

Attachment J

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July 31, 2024

Zoe Zepp
Monterey County Resource Management Agency – Planning
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901

Via Email: ceqacomment@co.monterey.ca.us;
zeppz@co.monterey.ca.us

Via Facsimile to (831) 757-9516

Re: River View at Las Palmas LLC (PLN 150372)

Dear Ms. Zepp,

This comment letter is sent as a final statement of the concern we have raised previously regarding the conditions to the proposed project's need to include some type of "right to farm" language. We have expressed our concerns at all previous hearings for project currently proposed and the prior senior housing proposal for the River View property.

Our company is the owner of the Ferrini Ranch property, which is adjacent to the proposed River View project. We always strive to be good neighbors and work cooperatively with owners of adjacent or proximate properties. Having said that, we do want to ensure that, in approving the River Project, the County takes the following into consideration; A) the current uses of the "mesa" portion of our site (PLN 040758), which involve both grazing and farming operations, including, without limitation, the cultivation of berry crops, lettuce, broccoli and other row crops, B) the future residential and wine-corridor-oriented visitor center facilities that have been approved for that area, and C) the current agricultural use and proposed future uses for the areas surrounding the "mesa". The future uses of the mesa area and the surrounding areas per our approved subdivision are fully described in the EIR and related approval documents for the Ferrini Ranch Project. The typical conditions, impacts and potential nuisances that can be associated with agricultural operations may include, but are not limited to, noise, odors, dust, light, insects, the ground or aerial application of fertilizers, pesticides, and herbicides, and the operation of pumps and machinery. These agricultural practices may occur at any time. Individual sensitivities to those practices can vary from person to person.

Due to the fact that the mesa is located immediately to the northeast of the proposed River View project, we respectfully request that the County, in approving that project, impose measures or conditions of approval that ensure that the project will not result in any additional restrictions or any other adverse effects on either the agricultural uses described above or the future residential and visitor-serving uses that have been approved for the Ferrini Property.

Given the above, we would ask that the Board of Supervisors require the project applicant to record an acknowledgement that agricultural activities are permitted by law on our property, that such activities may sometimes generate odors, dust, or chemical drift that can make their way onto the River View project site, and that such conditions do not rise to the level of "nuisances" (enjoyable or otherwise),

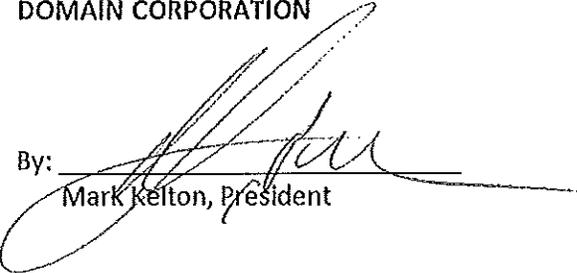
but rather must be accepted as a part of life in an agricultural region. This would prevent a scenario in which new residents on the River View property object to our current agricultural activities and seek to get us to modify them. We would also respectfully request that the staff report for the River View project specifically reference and incorporate impacts relative to the potential future uses approved under the Ferrini Ranch Project.

Provided that the County imposes measures or conditions on the River View project that are satisfactory to us, we would not have any opposition to the proposed project.

Please feel free to contact us with any questions or comments at the address shown below.

Sincerely,

DOMAIN CORPORATION

By: 

Mark Kelton, President

Contact information:

Domain Corporation

Attn: Mark Kelton

2716 Ocean Park Blvd., Suite 3006

Santa Monica, CA 90405

MKELTON054@AOL.COM

April 27, 2022

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Timothy J. Baldwin

** Charles Des Roches*

** Robert D. Simpson*

Ana C. Toledo

** Leslie E. Finnegan*

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William H. Shearer

VIA E-MAIL LUNDQUISTE@CO.MONTEREY.CA.US

Mr. Erik V. Lundquist, AICP
Chief of Planning
Monterey County HCD
1441 Schilling Place
Salinas, CA 93901

Re: River View at Las Palmas (PLN150372)

Dear Mr. Lundquist:

I am writing on behalf the Las Palmas Ranch Master Association No. 1 (“Association”) in response to the Developer’s April 7, 2022 letter and submittal of the alternative 30 lot subdivision (“Subdivision Project”) in place of the Senior Living Facility proposed for Parcel Q in Las Palmas.

Subdivision Proposal Agreed Upon

The Association finds that the proposed Subdivision Project is a preferred alternative to the Senior Living Facility project as an option for Parcel Q. There are, however, several criteria to which the Association agreed, and areas of concern that are not reflected in the proposal submitted.

The Association and the Developers met several times in November and December 2021 to discuss the project. In late November the Developer provided the Association with a proposed tentative map (dated 11/29/2021) showing 28 buildable lots with an 18 foot height limit. Additionally, the Developer agreed to B-6 overlay zoning (no further subdivision) being placed on the property; and the area outside the developed lots/streets being placed under a Scenic Easement.

The Association’s position was, and remains, that it would support a residential subdivision plan that is:

1. No greater than 28 single family residential units on the site;

2. Limited to one-story single family units, with an 18' height limitation (the height limit needs to be recorded and run with the land, binding future owners);
3. A B-6 overlay zoning (no further subdivision) is placed on the property; and
4. The area outside the developed lots/streets is placed under a Scenic Easement.

These are important criteria to which the Developer agreed, which need to be conditions of the Subdivision Project approval.

In addition, the Association expressed concerns regarding other items relating to the proposed Subdivision Project.

Stormwater Runoff, Drainage, Erosion Control, and Slope Stability

The Association raised concerns relating to the stormwater runoff, drainage, erosion control, and slope stability, all of which remain of significant concern today and need to be addressed through the subdivision approval process.

