020 3:31 PM
To: Sidor, Joe (Joseph) x5262
Subject: FW: Correspondence; Letter from Russell Scwanz, FW: PLN 150372 Valley Fever

From: ClerkoftheBoard <cob@co.monterey.ca.us>
Sent: Wednesday, July 8, 2020 3:11 PM
To: 100-BoS Everyone <100-BoSEveryone@co.monterey.ca.us>; Girard, Leslie J. x5365 <GirardLJ@co.monterey.ca.us>; McKee, Charles J <McKeeCJ@co.monterey.ca.us>
Cc: Chiulos, Nick x5145 <chiulosn@co.monterey.ca.us>; Dugan, John x6654 <DuganJ@co.monterey.ca.us>; Harris, Lisa x4879 <harrislm@co.monterey.ca.us>; Holm, Carl P. x5103 <HolmCP@co.monterey.ca.us>; Magana, Sophia x5305 <MaganaS@co.monterey.ca.us>; McDougal, Melissa x5146 <McDougalM@co.monterey.ca.us>; Ruiz-Ignacio, Maegan x5508 <Ruiz-IgnacioM@co.monterey.ca.us>; Silveira, Felicia M. x4878 <SilveiraFM@co.monterey.ca.us>; Spencer, Craig x5233 <SpencerC@co.monterey.ca.us>; Strimling, Wendy x5430 <strimlingw@co.monterey.ca.us>; Swanson, Brandon xx5334 <SwansonB@co.monterey.ca.us>
Subject: Correspondence; Letter from Russell Scwanz, FW: PLN 150372 Valley Fever

Good Morning, All-

Please see below e-mail from the desk of Russell Scwanz, FW: PLN 150372 Valley Fever



Joel G. Pablo
Board Clerk
[Monterey County Clerk of the Board](#)
County of Monterey
168 W. Alisal St., 1st Floor, Salinas, CA 93901
Phone: (831) 755 - 5066 | Fax: (831) 755-5888

From: Russell Scwanz <russellschwanz@att.net>
Sent: Wednesday, July 8, 2020 1:54 PM
To: ClerkoftheBoard <cob@co.monterey.ca.us>; ROY GOBETS <roygobets@aol.com>
Subject: PLN 150372 Valley Fever

[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.]

Russ Scwanz
21045 Country Park Rd
Salinas, CA 93908

Ref: Riverview at Las Palmas PLN150372

To: Monterey County Supervisors

My name is Russ Schwanz, I am a retired Meteorologist and live on Country Park Road. My house lies less than 600 feet from the proposed development on Parcel Q and like many of the homes on my street, the top of my roof is below the level of the ground that will be reworked as part of this proposed development.

I have become deeply concerned about Valley Fever and the potential impact of it on my neighbors due to this proposed development. So I have done some research on the Web to learn more.

Background on Valley Fever

Valley Fever is a disease. It is also called coccidioidomycosis. I will continue to call it Valley Fever. It is caused by the coccidioides fungus that grows in some areas of California and other areas of the Southwest. If inhaled, this fungus can infect the lungs and cause respiratory symptoms, including cough, difficulty breathing, fever and fatigue. In some cases it can spread within the body and become severe. This is called disseminated Valley Fever. This form can make the victim ill for long periods of time or it can kill. I read of one case of a four year old boy who was hospitalized for 11 months. Each year there are about 80 Valley Fever deaths in California with another 1000 hospitalized. There is deep concern in Monterey County about the illness. In 2014 there were only 20 cases. But every year since then it has grown. In 2018 there were 240 cases. (See article entitled "Monterey County becomes major epicenter for Valley Fever with tenfold uptick" in the Salinas Californian dated May 16, 2019.)

Many people do not get Valley Fever after being exposed to the fungus. But anyone can get it. Some people are at higher risk. These would include people in areas where the soil is disturbed like construction, landscaping, field work or the military. Close contact with dirt or dust is problematic. Also people who are pregnant, above 60 years

old, have diabetes, cancer or an organ transplant are very vulnerable. The disease is not contagious. But dogs can also get it.

Details of the Fungus

The fungus has microscopic spores. It grows in soil which has low rainfall and mild winter temperatures. Its minute size is problematic. Currently there are no tests that can tell if the soil contains the fungus. When soil is disturbed it can be released into to wind. This typically happens with dust. People get the disease by breathing in the spores. As a result, when outdoors in a dusty area, it is recommended that people wear a properly fitted N95 face mask. (Reference to County of Monterey Health Department web pages on preventing Valley Fever.) And if their clothes have dust on them they should wash the clothes without shaking off the dust. When driving a car in a dusty area it is advised to close all windows and set the air flow to recycled air rather than fresh air.

Scientific Method

Many talented and well meaning people have worked very hard to understand this beast. And there are many speculations or theories about this fungus. Where it grows and how to develop procedures to manage it. But without effective ways of testing the soil and the air for the spores, these theories are lacking full validation. The state has budgeted a few million dollars to study it. But, I am concerned that current approaches for disturbing the soil and managing the dust generated may be flawed. This concern is based upon the simple fact that cases of Valley Fever have jumped from 20 to 240 in the last few years in Monterey County. If the best procedures are being used it appears that something isn't right. Current procedures may be flawed. This perspective is relevant to the development of Parcel Q.

Parcel Q

With this background, I turn my focus to the Parcel Q proposed development. Consider the following points.

There is more than Las Palmas 1 involved in this issue. Other adjacent neighborhoods will also be impacted. And keeping in mind that I am a retired Meteorologist, the winds can blow any dust from the Parcel Q development for miles. It is a reasonable question to ask if King City may be impacted. And Toro Park and areas of Marina may also be impacted.

During the presentations to the Planning Commission the representative for Parcel Q proposed development said that (this is not a direct quote) all the Las Palmas residents would have to do is stay indoors, close their windows and turn on their air conditioners.

But the vast majority of the Las Palmas homes do not have air conditioners. My guess is that over 95% do not have them. We rely on opening our windows to cool our houses. Opening our windows would be an open invitation to the fungus.

Many of our houses in Las Palmas 1, on Country Park road, are easily within 500 feet of the area to be bulldozed. And the tops of our roofs are below the level of the ground being bulldozed. Frequently the winds blow from the ocean down the Salinas Valley. As a result, this wind would blow dust (and along with it any Valley Fever Fungus) right onto the tops of our houses.

And since the onset of the COVID-19, N95 face masks are not easily available. Without N95 masks we would not be able to protect ourselves. And even if we could obtain N95 masks, these masks are not recommended for children. The current masks that we wear for COVID-19 would not deter the microscopic Valley Fever spores.

Most of the time in Monterey County, when the soil is disturbed, it is on agricultural land. Under those circumstances, much of the dust created falls on open

fields. That would not be the case with this development. The dust generated will mostly fall on residences.

It is also unclear how long the threat from the Valley Fever Fungus would last. We would have to limit our activities as soon as the trees on Parcel Q are cut. But how will we know when it will be safe to resume our normal lives? Is it 6 weeks after the last dust flies or is it 6 months later? How would we know? Again, tests to detect the Valley Fever spores are not available.

So any of the following activities could expose us to Valley Fever and be problematic to our health:

- Taking a walk
- Walking a dog
- Any child playing outside
- The mailman delivering our mail
- Any form of yard work
- Cleaning the rain gutters
- Running or any outdoor sports
- Taking a child for a walk in a stroller
- Washing a car
- Cooling our house by opening the windows
- Any home improvement on the outside of our house

All of the above items are common events in our neighborhood.

And people driving in this area on Highway 68 or River Road will have to close their car windows and recycle the air in their cars. And how can they be warned? And what about motorcycles in the area? How can they be safe?

Can disturbing the soil next to a residential neighborhood really be safe? It is our health and lives on the line and it appears that current procedures to control the spores may be flawed.

Our Rights

I believe that we have a basic right to Life, Liberty and the Pursuit of Happiness. The Valley Fever Fungus is a definite threat to all three. I have the right to live. And to live without some prolonged disease that is poured upon my house from above. I have the right to take a simple walk in my neighborhood without getting some deadly disease. I have to right to be confident in my home.

At this time the developer of Parcel Q nor Monterey County is able to ensure my rights to Life, Liberty and the Pursuit of Happiness.

Concerns and Recommendations

I am concerned that if Parcel Q is approved and built that many people will become very ill from Valley Fever and some may die. This would likely end in extensive litigation against the developer and Monterey County. I do not want to see my neighbors or I get a serious or fatal disease because of the approval of Parcel Q. I do not want to see Monterey County loose a significant litigation as a result. When all is considered, I ask, plead and beg the Monterey County Supervisors to reject this proposal. Although the county certainly has the need for senior assisted living, Parcel Q simply isn't in the right location.

RS

07/08/2020

September 8, 2020

Via Electronic Mail

Monterey County Board of
Supervisors
Via COB@co.monterey.ca.us

Monterey County Regional
Fire District
Board of Directors
Via chiefurquides@hotmail.com
& dpriolo@mcrcfd.org

Joe Sidor Associate Planner
Monterey County RMA-
Planning
Via SidorJ@co.monterey.ca.us

RE: COMMENTS ON SEIR FOR RIVER VIEW AT LAS PALMAS I ASSISTED LIVING SENIOR CENTER FACILITY (PLN150372; SCH 2017031025)

Honorable Boards:

This letter comments on the Subsequent Environmental Impact Report (“SEIR”) for the River View at Las Palmas I Assisted Living Senior Facilities (“Project”). The comments herein make clear there would be significant direct, indirect and cumulatively considerable impacts as a result of the Project which were not adequately analyzed, nor mitigated, in the SEIR. For those and other reasons as detailed herein, the SEIR is inadequate and violates the California Environmental Quality Act (“CEQA”).

A. Monterey County and Monterey County Regional Fire District Will Be Held Liable for Approving the Project’s Dangerous Condition

Given that the River Fire is still burning in the area of the Project site and the recent evacuation of Las Palmas I, fire safety must be considered in a manner to best protect the residents of existing development and future development. The SEIR’s conclusion that the Project would not result in inadequate ingress/egress/emergency access is without substantial evidence in the record as further discussed in Section B of this letter.

The Government Code does not provide immunity for putting residents in jeopardy by approving a project with insufficient ingress/egress/emergency access in order to excise impact fees. In fact, Government Code section 835 states, “a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred.” The court in *Osborn v. City of Whittier* (1951) 103 Cal.App.2d 609 explains that “if the officers or employees of the municipality had actual or imputed knowledge or notice of the dangerous condition and neglected to remedy it within a reasonable time after knowledge or notice, or neglected for a reasonable time after acquiring such knowledge or receiving such notice to take such action as might be reasonably necessary to protect the public against such dangerous condition, liability ensued.”

The court in *Quelvog v. City of Long Beach* (1970) 6 Cal. App. 3d 584, 591 made clear:

Section 818.2 of the Government Code excuses the City for failure to enforce laws that are being violated by others but it does not excuse the City for violating its duty, to avoid the creation of conditions that are dangerous to its citizens or the public generally. The City enjoys no immunity for its alleged affirmative actions and must be held responsible for the consequences of the same.

This letter is a notice to Monterey County and Monterey County Regional Fire District that the Project will result in dangerous conditions for Las Palmas I residents and Project occupants due to insufficient ingress/egress/emergency access. If the Project is approved, Monterey County and the Monterey County Regional Fire District will be held liable and responsible should there be harm from the dangerous conditions caused by the Project.

B. SEIR's Inadequate Wildfire Analysis in Violation of CEQA

“Wildfire” was added as a CEQA section effective January 1, 2019. Analysis under the following four criteria must be completed for projects located in or near State Responsibility Areas (SRA) or lands classified as very high fire hazard severity zones:

- A project’s potential to substantially impair an adopted emergency response plan or emergency evacuation plan;
- Due to slope, prevailing winds, and other factors, a project’s potential to exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;
- Require the installation or maintenance of associated project infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; and/or
- A project’s potential to expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

The Project site is located within the State Responsibility Area (“SRA”). Chapter 18.56 of the Monterey County Code sets forth the requirements of any project within the SRA area. This is particularly important since there is only one nearby evacuation point to River Road for the Las Palmas I residents as well as for the sensitive occupants of the proposed large commercial senior complex. As further detailed below, there is inadequate ingress/egress/emergency access for the Project and as a result, the Project would expose people and structures to significant risk. Additionally, the Project occupants, most of them sensitive receptors, would be exposed to high pollutant concentrations from a wildfire as clearly demonstrated during the River Fire. And if fire were to occur on the Project site, as nearly did during the River Fire, not only would evacuation be a problem, but subsequent landslides, flooding, mudflows, slope instability, etc. would certainly be a problem, none of which were analyzed in the SEIR.

The Project is in violation of the Monterey County Code. **Monterey County section 18.56.060.5 requires the following: “The grade for all roads, streets, private lanes and drive-ways shall not exceed fifteen percent.” The SEIR states, “A portion of the upper loop road and portions of four casitas are on slopes over 25 percent,” which is consistent with this Monterey County Code section yet, the SEIR does not address the direct conflict with the code provision which is intended to protect lives and structures.**

The SEIR claims, the Project “would involve extending Woodridge Court at a grade of approximately 15 percent to provide primary vehicular access to the project site” without substantial evidence in the record. Conclusory statements unsupported by factual information will not suffice. (14 CCR § 15088(c).)

There is no engineered road design in the administrative record, and switchbacks would be required to meet the slope requirement, which would not only require additional grading (which was not analyzed in the SEIR), but also may not meet the roadway radius requirements set forth in Monterey County Code section 18.56.060.6. The impacts associated with the Project road construction were not analyzed in the SEIR and evaluated for consistency with Chapter 18.56 of the Monterey County Code because the Applicant failed to provide an engineered road design.

Additionally, the SEIR proposes an infeasible mitigation measure. “Feasible” is defined as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. The mitigation measure not only requires the Project’s emergency access to be located on property (between County Park Road and Woodridge Court) that does not belong to the Applicant, but it also requires that the Applicant install grass grid pavers in this area (not owned by him) in order to provide an all-weather surface for secondary/emergency access. The mitigation measure is infeasible because the Las Palmas I HOA, which owns the grass area, made clear that it will not agree to have the area used by the Project for emergency access. Yet, the SEIR relies on an infeasible measure to demonstrate the availability of emergency access for the Project.

Finally, the Project proposes to use one narrow and steep road connected to internal Las Palmas I streets leading into and out of the Project facility to River Road. Not considering the fact that the Project has no access rights to these internal streets owned by the Las Palmas I HOA, the Project’s sensitive occupants, employees, and visitors will evacuate down a long and winding road onto Woodridge Court¹ and somehow merge with many of the existing 329 homeowners & families scrambling to leave at the Las Palmas I Road intersection in the event of a fire, flood or earthquake. This will clearly cause a traffic jam and increase safety risk at Las Palmas I internal narrow streets, Las Palmas Road and River Road.

¹ Woodridge Court connects to River Run Road, which connects to Las Palmas I Road and provides access to and from River Road. Woodridge Court and River Run Court are internal Las Palmas I private roads.

The health and safety of the Las Palmas I residents would be significantly impacted by the physical change resulting from the Project² which impacts were not addressed in the SEIR. This is a fatal flaw of the SEIR.

C. Improper Form of Environmental Review In Violation of CEQA

The SEIR's use of the EIR for the Las Palmas I Specific Plan ("Specific Plan") is improper and in violation of CEQA. The Specific Plan did not contemplate the use of Parcel Q for the Project, as clearly demonstrated by the Planning Commission's decision to include an amendment to the Specific Plan.