Stormwater Runoff: Allowing all surface water to flow off the Parcel Q site into the Association's existing storm water culverts, as now proposed, was not analyzed in the Draft Environmental Impact Report (See EIR pages 11-2 to 11-6 attached), is a marked deviation from the Senior Living Facility plan which required all runoff to be contained on the site, and is of major concern to the Association. The Association is responsible for the existing storm water system to the point where it meets the CSA intake and flows directly into the Salinas River through an underground pipe below River Road. There has been no analysis of the impact of this proposal. Moreover, the Association expects stormwater runoff from the site will be in compliance with all County and State requirements for surface runoff, including water runoff being retained on-site. Full engineering plans addressing stormwater runoff need to be prepared before Project approval, and made available to the Association for review, as part of the Subdivision Project review process, not after the fact.

Erosion Control: Runoff and erosion control on the steep slopes above Las Palmas Ranch 1 has been an ongoing problem for the Association and, at times, resulted in the flooding of homeowner's properties at the bottom of the hill (See EIR pages 11-2 to 11-6). Full engineering plans for run off and erosion control need to be prepared before the Subdivision Project approval, and made available for Association review, so that mitigations and conditions can be added to the Subdivision Project to protect the Association's facilities and the member's properties.

Slope Stability: Slope stability is also a major concern for the Association with landslides occurring on the slopes above Las Palmas Ranch 1 (See EIR pages 11-2 to 11-6). Slope stability needs to be addressed, with proper investigation, engineering studies, and mitigations made available for Association review before Project approval, so that mitigations and conditions can be added to the Subdivision Project to protect the Association's facilities and member's properties.

Fire Access

Adequate fire access remains a major concern to the Association. The Association expects that the Subdivision Project will be compliant with all applicable local, State, and Federal regulations regarding fire access and evacuation routes.

On-Site Parking

The Association expects that the County will assure that there is adequate on-site parking for the Subdivision Project given overflow parking will spill over on to the current Las Palmas Ranch 1 subdivision area and exacerbate an already difficult parking situation.

Specific Plan Amendment

With regard to a Las Palmas Ranch Specific Plan Amendment, the Association conveyed to Mr. Lombardo, and it remains the Association's position, that the Association does not want to waive the application of the Las Palmas Ranch Specific Plan to this site, keeping the Specific Plan intact. However, the Association could consider a finding by the County that 28 residential lots are in substantial compliance with the Specific Plan, as Parcel Q was shown as being an area for residential development under the Specific Plan. The Association expects the County to make the determination as to whether a Specific Plan Amendment is required. That is not the Association's decision.

CEQA Review

The Association expects that the County will comply with California law and the regulatory requirements with regard to the CEQA review required for the revised Subdivision Project.

Approval Process

The Association expects that the County will conduct the Subdivision Project review in accordance with the County Code and other regulations required for the approval of the Subdivision Project; that the Association will have the opportunity to comment on the Subdivision Project throughout the process; and that the County will

Mr. Erik V. Lundquist, AICP

April 27, 2022

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address the Association's concerns, with appropriate mitigations and conditions being placed on the Subdivision Project approval, so the Subdivision Project does not create a negative impact on the existing Association facilities or its members.

The Association reserves its' rights to comment on issues that directly relate to the Association's property such as internal traffic, parking, erosion/drainage, slope stability, storm water facilities, fire access, security, etc.; to comment on documents under consideration by the County; and to fully participate in the Subdivision Project hearing process.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine Kemp

Christine G. Kemp

CGK:kp

Encl. EIR pages 11-2 to 11-6

cc: Mr. Anthony Lombardo, Esq.

Supervisor Mary Adams, District 5

11.4 GEOLOGY & SOILS

The project site is not located within any earthquake fault zones as delineated on the most recent Alquist-Priolo Earthquake Zoning Map and no faults cross the site. As with the entire region, ground shaking from earthquakes could be very strong within the project site. The proposed project is designed in accordance with applicable building codes and engineering standards that have been developed to address the forces to which buildings are subjected during earthquakes and should allow the buildings to withstand earthquakes without severe damage. According to the geologic hazards report and soil engineering feasibility investigation prepared for the project (Landset Engineers, Inc. 2014., Appendix F), the project site is in an area of low to very low potential for liquefaction, lateral spreading, subsidence, expansion, collapse, dynamic compaction, and ridgetop shattering. Erosion control measures would be implemented as a condition of project approval to ensure there would be no related impacts.

While the steep slopes on the north and south flanks of the site are prone to landslides and slope failure, future building foundations will be located within the geologically suitable building envelope as described in the report, which would avoid environmental impacts related to landslides. As displayed in [Figure 11-1, Project Site Slopes](#), a portion of the area of the project site proposed for development is located in an area of slopes greater than 25% slope.

The proposed project would connect to the Las Palmas Wastewater Treatment Plant, operated by California American Water Company and no septic systems are proposed. Therefore, the suitability of geologic and soils conditions for septic systems is not relevant to the proposed project.

During the course of the 2017 winter storms a portion of the property had a “minor colluvial slope failure...due to unseasonably above average precipitation ...[which posed] ... a low risk to human health and safety.” (Landset, March 29, 2017)

As a condition of approval, all recommendations included in the geotechnical report would be implemented in the design and construction of the project to ensure that there would be no significant impacts associated with geologic hazards.

11.5 HAZARDOUS MATERIALS

The proposed project is a senior living facility and, as such, may involve patient care which could result in the routine transport, use or disposal of biohazardous materials and/or medical waste. The proposed project would be required to adhere to state and local

Figure 11-1 Project Site Slopes



DEVELOPED SITE AREA	= ±8 ACRES
SLOPS EXCEEDING 25%	= ±0.6 ACRES
PERCENTAGE OF SITE	= 7.5%



Source: Gateway Engineering, Inc. 2015

Figure 11-1

Project Site Slopes



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regulations for the appropriate transport, use, and disposal of medical waste, which would ensure that there would not be related environmental impacts. The project site does not contain contaminated land or hazardous materials sites as compiled pursuant to Government Code Section 65962.5 and would not result in the release or upset of hazardous that would result in exposure of sensitive land uses to such materials. The nearest airport, Salinas Municipal Airport is more than four miles from the site; this distance precludes the possibility for the project to create an aviation safety hazard. The Monterey County General Plan Safety Element identifies emergency evacuation routes throughout the county. These routes include River Road and State Route 68. While future development may add to demand for use of emergency routes, such development would not physically interfere with the ability of the county to deploy these routes for evacuation. According to the Monterey County General Plan, the project site is not located in a high or very high fire hazard area. Every building, structure, and/or development shall be constructed to meet the minimum requirements specified in the current adopted state building code, state fire code, Monterey County Code Chapter 18.56, Monterey County General Plan, and other nationally recognized standards. Additionally, the Monterey County Regional Fire District reviewed the project plans and determined that adequate fire flow exists feed the property fire protection systems. The fire district has also recommended a number of conditions of approval that reflect the current requirements of the Uniform Fire Code and the fire district regulations. These requirements will be included in the final project construction drawings to be reviewed and approved by the fire district prior to issuance of building permits. The fire district will subsequently inspect the in-progress construction and will have to give a final approval prior to occupancy.