The court in *Save Our Neighborhood v Lishman* (2006) 140 CA4th 1288, held that application of CEQA's subsequent review provisions turned on the legal question whether a proposal amounted to a "new project" rather than a modification to a previously approved project. The Project is clearly a new project not contemplated in the Specific Plan.

The *Save Our Neighborhood* court concluded that the city violated CEQA in relying on the addendum rather than conducting an independent environmental because the current project was not a modified version of the earlier project and therefore Public Resources Code § 21166 was inapplicable. Similarly here, a large commercial complex was never contemplated in the Specific Plan; Parcel Q was specifically set aside for residential units. Due to the significant diversion from the Specific Plan, Monterey County should have prepared a separate EIR, because relying on an outdated EIR for the Specific Plan is not consistent with CEQA.

D. Improper Environmental Baseline and Standards of Significance in Violation of CEQA

Because of the improper reliance on the EIR for the Specific Plan, the SEIR provided fails to adequately define the environmental baseline and standards of significance. The CEQA Guidelines call for the environmental baseline to reflect conditions as they exist early in the CEQA process. They specify that the physical environmental conditions at the time the notice of preparation is published or, if there is no notice of preparation, at the time environmental review begins "will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (14 Cal Code Regs §15125(a).) The Guidelines also provide that in assessing a project's impacts on the environment, the lead agency should "normally limit its examination to the existing physical conditions in the affected area" at the same stage of the CEQA process." (14 Cal Code Regs §15126.2.)

² A similar situation just occurred in West Chester, Pennsylvania on November 17, 2017 with a facility of approximately the same size as contemplated for RVLP. "At least 27 people were known to have been injured in a massive fire at the Barclay Friends Senior Living Community. Firefighters alone were unable to evacuate residents, many with mobility impairments". (<http://6abc.com/2659822/>)

The SEIR inadequately describes the physical conditions of the current Project area. Instead, it relies on an outdated EIR for the Specific Plan prepared in 1982. The physical conditions have changed over the past 38 years, yet the SEIR fails to recognize the same.

Of the most glaring example of an improper environmental baseline and standard of significance is the water supply analysis which relies upon the Las Palmas I Ranch Specific Plan's proposed water consumption. A new EIR would have considered the environmental baseline of Project site to be a vacant land with zero water consumption. The standard of significance would have been any additional increase in water drawn from the highly over drafted basin plagued with sea-water intrusion for which the Monterey County Board of Supervisors is currently considering prohibiting all new wells.

The reliance on an outdated EIR is a fatal flaw of the SEIR.

E. SEIR's Failure to Analyze Archeological and Cultural Resources Impacts

CEQA includes detailed standards governing an EIR's analysis of archaeological resources. (See Pub Res C §21083.2; 14 Cal Code Regs §15064.5(c)–(f).) Under the terms of AB 52 (Stats 2014, ch 532), analysis of tribal cultural resources as a category apart from historical and archeological resources is required in EIRs. AB 52 requires lead agencies to give written notice to California Native American tribes that have requested such notice and that are traditionally and culturally affiliated with the geographic area of a proposed project. (Pub Res C §21080.3.1(d).) If a tribe responds to the notice and requests consultation, that required consultation process may identify significant impacts to tribal cultural resources, mitigation measures, or project alternatives. (Pub Res C §21080.3.2.)

Identified archaeological sites CA-MNT-3, CA-MNT-4/267, CA-MNT-661, and CA-MNT-954 are located in proximity to the Project site. Investigations of the general area of the Project site concludes that the midden deposits represent significant archaeological information, with resources dating to A.D. 1000 to 1525 which remain unaffected by ranching practices. These sites have yielded evidence of human remains and past burials.

Yet, there has been no subsurface investigation of the Project site to assess the archaeological and tribal cultural resources potentially therein. Instead, Monterey County relies on an outdated report, which was prepared prior to the additional requirements for tribal cultural resource consideration. The presence of human remains adds to the significance of a cultural site, particularly under federal guidelines. Under those standards, a determination of eligibility for inclusion on the National Register of Historic Places is made using the criteria set forth in Title 36, Part 60-National Register of Historic Places.

Implementation of the proposed Project could result in the potential destruction or damage to previously undiscovered or unknown prehistoric sites, paleontological deposits, historic sites, and human remains during construction activities. This potentially significant impacts were not discussed and analyzed in the SEIR, and local tribes have not been consulted in violation of CEQA.

F. Project's Direct and Cumulatively Considerable Impact to Scenic Resources

CEQA's policy goals include providing for the enjoyment of aesthetic qualities, and the term "environment" is defined in the statute to include objects of aesthetic significance. (Pub Res C §§21001(b), 21065.) It is clear that the significant direct, indirect and cumulatively considerable visual impacts of the Project were not adequately analyzed, nor adequately mitigated to less than significant. The Project proposes to remove 80 mature Eucalyptus trees and scar the hillside by removing 60,000 cubic yards of soil for the Project. The view impacts are further exacerbated by the highly visible roads that would need to be constructed to provide access to and serve the large commercial complex, which impacts were not analyzed in the SEIR. The exposed and scarred hillside would site two large, highly visible structures, one at 27,000 square foot and 28 feet in height, and another. 21,600 square feet at approximately 30 feet in height. These would be prominently viewed from protected scenic highways and roadways. The Project structures clearly constitute ridgeline development.

State Highway 68 from State Highway 1 in Monterey to the Salinas River and River Road and Spreckels Boulevard are protected County Scenic roadways. All three roads are designated as Tourism Access Highways. The Project would be clearly visible and clash with the pastoral view and will indelibly scar the scenic beauty from the protected public views inconsistent with the following relevant General Plan policies:

Policy T-3.1 Within areas designated as "visually sensitive" on the Toro Scenic Highway Corridors and Visual Sensitivity Map (Figure 16), landscaping or new development may be permitted if the development is located and designed (building design, exterior lighting, and siting) in such a manner that will enhance the scenic value of the area. Architectural design consistent with the rural nature of the Plan area shall be encouraged.

Policy T-3.2 Land use, architectural, and landscaping controls shall be applied, and sensitive site design encouraged, to preserve Toro's visually sensitive areas and scenic entrances: a. River Road/Highway 68 intersection; and b. Laureles Grade scenic vista overlooking the Planning Area (Figure 16).

Policy T-3.6 Large acreages in higher elevations and on steeper slopes shall be preserved and enhanced for grazing, where grazing is found to be a viable use.

Policy T-1.6 Existing legal lots of record located in the critical viewshed may transfer density from the acreage within the critical viewshed to other contiguous portions of land under the same ownership, provided the resulting development meets all other Toro Area and General Plan policies.

There is really no practical and effective mitigation measure to mask this scarring of the hillside. The assertion by the Applicant that planting new vegetation can effectively compensate for removing 80 mature Eucalyptus trees and mask the long winding access road and large looming structures is simply not based in reality. To put it another way, this ridgeline development cannot realistically be hidden from public view by shrubbery or tree landscaping. The removal of the

Eucalyptus groves, coupled with the prominent location of multiple story facilities on an exposed elevated knoll, long winding access road, and paved roads to serve the large commercial complex would be clearly be visible both during the day and at night. Light nuisance for this 24-hour care facility will clearly be a significant impact. Accordingly, the sole resolution is to allow the Project site in the critical viewshed to transfer density in order to preserve the protected scenic views.

G. Project's Direct, Indirect and Cumulatively Considerable Impacts to Air Quality Inadequately Analyzed and Mitigated

The SEIR inadequately analyzes the air quality impacts associated with the Project. It fails to provide critically important information about the frequency, duration, and extent of the impact. (See, e.g., *City of Long Beach v City of Los Angeles* (2018) 19 CA5th 465, 482.) The SEIR also fails to correlate adverse air pollution effects with indirect health effects. In *Sierra Club v County of Fresno* (2018) 6 C5th 502, the California Supreme Court held that an EIR's discussion of the public health impacts from air pollution the project would generate was legally inadequate because it did not explain the likely nature and magnitude of those impacts or indicate why such information could not be provided.

Monterey County, particularly due to agriculture operations, is high in particulates. The area of the Project site is quite windy and excessive particulate matter from the Project construction, particularly the significant amount of grading (60,000 cubic yards of cut and 34,500 cubic yards of fill *and likely significantly more due to road construction*) in addition to the removal of 80 mature Eucalyptus trees would result in direct, indirect and cumulatively considerable particulate emission impacts as a result of the Project. Trucking significant amount of soil offsite (depending on truck capacity of 10 to 14 cubic yards) will require ~ 7,000 to 9,000 truck round trips and would substantially add to exhaust fumes that would directly and adversely impact air quality.

Finally, the extensive disturbance of the Parcel Q will result in significant exposure to virus Coccidioidomycosis. Monterey County is a Valley Fever endemic area. The Parcel Q site is undisturbed land, and as such, has a higher loading of this virus than cultivated farming soils. Disturbing almost 16 acres of soil for construction will inevitably pose great risk of spreading this virus (Coccidioidomycosis) to Las Palmas I residential community and beyond. In a study conducted in the nearby San Luis Obispo area, a solar farm construction site on virgin grazing land, produced 44 cases of VF among the workers at an approx. 1.2% rate. (Emerg Infect Dis. 2015 Nov; 21(11) 1997-2005.) A significantly higher number of C. Immintis cases has been observed in Monterey County over the last 3 years, 77 in 2016 vs. 240 in 2019. (Monterey County Health Advisory, Edward Moreno, Health Officer, 1-22-20) The SEIR fails to analyze the direct, indirect and cumulatively considerable air quality impacts, which would result in significant harm to Las Palmas I residents.

H. Project's Liquefaction, Landsliding, Erosion and Sedimentation Impacts Not Adequately Analyzed, Nor Sufficiently Mitigated

The Project site is located in the Coast Ranges Geomorphic Province, which is a discontinuous series of mountain ranges, ridges, and intervening valleys characterized by complex folding and faulting. The geologic structures within the Coast Ranges Geomorphic Province are greatly influenced by the San Andreas fault system.

Soil liquefaction occurs where saturated, cohesionless, or granular soils undergo a substantial loss in strength due to excess build-up of water pressure within the pores during cyclic loading such as earthquakes. Due to the loss of strength, soils gain mobility that can result in significant deformation, including both horizontal and vertical movement where the liquefied soil is not confined. Intensity and duration of seismic shaking, soil characteristics, overburden pressure, and depth to water are all primary factors affecting the occurrence of liquefaction. Soils most susceptible to liquefaction are saturated, loose, clean, uniformly graded, Holocene age, and fine-grained sand deposits. Silts and silty sands have also been proven to be susceptible to liquefaction or partial liquefaction.

Regional studies have identified the alluvial soils at the Project site as having a high potential for liquefaction. Lateral Spreading, Dynamic Compaction, and Seismic Settlement Lateral spreading are potential hazards commonly associated with liquefaction where extensional ground cracking and settlement occur as a response to lateral migration of liquefied subsurface materials beneath a slope, or even beneath level ground, particularly since, for this Project, an open topographic face is nearby.

Placement of new structures at the Project site upon extensive grading could result in structural damage and associated human safety hazards resulting from seismic ground shaking caused by earthquakes on nearby active and potentially active faults. The Project also proposes to significantly cut into the hillside and remove 80 mature Eucalyptus trees and thus would increase the likelihood of slope failure, landsliding and liquefaction hazard. This would be considered a potentially significant impact.

The SEIR failed to adequately analyze direct, indirect and cumulative considerable liquefaction, landsliding and erosion impacts as a result of the Project. These are real and known impacts in the Project area. For example, Las Palmas I historically experienced serious mudslides on its perimeter slopes below the Project site. As recently as February 2017, there was a severe mudslide near Country Park Road in the 20100 to 21056 area. This mudslide blocked drainage of a Las Palmas I storm drain nearby. Several adjacent homes were nearly flooded and only emergency efforts by neighbors and Salinas Fire Department personnel narrowly averted serious home damage.

I. Project Prohibited from Proceeding Under General Plan Policy T-4.1

The Project proposes to cover 190,000 square feet (4.36 acres) of highly permeable surfaces with impermeable surfaces (pavement, roads and buildings). Stormwater from the Project site would flow downhill into Las Palmas I drainage system. The Applicant has made (without

approval from the Las Palmas I HOA Board) an 8” pipe connection from a Parcel Q hillside location to the Las Palmas I HOA storm water drainage system. This LPI system is more than 30 years old and at capacity to meet its own needs and thus incapable of absorbing additional loading. Available information for the “Conceptual Storm Drain System” provided by the Applicant does not provide specifications and calculations to demonstrate that the existing system can adequately handle the stormwater load on site or to demonstrate capacity to discharge its own stormwater loading through evaporation and or percolation.

General Plan policy OS-3.3 requires that the County of Monterey establish criteria for studies of such hazard and other hazards posed by the Project as follows:

OS-3.3 Criteria for studies to evaluate and address, through appropriate designs and BMPs, geologic and hydrologic constraints and hazards conditions, such as slope and soil instability, moderate and high erosion hazards, and drainage, water quality, and stream stability problems created by increased stormwater runoff, shall be established for new development and changes in land use designations.

It is clear that the implementation of the proposed Project would result in an increase in long-term surface runoff that may contain urban contaminants that would have an adverse impact on surface water quality. Implementation of the proposed Project would convert highly permeable undeveloped land area to an impermeable large commercial complex that would generate increased quantities of localized stormwater runoff. This would be considered significant direct and cumulative impacts.

Implementation of the proposed Project would result in an increase in long-term surface runoff that may contain urban contaminants that would have an adverse impact on surface water quality. The captured stormwater would eventually release into the river and stream system and the waterbody systems must be protected as set forth General Plan Policy OS-4.3:

OS-4.3 Estuaries, salt and fresh water marshes, tide pools, wetlands, sloughs, river and stream mouth areas, plus all waterways that drain and have impact on State Monterey County General Plan Conservation/Open Space Element October 26, 2010 Page C/OS-9 designated Areas of Special Biological Significance (ASBS) shall be protected, maintained, and preserved in accordance with state and federal water quality regulations.

As currently proposed and mitigated in the SEIR, the Project is prohibited from development as set forth in General Plan Policy T-4.1 which states as follows:

Land uses and practices that may contribute to significant increases of siltation, erosion, and flooding in the Toro area *shall* be prohibited.

Any inconsistency with the general plan must first need to be cured before the Project can be approved. The inconsistency is also evidence that the inconsistent Project feature will result in a significant environmental effect. An inconsistency indicates a likelihood of environmental harm

and thus requires a careful review of any potential impacts. An inconsistency also supports the conclusion that the underlying physical impact is significant.

J. Project's Direct and Cumulatively Considerable Impacts to Groundwater Resources and No Long-Term Water Supply Available for the Project

The Project site lies within the Salinas Valley Groundwater Basin. Over the years, the Salinas Valley Groundwater Basin has experienced overdraft, a condition where more water is pumped out of an aquifer than is recharged on an average yearly basis. This overdraft condition causes a decline in the water level, which allows seawater intrusion to occur or streams and rivers to go dry.

The proposed Project would be served by California Water Service Company ("CWSC"). Water for the Project is presumed to be procured from a well or wells located in the Spreckels area, along River Road in CWSC's Salinas Hills System, which pump groundwater from the 180/400-Foot Aquifer Subbasin of the Salinas Valley Groundwater Basin. The 180/400 Foot Aquifer Subbasin is subject to significant and unreasonable seawater intrusion due largely to long-term groundwater extraction in the inland portions of the Subbasin in excess of the sustainable yield. As a result, it has been identified by DWR as being in a critical condition of overdraft, and the Monterey County Board of Supervisors is currently deliberating on whether to disallow any new well in the Subbasin.