The proposed project will not result in hazard impacts.

11.6 SURFACE HYDROLOGY

Erosion and Water Quality

The undeveloped project site currently drains naturally down the existing slopes and drainage ways or percolates through the soil back into the groundwater basin. Development of the proposed project would alter existing storm water drainage conditions by replacing undeveloped land with impervious surfaces. The change in surface conditions would result in a substantial increase in storm water runoff from the site as a portion of the storm water would no longer percolate through exposed soil. Storm water runoff from the project site during construction and after development is completed would be greater in volume and velocity than under existing conditions. Changes in the rate or volume of storm water delivered into receiving waters can result in hydromodification of downstream drainage courses, resulting in further erosion and related water quality degradation.

The proposed project would be required to comply with the National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Storm Water Associated with Construction Activities. In Monterey County, the Central Coast Regional Water Quality Control Board (RWQCB) is charged with enforcing NPDES requirements, including runoff management programs that include Best Management Practices to control erosion and sedimentation. Through implementation of Best Management Practices (BMPs), construction of the proposed project would not impact surface and groundwater water quality from storm water runoff during construction.

The proposed project must implement water quality control measures consistent with the post-construction water quality criteria contained in the RWQCB NPDES requirements. A storm water control plan consistent with NPDES requirements to be approved by the county has been developed for the project which identifies measures for site design, storm water runoff source control, runoff reduction, storm water treatment; and site specific BMP measures that would be incorporated in the project design to ensure there would be no post-construction impacts related to erosion or degradation of water quality.

Storm Water Runoff

The proposed project would result in increases in impervious area that in turn would result in increases in the volume and rate of storm water runoff relative to existing conditions.

The project site is undeveloped and does not currently contain storm drainage infrastructure. However, the proposed project design includes storm drainage facilities (collection, conveyance and disposal) as detailed in the storm water control plan (Gateway Engineering 2016) to meet the generation of storm water runoff. Proposed development must not exceed the pre-project rate of discharge. The purpose is to reduce the potential for increased erosion within receiving waters due to an increase in the rate of storm water flow. The storm water control plan includes on-site storm water control measures designed to achieve a no net increase in rate of storm water discharge relative to pre-project conditions. This reduces the potential that runoff from new development could exceed the capacity of storm drainage facilities and contribute to off-site flood hazards.

A county reviewed storm water control plan in conformance with storm drainage facility design standards and NPDES requirements would be implemented ensuring that there would be no impacts related to localized flooding.

Flood Hazards

According to the Monterey County General Plan FEMA Floodplain Map, the Salinas River's projected 100-year flood plain follows River Road to the north. The project site is elevated substantially above River Road and is not located within the 100-year flood plain. Thus, there would be no impacts related to flood hazards.

April 5, 2024

Zoe Zepp
Monterey County Resource Management Agency – Planning
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901

*Via Email: ceqacomment@co.monterey.ca.us;
 zeppz@co.monterey.ca.us*

Via Facsimile to (831) 757-9516

Re: River View at Las Palmas LLC (PLN 150372)

Dear Ms. Zepp,

This comment letter is sent as a reminder of the concern we have raised previously regarding the conditions to the proposed project's need to include some type of "right to farm" language. This concern has been raised previously in connection with project currently proposed and also with the prior senior housing proposal for the River View property.

Our company is the owner of the Ferrini Ranch property, which is adjacent to the proposed River View project. We always strive to be good neighbors and work cooperatively with owners of adjacent or proximate properties. Having said that, we do want to ensure that, in approving the River Project, the County takes the following into consideration; A) the current uses of the "mesa" portion of our site (PLN 040758), which involve both grazing and farming operations, including, without limitation, the cultivation of berry crops, lettuce, broccoli and other row crops, B) the future residential and wine-corridor-oriented visitor center facilities that have been approved for that area, and C) the current agricultural use and proposed future uses for the areas surrounding the "mesa". The future uses of the mesa area and the surrounding areas per our approved subdivision are fully described in the EIR and related approval documents for the Ferrini Ranch Project. The typical conditions, impacts and potential nuisances that can be associated with agricultural operations may include, but are not limited to, noise, odors, dust, light, insects, the ground or aerial application of fertilizers, pesticides, and herbicides, and the operation of pumps and machinery. These agricultural practices may occur at any time. Individual sensitivities to those practices can vary from person to person.

Due to the fact that the mesa is located immediately to the northeast of the proposed River View project, we respectfully request that the County, in approving that project, impose measures or conditions of approval that ensure that the project will not result in any additional restrictions or any other adverse effects on either the agricultural uses described above or the future residential and visitor-serving uses that have been approved for the Ferrini Property.

Given the above, we would ask that the Board of Supervisors require the project applicant to record an acknowledgement that agricultural activities are permitted by law on our property, that such activities may sometimes generate odors, dust, or chemical drift that can make their way onto the River View project site, and that such conditions do not rise to the level of "nuisances" (enjoinable or otherwise),

but rather must be accepted as a part of life in an agricultural region. This would prevent a scenario in which new residents on the River View property object to our current agricultural activities and seek to get us to modify them. We would also respectfully request that the staff report for the River View project specifically reference and incorporate impacts relative to the potential future uses approved under the Ferrini Ranch Project.