Over the years, many wells have gone out of production or have had to be redrilled deeper due to seawater intrusion. As discussed in detail later on, the SEIR does not describe the CWSC well or wells that would serve the Project and thus, it is not known whether there is a potential for the well(s) that serves the Project to go out of production. Seawater intrusion is the migration of ocean water inland into the freshwater aquifers. This condition is induced by pumping groundwater from the basin faster than the aquifers can be recharged. Seawater intrusion has been accelerated in the Salinas Valley Groundwater Basin due to decreased groundwater recharge and increased groundwater pumping.

Implementation of the proposed Project would result in the extraction of groundwater from the 180/400-Foot Aquifer Subbasin of the Salinas Valley Groundwater Basin, within which arsenic, total dissolved solids, and nitrates are of particular concern. Implementation of the proposed Project would result in a gross increase in groundwater pumping which would result in an increased long-term water demand on the Salinas Valley Groundwater Basin.

Because the SEIR failure to disclose the CWSC well(s) supplying water to the Project, the analysis of the water supply is incomplete, inadequate and fails to meet the requirements of CEQA. The court in *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App. 3d 818, 822 ruled an EIR inadequate because the EIR failed to provide a description of the facilities that would have to be constructed to deliver water to the mining operation. Similar to the SEIR for the Project, the EIR in Santiago County Water District was ambiguous as to the ability of the water district to

meet the water requirements of the project, and it was silent about the effect of that delivery on water service elsewhere in the district's jurisdiction.

A detailed description of the Project's water supply source is particularly important since the Monterey County Board of Supervisors is currently deliberating to prohibit any new well in the 180-400 Subbasin due to the overdraft and seawater intrusion conditions. The precise location of well(s), water quality of the well(s) and back water well source must be included in the SEIR in order to adequately analyze the environmental impacts to water supply --- otherwise, "the ultimate decision of whether to approve a project requiring the preparation of an environmental impact report, be that decision right or wrong, is a nullity if based on an environmental impact report that does not provide the decision makers and the public with the information about the project that is required by the California Environmental Quality Act." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App. 3d 818, 822.)

The Applicant also failed to prove long-term, sustainable water supply exists for the Project as required under the following relevant sections of the General Plan policies:

PS-3.1 Except as specifically set forth below, new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development....

PS-3.2 Specific criteria for proof of a Long-Term Sustainable Water Supply and an Adequate Water Supply System for new development requiring a discretionary permit, including but not limited to residential or commercial subdivisions, shall be developed by ordinance with the advice of the General Manager of the Water Resources Agency and the Director of the Environmental Health Bureau. A determination of a Long-Term Sustainable Water Supply shall be made upon the advice of the General Manager of the Water Resources Agency.

PS-3.5 The Monterey County Health Department shall not allow construction of any new wells in known areas of saltwater intrusion as identified by Monterey County Water Resources Agency or other applicable water management agencies:
a. Until such time as a program has been approved and funded that will minimize or avoid expansion of salt water intrusion into useable groundwater supplies in that area; or
b. Unless approved by the applicable water resource agency. This policy shall not apply to deepening or replacement of existing wells, or wells used in conjunction with a desalination project.

Monterey County Water Resources Agency, the agency responsible for securing water supply for Monterey County, made the same comment to the Draft SEIR for the Project, which were inadequately addressed in the Final SEIR.

K. Direct, Indirect and Cumulatively Considerable Noise Impacts Insufficient Analyzed and Mitigated

The goal of providing Californians with "freedom from excessive noise" is included among CEQA's basic policies. (Pub Res C §21001(b).) Under the definition of the term "environment" in Public Resources Code §21060.5, noise is included as a physical condition that may be affected by a proposed project. The Guidelines definition clarifies this reference by using the term "ambient noise" to describe the physical condition that could be changed by a project. (14 Cal Code Regs §15360.)

Due to the elevation of the proposed Project site, commercial vehicles arriving and leaving 24/7 will gear down with attendant increased mechanical noise. The topography of the hills coupled with the canyon below would amplify this objectionable road noise. First responder units would arrive to the proposed senior care facility on an expected basis of 2-3 times per week as is typical for this type of facility. While the applicant claims, without any basis, that such emergency calls will not trigger operation of sirens, actual experience demonstrates that the drivers of emergency vehicles can and do operate these sirens. Again, such calls may occur at any time in a 24-hour period, the adjacent neighborhood will be subjected to such jarring noise when people are sleeping at night, and also, for those Las Palmas I shift workers, during their daytime rest periods. During operation, the large number of installed alarm and security devices required by the California Fire Code represent another major source of noise. The elimination of 80 Eucalyptus trees and brush as part of the Project would reduce the natural buffers from noise for the Las Palmas I residential community. None of the above factors were considered in the SEIR.

The Project would clearly generate noise to an unacceptable level inconsistent with the following General Plan policies:

S-7.3 Development may occur in areas identified as "normally unacceptable" provided effective measures to reduce both the indoor and outdoor noise levels to acceptable levels are taken.

S-7.4 New noise generators may be allowed in areas where projected noise levels (Figure 10) are "conditionally acceptable" only after a detailed analysis of the noise reduction requirements is made and needed noise mitigation features are included in project design.

S-7.5 New noise generators shall be discouraged in areas identified as "normally unacceptable." Where such new noise generators are permitted, mitigation to reduce both the indoor and outdoor noise levels will be required.

Any inconsistency with the general plan must first need to be cured before the Project can be approved. The inconsistency is also evidence that the inconsistent Project feature will result in a significant environmental effect. An inconsistency indicates a likelihood of environmental harm and thus requires a careful review of any potential impacts. An inconsistency also supports the conclusion that the underlying physical impact is significant.

The court in *Berkeley Keep Jets Over the Bay Comm. v Board of Port Comm'rs* (2001) 91 CA4th 1344 rejected the EIR's exclusive reliance on a cumulative noise descriptor (the Community Noise Equivalent Level) as the sole indicator of the noise impacts of expanding cargo flight operations at an airport. The court found the impact assessment did not provide a meaningful analysis of the increase in the number of nighttime flights resulting from the project, the changes to noise levels in quiet residential areas that would result, and the community reaction to those changes in the nighttime noise environment. (*Berkeley Keep Jets, supra*, 91 CA4th at 1381.)

The same conclusion could be reached here. Currently, Las Palmas I I is a peaceful and tranquil neighborhood. Noise introduced by the Project would permanently disrupt the Las Palmas I quiet and peaceful residential neighborhood, which significant direct, indirect and cumulative impacts were inadequately analyzed and mitigated in the SEIR.

L. Project's Direct, Indirect and Cumulatively Considerable Impacts to Biological Resources

Under the mandatory standards of significance in 14 Cal Code Regs §15065(a)(1), when a lead agency is determining whether to prepare a negative declaration or an EIR for a project, it must find that the project will have a significant effect on the environment, and require that an EIR be prepared, the lead agency must analyze whether the project has the potential to reduce substantially the number or restrict the range of an endangered, rare, or threatened species. When an EIR is prepared, these standards are used to identify the potentially significant effects to be analyzed in depth in the EIR. (14 Cal Code Regs §15065(c)(1).)

Wildlife corridors refer to established migration routes commonly used by resident and migratory species for passage from one geographic location to another. Corridors are present in a variety of habitats and link otherwise fragmented acres of undisturbed area. Maintaining the continuity of established wildlife corridors is important to sustain species with specific foraging requirements, preserve a species' distribution potential, and retain diversity among many wildlife populations. A wide range of terrestrial wildlife species are known to occur in the immediate vicinity of the Project site, including American badger, mountain lion, bobcat (*Lynx rufus*), black-tailed deer (*Odocoileus hemionus*), and coyote (*Canis latrans*). Moreover, Tiger Salamander has been observed in the area of the Project property. The Project would have direct, indirect and cumulatively considerable impacts to biological resources which has not been adequately analyzed in the SEIR.

The Project is also clearly inconsistent with the General Plan policies specific to protecting biological resources, including:

OS-5.24 The County shall require discretionary projects to retain movement corridors of adequate size and habitat quality to allow for continued wildlife use based on the needs of the species occupying the habitat.

Any inconsistency with the general plan must first need to be cured before the Project can be approved. The inconsistency is also evidence that the inconsistent Project feature will result in a





significant environmental effect. An inconsistency indicates a likelihood of environmental harm and thus requires a careful review of any potential impacts. An inconsistency also supports the conclusion that the underlying physical impact is significant.

Thank you for this opportunity to comment on the SEIR.

Sincerely,
Las Palmas I Residents & Homeowners

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Name: <u>Anne Sanchez</u> Signature: <u>Anne Sanchez</u>	Name: <u>Julie Sutliff</u> Signature: <u>Julie Sutliff</u>
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Name: <u>Debbie Tangran</u> Signature: <u>Debbie Tangran</u>	Name: <u>Cindy Frye</u> Signature: <u>Cindy Frye</u>
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Name: <u>Nancy Montana</u> Signature: <u>Nancy Montana</u>	Name: <u>Greg Louder</u> Signature: <u>Greg Louder</u>



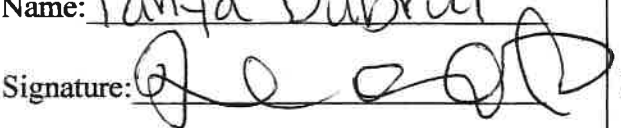
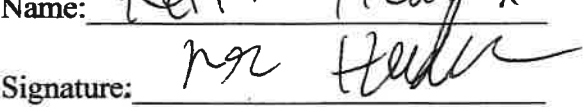
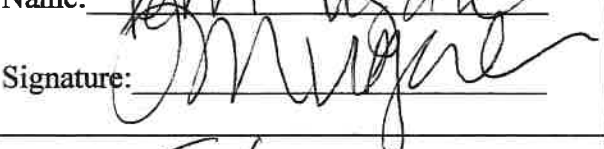







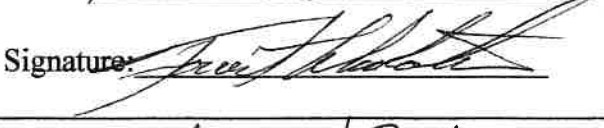


Name: <u>Jayne Carolan</u> Signature: <u>Jayne Carolan</u>	Name: <u>Celine Dalby</u> Signature: <u>C.M. Dalby</u>
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Name: <u>STEPHEN A. HURST</u> Signature: <u>Stephen A. Hurst</u>	Name: <u>Brad Caraccioli</u> Signature: <u>BC</u>
Name: <u>SUSAN M. HURST</u> Signature: <u>Susan M. Hurst</u>	Name: <u>Michael Rodriguez</u> Signature: <u>Mike Rodriguez</u>
Name: <u>JOHN PARKS</u> Signature: <u>John Parks</u>	Name: <u>KERRY UYEDA</u> Signature: <u>Kerry Uyeda</u>
Name: <u>Amanda Puck</u> Signature: <u>Amanda Puck</u>	Name: <u>TOMOKA OGAKI</u> Signature: <u>Tomoko Ogaki</u>
Name: <u>Chris Puck</u> Signature: <u>Chris Puck</u>	Name: <u>Albert R. Smith</u> Signature: <u>Albert R. Smith</u>
Name: <u>GREGORY CHEE</u> Signature: <u>Gregory Chee</u>	Name: <u>LAPRA D. SMITH</u> Signature: <u>Lapra D. Smith</u>
Name: <u>NASIR UDDIN</u> Signature: <u>Nasir Uddin</u>	Name: <u>Russell D. Schwanz</u> Signature: <u>Russell D. Schwanz</u>

Name: <u>Roberta Sonniksen</u> Signature: <u>Roberta Sonniksen</u>	Name: <u>Denise Donati</u> Signature: <u>Denise Donati</u>
Name: <u>Theresa Sonniksen</u> Signature: <u>Theresa Sonniksen</u>	Name: <u>William Donati</u> Signature: <u>William Donati</u>
Name: <u>Dorey Cardinale</u> Signature: <u>Dorey Cardinale</u>	Name: <u>JACOB CROZCO</u> Signature: <u>Jacob Crozco</u>
Name: <u>JEFFREY DITTRICH</u> Signature: <u>Jeffrey Dittich</u>	Name: <u>DESIREE CROZCO</u> Signature: <u>Desiree Crozco</u>
Name: <u>Robin Mathews-Johnson</u> Signature: <u>Robin Mathews-Johnson</u>	Name: <u>Sandra DePaoli Heath</u> Signature: <u>Sandra DePaoli Heath</u>
Name: <u>Mark D. Miller</u> Signature: <u>Mark D. Miller</u>	Name: <u>Myeongju Miller</u> Signature: <u>Myeongju Miller</u>
Name: <u>Kathy Antle</u> Signature: <u>Kathy Antle</u>	Name: <u>Mark Yamaguchi</u> Signature: <u>Mark Yamaguchi</u>
Name: <u>OTAVIO BERNARDO</u> Signature: <u>Otávio Bernardo</u>	Name: <u>Seila Bernardo</u> Signature: <u>Seila Bernardo</u>

Name: <u>Glady's Allen</u> Signature: <u>Glady's Allen</u>	Name: <u>RITA MOSS</u> Signature: <u>Rita Moss</u>
Name: <u>Jim Kirby</u> Signature: <u>Jim Kirby</u>	Name: <u>MADHAV MUKUNDAN</u> Signature: <u>M Madhav</u>
Name: <u>Sean Faroe</u> Signature: <u>Sean</u>	Name: <u>ROBERT ALLEN</u> Signature: <u>Robert Allen</u>
Name: <u>David Tucker</u> Signature: <u>D</u>	Name: <u>Erin Mukundan</u> Signature: <u>Erin</u>
Name: <u>Jerry L. Crawford</u> Signature: <u>Jerry L. Crawford</u>	Name: <u>PAUL CLIFTON</u> Signature: <u>Paul Clifton</u>
Name: <u>Kathleen Vesti</u> Signature: <u>Kathleen Vesti</u>	Name: <u>Rebecca Clifton</u> Signature: <u>Rebecca Clifton</u>
Name: <u>Dayne E. NIX</u> Signature: <u>Dayne E. Nix</u>	Name: <u>MARIE A. CATER</u> Signature: <u>Marie A. Cater</u>
Name: <u>Linda K. Nix</u> Signature: <u>Linda K Nix</u>	Name: <u>Greg Cater</u> Signature: <u>Gregory H. Cater, D.C.</u>

Name: <u>Robin Welch</u> Signature: <u>[Signature]</u>	Name: <u>Shelley Donati</u> Signature: <u>[Signature]</u>
Name: <u>Cory Welch</u> Signature: <u>[Signature]</u>	Name: <u>Jimina Ratliff</u> Signature: <u>[Signature]</u>
Name: <u>Julia Yamaguchi</u> Signature: <u>[Signature]</u>	Name: <u>Leonid Ivanov</u> Signature: <u>[Signature]</u>
Name: <u>Janet Barstad</u> Signature: <u>[Signature]</u>	Name: <u>Ralph Sutliff</u> Signature: <u>[Signature]</u>
Name: <u>[Signature]</u> Signature: <u>TOM DRISKILL</u>	Name: <u>C. Denise Benoit</u> Signature: <u>C. Denise Benoit</u>
Name: <u>Jocelyn Driskill</u> Signature: <u>[Signature]</u>	Name: <u>Stephen L. Dodd</u> Signature: <u>[Signature]</u>
Name: <u>Isabela Bernardo</u> Signature: <u>[Signature]</u>	Name: <u>Adam Kirk</u> Signature: <u>[Signature]</u>
Name: <u>David Ratliff</u> Signature: <u>[Signature]</u>	Name: <u>Takako Sugawara-Kirk</u> Signature: <u>[Signature]</u>