We understand that staff considers the farming operations at Ferrini Ranch to be protected by the County's Right to Farm ordinance. However, ordinances may be changed in the future and we believe that specific conditions that we have requested would provide the most robust protection for farming operations and the vitality of our property.

Provided that the County imposes measures or conditions on the River View project that are satisfactory to us, we would not have any opposition to the proposed project.

Please feel free to contact us with any questions or comments at the address shown below.

Sincerely,

DOMAIN CORPORATION

By: 

Mark Leekley, Vice President

Contact information:

Domain Corporation
Attn: Mark Kelton
2716 Ocean Park Blvd., Suite 3006
Santa Monica, CA 90405

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

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March 12, 2024

Our File No: 4813.001

Martha Diehl, Chair
Monterey County Planning Commission
Monterey County HCD
1441 Schilling Place
Salinas, CA 93901

RE: River View at Las Palmas

Dear Chair Diehl and Members of the Planning Commission:

The River View at Las Palmas (RVLP) was last before the Planning Commission in November 2023 as a 26-lot single family residential subdivision proposing to use in-lieu fees to meet its affordable housing requirements. After discussion, the Planning Commission continued the hearing and expressed its desire to see an alternative which would include affordable units on site and for additional information relative to the Las Palmas Ranch Specific Plan and findings of overriding consideration. The applicants gave great weight to the Commission's concerns and further modified the project to reduce the market rate units from 26 to 23 and to add 4 on-site moderate-income units with payment of in-lieu fees for the balance of the project's affordable housing requirements.

PROJECT HISTORY

Since it has taken almost nine years for this project to reach this point, we thought a brief history of the application might be helpful.

- The initial application was filed in September 2015. That application was for a 142 bed Residential Care Facility for the Elderly (RCFE) including "casitas" for minimal assistance residents, an assisted living facility and a memory care facility. A Supplement to the Las Palmas Ranch Specific Plan Environmental Impact Report was then prepared.
- In February 2021, the Planning Commission recommended that the Board of Supervisors certify the environmental impact report, amend the Las Palmas Ranch Specific Plan and approve the use permit for the RCFE project. There was at that time significant neighborhood opposition to the project.
- The RCFE project was considered by the Board of Supervisors in the fall of 2021. In light of the neighborhood opposition the Board asked that the applicant consider a single-family home development alternative. Our clients ultimately proposed a 30-lot single

family residential subdivision. The Board referred that alternative to HCD for review and recommendation.

- Our clients submitted a tentative map to HCD, along with updated traffic and biological reports, in April 2021. Prior management of HCD delayed consideration of the 30-lot project for nearly two years¹.
- Additional environmental review was done by RINCON, paid for by our clients, which found there were no new or increased environmental impacts of a project of up to a 30-lot residential alternative subdivision.
- The reduced project of the 23 market rate units plus 4 on-site moderate-income inclusionary units is now before your Commission.

**LAS PALMAS RANCH UNIT 1 HOME OWNERS AND
TORO LAND USE ADVISORY COMMITTEE**

The applicants have worked diligently with the Las Palmas Ranch Unit 1 homeowner representatives and the Home Owners Association to address their concerns. At this time, the HOA and the majority of homeowners strongly support the 27-lot alternative. We have agreed to numerous requests from the HOA including building single story houses only, height limits, placing the areas outside the developed areas into scenic easement, drainage improvements and not allowing additional subdivision of the property.

Our clients will join the Las Palmas Ranch Home Owners Association, if allowed. If joining the HOA is not possible, a separate HOA will be formed for road and property maintenance. If this project is not allowed to join the HOA, there will still be fees to be paid to the HOA for the shared use of the roads, entrance security and similar features.

This application was reviewed and unanimously approved by the Toro Land Use Advisory Committee. That same Committee unanimously recommended denial of the RCFE project.

**RIVER VIEW at LAS PALMAS
TWENTY-SEVEN LOT ALTERNATIVE**

River View at Las Palmas proposes, as an alternative to the RCFE, a 27-lot single-family residential subdivision. The Vesting Tentative Map (Exhibit A) illustrates the proposed layout of the subdivision. The lot sizes, on average, are larger than the average lot sizes of in the adjacent Las Palmas Ranch Unit 1 (LPR-1) located adjacent to the proposed subdivision. The market rate homes will be single story, with a maximum height of 20 feet, 3-4 bedrooms and 2-3 bathrooms with attached garages. The on-site affordable homes will also be single story, with a maximum height of 20 feet, 2-3 bedrooms and 1-2 bathrooms with attached garages.

¹ The initial 30-lot proposal included 30% on site affordable units. The project was downsized to 27 lots total and as a result of processing delays, interest rates, and inflation, the cost of construction almost doubled which made that proposal no longer viable.

The subdivision was purposely designed to echo the basic design features of the LPR-1 subdivision. Areas not used for lots, roads and related subdivision improvements will be placed in open space.

AFFORDABLE HOUSING

As requested by the Planning Commission, the applicants now propose to build four, on-site, moderate income homes. The total number of homes will be 27 (23 market rate and 4 moderate income units).

The County, based largely on State and Federal Standards, limits the percentage of income which a buyer of inclusionary housing can spend for housing. Very-Low and Low income families are limited to 30% of the family income for their total housing cost including mortgage, taxes, insurance, maintenance, utilities, etc. Moderate income is limited to 35% of the family income for their total housing costs.

Included in the 30%/35% allowable housing cost, as set by the County, are the estimated annual cost of utilities² (\$5,400), HOA/Insurance/Maintenance (\$3,600) and property taxes (\$4,650). Together those costs are \$13,650. However:

- The County utilities calculation includes a sewer cost of \$35/month. The actual Las Palmas sewer rate is \$135/month (and rising) for an added annual cost of \$1,200 per year.
- Actual HOA fees are currently \$162/month (\$1,944/year). Assuming the County allocated \$80/month for HOA, the net added cost is \$82/month (\$984/year).
- Given the location of Las Palmas in relation to local services and jobs and the lack of public transportation, the added transportation cost is conservatively estimated at \$166³ per month (\$2,000 per year).