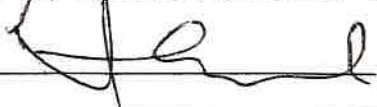

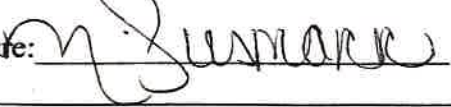


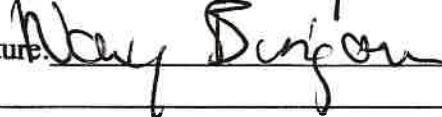


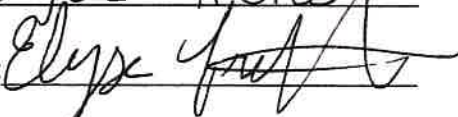

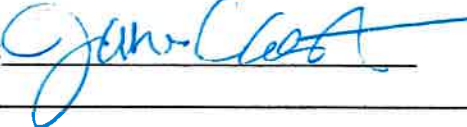





Name: <u>Thomas Merrill</u> Signature: 	Name: <u>Lan Clayton</u> Signature: 
Name: <u>Tanya Dubrul</u> Signature: 	Name: <u>Keith Hedlund</u> Signature: 
Name: <u>Jami Ugalde</u> Signature: 	Name: <u>Avil Lewis</u> Signature: 
Name: <u>Ted UGALDE</u> Signature: 	Name: <u>Anita Cochetti</u> Signature: 
Name: <u>Steven Lempyan</u> Signature: 	Name: <u>Jamie Bellaw</u> Signature: 
Name: <u>Amanda Woolberton</u> Signature: 	Name: <u>Robert Bellaw</u> Signature: 
Name: <u>Forest Woolberton</u> Signature: 	Name: <u>Chad Pattullo</u> Signature: 
Name: <u>MR^M</u> Signature: <u>MARCUS Booker</u>	Name: <u>Yvonne Pattullo</u> Signature: 


Name: <u>Darrin Kirk</u> Signature: <u>Darrin Kirk</u>	Name: <u>Cynthia Grover</u> Signature: <u>Cynthia Grover</u>
Name: <u>Wilbur Lee</u> Signature: <u>Wilbur Lee</u>	Name: <u>SCOTT COOPER</u> Signature: <u>Scott Cooper</u>
Name: <u>Cordelia Lee</u> Signature: <u>Cordelia</u>	Name: <u>Kimberly Lang</u> Signature: <u>Kim Lang</u>
Name: <u>Martin R. Johnson</u> Signature: <u>Martin R. Johnson</u>	Name: <u>Nick Ferreri</u> Signature: <u>Nick Ferreri</u>
Name: <u>Roberta Pastorino</u> Signature: <u>Roberta Pastorino</u>	Name: <u>Megan Ferreri</u> Signature: <u>Megan Ferreri</u>
Name: <u>Melody McDonald</u> Signature: <u>Melody McDonald</u>	Name: <u>Carol Stanley</u> Signature: <u>Carol Stanley</u>
Name: <u>MARIA F. GONCALVES</u> Signature: <u>Maria F. Goncalves</u>	Name: <u>Heather Martin</u> Signature: <u>Heather Martin</u>
Name: <u>Sheila Keifer</u> Signature: <u>Sheila Keifer</u>	Name: <u>Joseph Math</u> Signature: <u>Joseph Math</u>

Name: <u>Chad Furaccoli</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>MARGARET MCINTOSH</u> Signature: <u>Margaret McIntosh</u>
Name: <u>ARMINA ZENAH</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>Janet JONAH</u> Signature: <u>Janet E. Jones</u>
Name: <u>Melissa Fanning</u> Signature: <u>Melissa Fanning</u>	Name: <u>Wendy Waters</u> Signature: <u>Wendy Waters</u>
Name: <u>Jennifer M. Lukacik</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>Jeremy Barton</u> Signature: <u>[Handwritten Signature]</u>
Name: <u>Javier Alda</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>Vincent CARDINALE</u> Signature: <u>Vincent Cardinale</u>
Name: <u>Tara Baker</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>Angie Cardinale</u> Signature: <u>Angie Cardinale</u>
Name: <u>TONY Baker</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>Daniel M. Wambert</u> Signature: <u>[Handwritten Signature]</u>
Name: <u>BOB EVANS</u> Signature: <u>[Handwritten Signature]</u>	Name: <u>San Eula</u> Signature: <u>Laura Escarilla</u>

Name: <u>Joe Martin</u> Signature: <u>Joe Martin</u>	Name: <u>Laurie Fibro</u> Signature: <u>Laurie Fibro</u>
Name: <u>Samantha Moser</u> Signature: <u>S. Moser</u>	Name: <u>Maurcen Brandes</u> Signature: <u>Maurcen Brandes</u>
Name: <u>Cory Allen</u> Signature: <u>Cory Allen</u>	Name: <u>Ed Brandes</u> Signature: <u>Edward Brandes</u>
Name: <u>Adrian Johansen</u> Signature: <u>Adrian Johansen</u>	Name: <u>Jennell Brokenstedt</u> Signature: <u>Jennell Brokenstedt</u>
Name: <u>Babette J. Black</u> Signature: <u>Babette J. Black</u>	Name: <u>Sue McFeron</u> Signature: <u>Sue McFeron</u>
Name: <u>Mary Koch</u> Signature: <u>Mary Koch</u>	Name: <u>Becky Rodriguez</u> Signature: <u>B. Rodriguez</u>
Name: <u>LESLIE CERDA</u> Signature: <u>Leslie Cerda</u>	Name: <u>Rita Amuniz</u> Signature: <u>Rita Amuniz</u>
Name: <u>Pamela G. Keenan</u> Signature: <u>Pamela G. Keenan</u>	Name: <u>Joe Mitchell</u> Signature: <u>Joe Mitchell</u>

Name: <u>Pawko Patz</u> Signature: <u>[Signature]</u>	Name: <u>Susilo Ordonez</u> Signature: <u>TEOFILO Ordonez</u>
Name: <u>Jack Levy</u> Signature: <u>Jack Levy</u>	Name: <u>Nelia O. Ordonez</u> Signature: <u>Nelia O. Ordonez</u>
Name: <u>Helga Dresser</u> Signature: <u>[Signature]</u>	Name: <u>Lindsay Momiza</u> Signature: <u>[Signature]</u>
Name: <u>Henry White</u> Signature: <u>[Signature]</u>	Name: <u>Emogene Jenkins</u> Signature: <u>Emogene Jenkins</u>
Name: <u>Joe Parrish</u> Signature: <u>[Signature]</u>	Name: <u>Julie Freese</u> Signature: <u>Julie Freese</u>
Name: <u>Marc Thornton</u> Signature: <u>Marc Thornton</u>	Name: <u>Carl Freese</u> Signature: <u>Carl</u>
Name: <u>Cathy Thornton</u> Signature: <u>[Signature]</u>	Name: <u>Anthony Freese</u> Signature: <u>[Signature]</u>
Name: <u>RICH ORDONEZ</u> Signature: <u>Rich Ordonez</u>	Name: <u>Yukiko Yonemitsu</u> Signature: <u>[Signature]</u>

Name: <u>Angela Caraccioli</u> Signature: <u></u>	Name: <u>Payle Todd Scranton</u> Signature: <u></u>
Name: <u>Michelle Susman</u> Signature: <u></u>	Name: <u>Rosert Scranton</u> Signature: <u></u>
Name: <u>Kurt Krieg</u> Signature: <u></u>	Name: <u>Nany Bringham</u> Signature: <u></u>
Name: <u>Nany Tran</u> Signature: <u></u>	Name: <u>Maree Bingham</u> Signature: <u></u>
Name: <u>Elyse Trefts</u> Signature: <u></u>	Name: <u>Scott Porter</u> Signature: <u></u>
Name: <u>Jane Caestecker</u> Signature: <u></u>	Name: <u>Mary Jane Scranton</u> Signature: <u></u>
Name: <u>William Susman</u> Signature: <u></u>	Name: <u>Nicole Neilson</u> Signature: <u></u>
Name: <u>Stephanie Trost</u> Signature: <u></u>	Name: <u>Mark Neilson</u> Signature: <u></u>

Name: <u>Picayto Leekesma</u>	Name: _____
Signature: 	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Signature: _____	Signature: _____

References:

(Bernardo, 2020) Fire Code Requirements (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

(Schwanz, 2020) Fire Danger (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

(Ratliff, 2019) Emergency Evacuation (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

(Dalby, 2020) Stormwater Removal (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

(Crawford, 2020) Air Quality Concerns (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

(Gobets, 2020) Visual Impact (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

https://www.waterboards.ca.gov/rwqcb3/water_issues/programs/tmdl/docs/salinas/lower_fecal/sal_fc_tmdl_appndx_c_spillshomeless.pdf (see pp.5/11)

Dalby Report (As entered into the record for October 2019 & February 2020 Planning Commission Hearings)

RVLP DSEIR

RVLP FSEIR

Sidor, Joe (Joseph) x5262

From: ClerkoftheBoard
Sent: Tuesday, June 15, 2021 12:02 PM
To: 100-BoS Everyone; McKee, Charles J; Girard, Leslie J. x5365; Bokanovich, Karina T. x5113
Cc: Sidor, Joe (Joseph) x5262; Spencer, Craig x5233; Dugan, John x6654; Lundquist, Erik
Subject: FW: PLN150372

Hello good afternoon,

Below is an e-mail that the Clerk of the Board received regarding: River View at Las Palmas Assisted Living Senior Facility.

Thank you,
Julian Lorenzana
Board of Supervisors Clerk
County of Monterey Clerk of the Board
Government Center, 168 West Alisal Street, Salinas Ca. 93901
(831) 796-3077 lorenzanaj@co.monterey.ca.us

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

From: TOM MERCURIO <aemt5@aol.com>
Sent: Tuesday, June 15, 2021 11:14 AM
To: ClerkoftheBoard <cob@co.monterey.ca.us>
Subject: PLN150372

[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.]

To the Board of Supervisors of Monterey County Ca.

My name is Tom Mercurio and am a resident of the Las Palmas 1 community. There is an agenda item, RVLP proposed skilled nursing facility.(PLN 150372)that will be coming before you at your next Board of Supervisors meeting that I would like to comment on.

There are serious issues regarding the safe evacuation of this proposed facility in the event of an emergency(i.e. fire, earthquake, etc.) as it relates to the Counties Fire and Building Codes that I would like to make you aware of that has not been previously addressed by the developer of Parcel Q.

CA. FIRE CODE, SECTION 503 FIRE APPARATUS ACCESS ROADS Section 503.2.3-Surface-Fire apparatus roads of which Woodridge Ct. is a part of ,shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-whether driving capabilities. Woodridge Ct. is owned by the Las Palmas 1 H.O.A. and the developer would have to gain its approval in order to accomplish this, which to date has not been done.

.Section 503.7.7.1 Paving-All fire apparatus access roads over eight (8) percent, of which Woodridge Ct. is a part of, shall be paved with a minimum 0.17 feet of asphaltic concrete on 0.34 of aggregate base. Wood ridge Ct. again is owned by the Las Palmas 1 H.O.A. In order to comply with this section of the Fire Code, the developer would have to have an approval by the Las Palmas 1 H.O.A. in order to accomplish this requirement. As of this date no such approval has been given.

.Section 503.2.8-Dead Ends. Dead end fire apparatus access roads in excess of 150 feet(45 720mm) in length shall be provided with an approved area for turning around the apparatus. Once again this dead end road, of which Woodridge

Ct. is a part of, is owned by the Las Palmas 1 H.O.A. and its approval for for this has not been given to the developer. Note-Looped roads, which is being proposed by the developer, is the same as a dead end road.

MONTEREY COUNTY ORDINANCE 5337 ADOPTION OF THE 2019 CA. BUILDING STANDARDS Section P102 Roads p.102.2 Road access(FIRE 001) Within this section it states that "the roadway surface shall provide unobstructed access to conventional drive vehicles including sedans and fire apparatus and shall be an all-weather surface designed to support the imposed load of fire apparatus(75,000) pounds). Each road shall have an approved name." NOTE-A portion of the fire access road is Woodridge Ct. and is presently a dirt surface. At this time the Las Palmas 1 H.O.A. has not giving approval for the surface of Woodridge Ct. to be paved in accordance with this section of the Monterey County 5337 adoption of the 2019 C. Building Standards.

P102.3 Roadway engineering-Within this section it states "Roadway turnarounds shall be required on dead-end roads in excess of one hundred Fifty (150) feet of surface length. The turning radius for a turnaround shall be forty(40) feet from the center line of the road. If a hammerhead T is used, the top of the "T" shall be a minimum of sixty(60) feet in length." Woodridge Ct. which is owned by the Las Palmas 1 H.O.A. would be a part of the dead end road.

NOTE-The length of the dead end road from the intersection of River Rd. and Las Palmas Rd. to the proposed facility exceeds the required 150 ft. surface length. While the proposed access road to the facility is a "looped" road, a looped road is in fact the same as a dead end road.

Lastly, it is my understanding that such issues, as stated above, need to be resolved prior to the granting of a Use Permit. Myself and my fellow homeowners have voted against allowing this proposed project to proceed and have the backing of our H.O.A. Based on this, the granting of a Use Permit should be denied. I hope that the board so addresses these concerns prior to the granting of any Use Permit.

Sincerely,

Tom Mercurio
21001 Country Park Rd.
Salinas, Ca. 93908
805 455 8468

July 5th, 2021

To Monterey County Supervisors

My name is Tom Mercurio and am a resident of the Las Palmas 1 community. There is an agenda item, RVLP proposed Assisted Living Senior Community ,(PLN150372) that will be coming before you at your next board of supervisors meeting that I would like to comment on.

There are serious issues regarding the safe evacuation of this proposed facility in the event of an emergency i.e. fire, earthquake, etc. as it relates to the Counties Fire and Building Codes that I would like to make you aware of that has not been addressed by the developer of Parcel Q.

CA. FIRE CODE, SECTION 503. FIRE APPARATUS ACCESS ROADS

Section 503.2.3-Surface-Fire apparatus roads. of which Woodridge Ct. is part of , shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities) Woodridge Ct. is owned by the Las Palmas 1 H.O.A. and the developer would have to gain its approval in order to accomplish this, which to date has not been done.

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.Section 503.2.8-Dead Ends. Dead end fire apparatus access roads in excess of 150 feet(45 720 mm) in length shall be provided with an approved area for turning around the apparatus. Once again this dead end road, of which Woodridge Ct. is a part of, is owned by the Las Palmas 1 H.O.A. and its approval for this has not been given to the developer. **NOTE**-Looped roads, which is being proposed by the developer, is the same as a dead end road.

MONTEREY COUNTY ORDINANCE 5337 ADOPTION OF THE 2019 CA. BUILDING STANDARDS

Section P102 Roads

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Sincerely,

Tom Mercurio
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Salinas, Ca. 93908
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