The additional annual cost for a home owner living in Las Palmas, in addition to the County's estimated annual costs, is nearly \$4,200/year, nearly 1/3 greater than the County allowance.

CALCULATION OF INCLUSIONARY REQUIREMENTS

The Las Palmas Ranch Specific Plan (LPRSP, 1983), which the County has stated is the controlling land use document for this property, requires 15% affordable housing which can be a combination of on-site and off-site units. Since it is the County's opinion the 2010 General Plan incorporated the LPRSP as the General Plan did with the Carmel Valley Ranch Specific Plan and the East Garrison Specific Plan, the 15% requirement governs.

² Based on the Housing Authority of the County of Monterey utility allowances for energy star detached houses. Includes: Electric Heating; Electric Cooking; Other Electric; Electric Water Heating; Water; Sewer; and Trash.

³ 330 miles/month/household assuming \$0.50/mile.

The staff now proposes to amend the LPRSP to change the 15% inclusionary housing requirement to 25% which would require a minimum of 15% on site and a maximum 10% in-lieu fee. However, the County cannot at this time amend the LPRSP to impose this new requirement or the 25% requirements of the 2010 General Plan because it would be inconsistent with the Inclusionary Housing Ordinance and State law.

THE COUNTY HAS NOT MET THE LEGAL REQUIREMENTS TO INCREASE THE INCLUSIONARY HOUSING REQUIREMENTS

The 2010 General Plan requires an ordinance be developed requiring 25% for affordable housing and for it to be allocated as 6% Very Low, 6% Low, 8% Moderate and 5% Work Force. That ordinance has not even been drafted, much less adopted. In addition, the County has previously been told by State HCD, the County cannot increase the inclusionary requirement without determining if it will be a constraint to development of housing. As stated in State HCD's letter of December 12, 2020⁴ (Exhibit B):

“the County is obligated to provide an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels. (Gov. Code, § 65583, subd. (a)(5).) Where such constraints are identified, the County must further address, and where legally possible, remove governmental constraints affecting the maintenance, improvement and development of housing. (Gov. Code, § 65583, subd. (c)(3),”

As far as we are aware, the analysis which the County is “obligated” to perform, has never been done, considered by the Planning Commission, approved by the Board of Supervisors, or certified by State HCD. To the contrary, the Administrative Manual (adopted July 12, 2011) which guides the use of the County's Inclusionary Housing Ordinance is based on use of a 20% contribution. More importantly, the current Housing Element (certified by the State HCD May 10, 2016) provides further evidence that analysis has not been done:

- The County also assures consistent application of an Inclusionary Housing Ordinance (Chapter 18.40 of the Monterey County Code), which requires that 20 percent of units/lots in new residential developments be affordable to very low, low, and moderate income households.
- When amending the original ordinance to increase the inclusionary housing requirement from 15 percent to 20 percent in 2002, the County conducted a feasibility analysis to assess the potential impacts of the policy on developers.

⁴ The State HCD letter was in response to a question of the applicability of the 35% requirement in the General Plan's Development Evaluation System. The circumstances are the same for the 25% requirement. If the State required analysis has not been done, the policy cannot be applied.

- The County’s Economic Development Department (Housing Office) [now HCD] will be revisiting the ordinance to ensure consistency with the 2010 General Plan and current market conditions.

Because the ordinance update required by 2010 General Plan Policy LU-2.13 and the analysis required by State law, has not been done, the County cannot increase the inclusionary housing to 25%.

CONTRIBUTION REQUIRED

The staff proposes a 25% contribution on all 27 units, which would include the planned inclusionary units. In effect, this would place an inclusionary requirement on inclusionary units. As noted, the County cannot, at this time, impose a 25% requirement. However, the County can impose 20% given the County did conduct the State required analysis when the Ordinance was amended to raise the requirement from 15% to 20%, even though the Las Palmas Specific Plan requires a 15% contribution.

The applicants propose a project of 23 market rate and 4 affordable units. We believe the 4 proposed inclusionary units cannot be included for the purpose of calculating the number of affordable units required. In another way to think of this is that the staff is proposing that the applicants pay a tax on the tax they are already paying.

The base for calculation then should be 20% of 22 lots (the net increase in market rate lots). This would result, based on the current Inclusionary Housing Ordinance and Administrative Guidelines, in a 4.4-unit obligation. As previously stated, the applicants propose to build 4 on-site moderate-income units. The balance of the inclusionary requirement (0.4 units) would be an in-lieu fee of \$64,004.

IN LIEU FEES

The in-lieu fee would be paid to the County’s Housing Fund. The Fund is administered through HCD. The Fund grants money to be used as a means of moving affordable housing projects forward and to leverage even more money from State and Federal programs, thereby multiplying the impact of the original contribution to provide a greater number of units.

THE PROJECT IS ENTITLED TO TWO DEVELOPMENT INCENTIVES

County zoning ordinance Section 21.65.060 C states: “A housing development *qualifying* for a density bonus is entitled to *at least* one incentive in addition to the density bonus.” As written, a project only has to qualify for a density bonus but it does not have to implement a density bonus. A project which provides a 20% contribution at the moderate-income level qualifies for a density bonus and in turn is entitled to two incentives (Monterey County Code 21.65.070 A).

The applicants request two incentives:

Expedited processing of the final map and related documents: It is not unusual for the processing of a final months to take up to one year. This is due in part to staffing levels, multiple projects and competing priorities. An incentive of expedited processing will substantially shorten the processing time, reduce holding costs, and allow construction to begin more quickly than under normal processing.

Waiver of construction permitting fees for the final map improvements and inclusionary units. In conjunction with the expedited processing, the reduced fees will help the project's financial viability.

TRAFFIC AND FINDINGS OF OVERRIDING CONSIDERATION

If a project increases traffic on Highway 68 by one trip, it is considered by the County to be a significant impact which cannot be mitigated to an insignificant level. And, if there is a such an impact, CEQA requires that the lead agency adopt a statement of overriding considerations.

There is no new traffic impact from this project which was not already analyzed in the original project approval given the cumulative traffic from Las Palmas Ranch will continue to be substantially less than the traffic that was anticipated and was fully mitigated. The expected traffic impacts of the Las Palmas development were analyzed and addressed through the Las Palmas Specific Plan (LPRSP) and its EIR. The LPRSP prescribed specific traffic mitigations for a project larger than that which was finally approved. Those mitigations included payment of fees to a County fund to expand River Road to four lanes and improvements to the River Road/Highway 68 intersection. In later phases of the construction of Las Palmas Ranch, the developers, with the approval of the County, built the necessary improvements. Those mitigations were based on traffic estimates developed in the LPRSP EIR and documented in the LPRSP and through conditions of project approvals.

To assess the potential impacts of the RCFE project Hatch Mott McDonald (HMM) reviewed the LPRSP EIR, LPRSP, previous project conditions of approval, and the improvements that had been constructed. Traffic counts from all of the LPR entrance points were taken. The HMM reports were included as part of the original project application and were the basis for the traffic findings of the FSEIR. The HMM report concluded:

1. The LSRSP EIR estimated trip generation for the Las Palmas Ranch development at 11,721 trips per day.
2. Based on updated traffic counts, Las Palmas Ranch is generating, on average, 7,646 trips per day.
3. The cumulative traffic generation (existing plus the assisted living project) would have been 8,059 trips per day, 3,662 trips less per day than originally estimated for Las Palmas Ranch.

4. All of the traffic improvements prescribed for Las Palmas Ranch, which were for the estimate 11,721 trips, to mitigate its impacts on River Road and Highway 68, have been completed.
5. No additional traffic mitigations are required for the proposed project.

A fair argument can be made that this project does not have a new traffic impact on Highway 68 given that Las Palmas' anticipated traffic impact was fully mitigated. However, in an excess of caution, a statement of overriding consideration has been recommended by the staff.

CONCLUSION

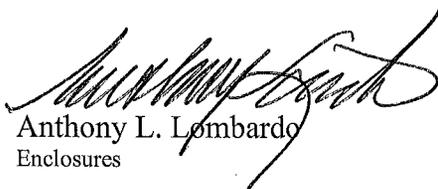
Our clients have worked extensively with the LPR-1 residents to address their concerns. They now have substantial support from those residents for the proposed 27-lot alternative.

The FSEIR prepared for the RCFE project and previously approved by your Commission, concluded its impact could readily be mitigated to an insignificant level with what would be considered to be routine mitigations. The FSEIR also evaluated alternatives to the RCFE, including a 40-unit residential project and concluded that 40-unit alternative would have an equivalent impact to the RCFE project. A subsequent report prepared by Rincon confirms a residential project of up to 30 lots would have 25% fewer impacts than the RCFE or the 40-lot alternative; what is before you is a 27-lot subdivision, which will have 35% fewer impacts than analyzed by Rincon.

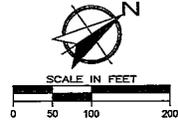
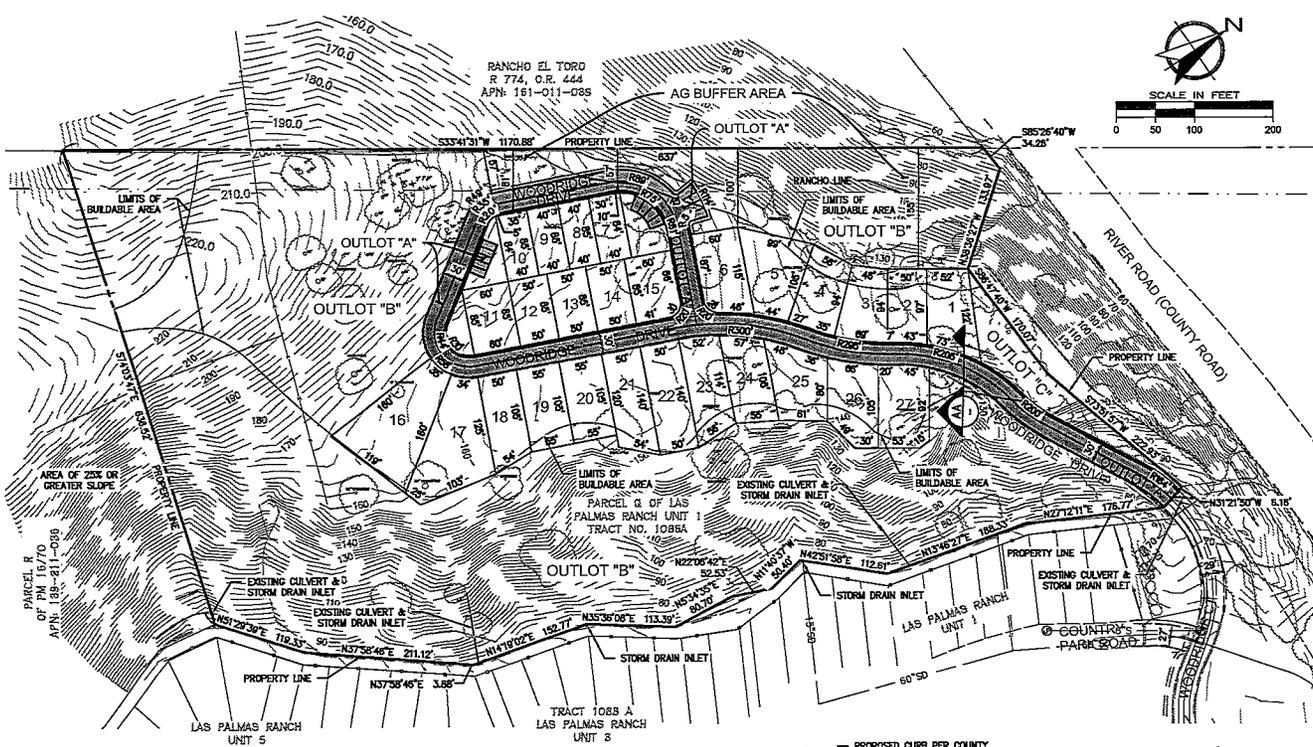
All issues including aesthetics, traffic, water, waste water, etc. have been analyzed by the FSEIR, prior staff review, and recommendations.

We respectfully request that the Planning Commission recommend approval of the 27-lot single family residential subdivision proposed by our clients and supported by the Las Palmas Ranch Unit 1 residents and the Toro Land Use Advisory Committee.

Respectfully submitted,


Anthony L. Lombardo
Enclosures

cc: client
Craig Spencer, Chief of Planning Services
Zoe Zepp, Assistant Planner
Robert Brayer, Deputy County Counsel

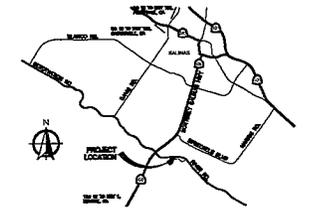
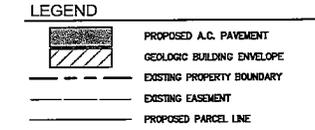
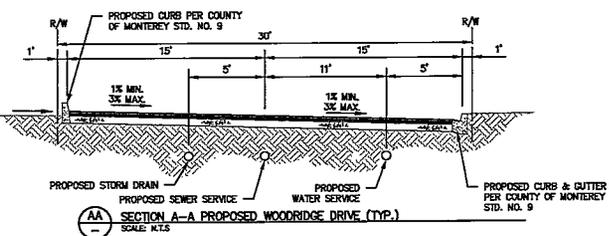


- SITE INFORMATION:**
1. SITE ADDRESS: NOT ASSIGNED (PARCEL Q, SALINAS, CA)
 2. APN: 139-211-035
 3. OWNER/SUBDIVDER: RIVER VIEW AT LAS PALMAS, L.L.C. A CALIFORNIA LIMITED LIABILITY COMPANY
 4. ENGINEER: DANIEL K. BOND, P.E. 57,133
 5. GENERAL PLAN: RESIDENTIAL - MEDIUM DENSITY 2.61 U/AC
 6. EXISTING ZONING: MDR/2.61 U/A
 7. PROPOSED ZONING: MDR/2.61 U/A
 8. TOTAL SITE AREA: 15,842 AC (GROSS)
 9. ZONE CLASSIFICATION: MDR (MEDIUM DENSITY RESIDENTIAL); CURRENTLY VACANT LAND
 10. PROPOSED TOTAL LOTS: (27) FULLY DEVELOPED LOTS AND (3) OUTLOTS
 11. ALLOWED BUILDING HEIGHT: 30'-0" MEASURED FROM AVERAGE GRADE
 12. PROPOSED BUILDING HEIGHT: 27' MAXIMUM MEASURED FROM AVERAGE GRADE

- NOTES:**
1. WATER BY CALIFORNIA WATER SERVICE
 2. SEWER DISPOSAL BY CALIFORNIA AMERICAN WATER SUPPLY
 3. UNDERGROUND POWER BY PG&E
 4. NATURAL GAS BY PG&E
 5. STORM DRAIN SHALL SURFACE DRAIN AND CONVEYED VIA UNDERGROUND STORM DRAIN COLLECTION SYSTEM TO EXISTING CULVERT.
 6. GRADING AND DRAINAGE PLAN SHALL BE PREPARED PER MONTEREY COUNTY CODE SECTION 19.10.
 7. EROSION CONTROL PLAN SHALL BE PREPARED PER MONTEREY COUNTY CODE SECTION 18.03
 8. GEOLOGIC AND SOILS STUDY PERFORMED BY LANDSET ENGINEERS, INC.
 9. THERE ARE NO EXISTING STRUCTURES ON SITE.
 10. THERE ARE NO EXISTING WATER COURSES ON SITE.
 11. THERE IS ONE EXISTING WATER WELL ON SITE.
 12. THERE ARE 370 EXISTING EUCALYPTUS TREES ON SITE TO BE REMOVED.

FLOOD HAZARD NOTE:
 SUBJECT PROPERTY IS LOCATED IN ZONE X AND IS DESIGNATED AS AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD AS SHOWN ON FEMA MAP NUMBER 06053C0360G, DATED APRIL 02, 2009.

PARCEL TABLE				OUTLOT TABLE			
PARCEL #	AREA (SQ. FT.)	PARCEL #	AREA (SQ. FT.)	PARCEL #	AREA (SQ. FT.)	PARCEL #	AREA (SQ. FT.)
1	6365	8	3400	15	5023	22	7034
2	4733	9	3400	16	11785	23	6578
3	5413	10	3399	17	10977	24	6079
4	5817	11	5100	18	5750	25	6410
5	7484	12	4250	19	5775	26	6445
6	6394	13	4250	20	5775	27	6721
7	3397	14	4250	21	6500		



LEGAL DESCRIPTION:
 THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN 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 VOLUME 16, OF "CITIES AND TOWNS", AT PAGE 70, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA.
 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 1088A" FILED JUNE 15, 1989, IN VOLUME 16, MAPS OF "CITIES AND TOWNS", AT PAGE 70, OFFICIAL RECORDS OF MONTEREY COUNTY, CALIFORNIA. SAID EASEMENT SHALL BE APPURTENANT TO PARCEL Q AS SHOWN AND DESIGNATED ON THE ABOVE REFERRED TO MAP OF TRACT 1088A.
 APN: 139-211-035

VICINITY MAP
 SCALE: 1" = 2000'

TENTATIVE VESTING TRACT MAP

IN THE UNINCORPORATED AREA, COUNTY OF MONTEREY, STATE OF CALIFORNIA
 TOWNSHIP 20 SOUTH, RANGE 15 EAST, MOUNT DIABLO BASE AND MERIDIAN,
 SURVEYED AND PLATTED IN JUNE 2023
 FOR
 RIVER VIEW AT LAS PALMAS, L.L.C. A CALIFORNIA LIMITED LIABILITY COMPANY
 BY
 GATEWAY ENGINEERING, INC.
 SHEET 1 OF 1

EXHIBIT A

A:\GATEWAY PROJECTS\2023\139-211-035\139-211-035-01\TENTATIVE PARCEL MAP.DWG-VIS.DWG

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



December 22, 2020

Carl P. Holm, Director
Resource Management Agency (RMA)
County of Monterey
1441 Schilling Place
Salinas, CA 93901

RE: Leonard McIntosh Housing Project – Letter of Technical Assistance

Dear Carl P. Holm:

The California Department Housing and Community Development (HCD) understands that on January 12, 2021, the Monterey County Board of Supervisors will be hearing an appeal related to Leonard McIntosh's application for 15 apartment units in the Laguna Seca Office Park. The purpose of this letter is to express HCD's concern related to the ad hoc application of a 35-percent inclusionary requirement that was not analyzed as a potential governmental constraint in Monterey County's housing element of the general plan.

The applicant is proposing a 15-unit apartment project, which includes the current county-wide 20-percent inclusionary requirement. (Mont. County Code, § 18.40.070.) As proposed for this 15-unit project, the requirement is satisfied with one unit that will be affordable to very low-income households and one unit to moderate-income households. On September 30, 2020, the Planning Commission approved the project with an ad hoc condition that it provide 35-percent inclusionary units on the site. HCD understands the reasoning for this increased inclusionary requirement is because the project is in the Laguna Seca Office Park, which is outside the County's Community Areas, Rural Centers, and Affordable Housing Overlay districts. General Plan Land Use Element Policy LU-1.19, adopted October 26, 2010, required the County to the establish a Development Evaluation System (DES) for areas not covered by Community Areas, Rural Centers and Affordable Housing Overlay districts. In addition to other requirements, the DES system would require a 35-percent inclusionary provision for projects of five or more units. HCD understands that while Monterey County has considered drafts of the DES system over the past decade, it has never finalized or adopted the final system or the municipal code provisions that would authorize it. As recently as August 2020, in fact, the County declined to adopt an ordinance that would have added Chapter 21.92 to implement a DES system. The applicant is appealing the Planning Commission's decision to apply the yet-to-be-adopted standards on an ad hoc basis.

EXHIBIT B

While Program LU-1.19 was included as part of the land use element since 2010, the 35-percent inclusionary requirement or the DES were neither analyzed nor mentioned in the housing element adopted by the County four years later on January 26, 2016, and subsequently reviewed by HCD for substantial compliance with State Housing Element Law pursuant to Government Code section 65585, subdivision (b). Further, the County is obligated to provide an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels. (Gov. Code, § 65583, subd. (a)(5).) Where such constraints are identified, the County must further address, and where legally possible, remove governmental constraints affecting the maintenance, improvement and development of housing. (Gov. Code, § 65583, subd. (c)(3).) As the DES would impose a 35-percent inclusionary requirement, or perhaps even higher percentage depending on the County's final action, the DES clearly creates a constraint that must be analyzed under these provisions. Should the County adopt such a 35-percent inclusionary requirement and/or adopt the DES, the County must revise the current 5th cycle housing element to include a description and analysis of the 35-percent inclusionary requirement and DES framework, the constraints that this requirement will impose, the mechanisms and policies that will be utilized to address the constraint, all of which must be submitted to HCD for review prior to its adoption. (Gov. Code, § 65585, subd. (b).)

In addition, the proposed DES policy and implementing ordinance must be analyzed for consistency with Housing Element Goal H-4 prior to its adoption and implementation. (Housing Element, p. 139.) Goal H-4 commits the County to reducing and removing government constraints to housing production and opportunity when feasible and legally permissible. (Housing Element, p. 139.) The County must ensure that DES system and ordinance, including the 35-percent inclusionary process, is evaluated for consistency with Goal H-4 and will not constrain housing projects outside the Community Areas, Rural Centers, and Affordable Housing Overlay districts. According to the applicant for the 15-unit project at the Laguna Seca Office Park, and its banker, applying the 35-percent requirement to the 15-unit project may render the project financially infeasible. (See Lombardo Letter to County of Monterey, dated September 25, 2020 and attached email of same date from Pinnacle Bank.)

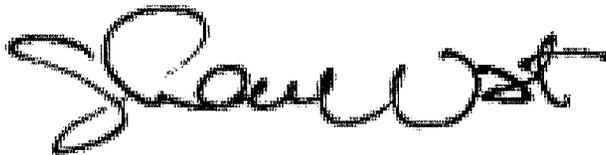
In sum, if the County intends to implement Program LU-1.19, the County will need to analyze DES system, including the 35-percent inclusionary mandate, as potential constraints on the development of housing for all income levels, specifically on housing supply and affordability, prior to its adoption. However, if the Program LU-1.19 is not implemented prior to revision of the County's 6th cycle housing element, which is due on or about December 15, 2023, at a minimum the policy must be included and analyzed at that time for potential constraints to the development of housing.

As a reminder, HCD is required to review any action or failure to act by a city, county, or city and county that it determines is inconsistent with an adopted housing element or

Government Code section 65583, including any failure to implement any program actions included in the housing element. (Gov. Code, § 65585, subds. (i) and (j).) If HCD finds that the action or failure to act does not substantially comply with applicable law, HCD may revoke its May 10, 2016 finding that the County's housing element complies with State Housing Element Law. Furthermore, HCD may notify the Office of the Attorney General if HCD finds that any local government has taken an action in violation of Housing Element Law, Housing Accountability Act, No Net Loss Law, Density Bonus Law, and Fair Housing Law.

HCD supports the County's approval of the housing during this critical housing crisis, including the Leonard McIntosh project, and hopes for a speedy resolution of this matter. HCD remains committed to supporting the County in achieving its housing objectives across all income categories. Please feel free to contact Fidel Herrera, of our staff, at fidel.herrera@hcd.ca.gov with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" being more prominent and the last name "West" following in a similar style.

Shannan West
Land Use and Planning Unit Chief

cc: Anthony L. Lombardo
Cody Phillips