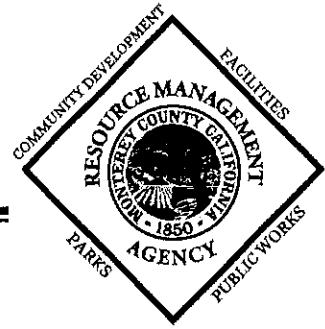


Attachment C

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MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

(831)755-4800

www.co.monterey.ca.us/rma

MEMORANDUM

Date: June 27, 2017

To: Board of Supervisors

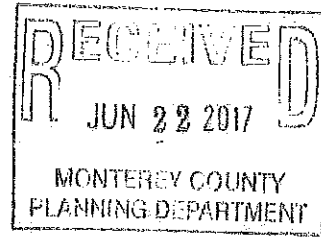
From: Bob Schubert, AICP, Senior Planner *BS*

Subject: Consider Applicant's Request for Continuance of Agenda Item #22 (PLN140089, Carmel Rio Road LLC, Clark)

cc: Front Counter Copy; Planning Commission; Jacqueline Onciano, RMA Services Manager; Brian Clark, Applicant; Yuri Anderson; Harry Finkle; Patrick Lynch; Lea Magee; Richard Nystrom; Margaret Robbins; Richard Stott; Gillian Taylor; Jackie Zischke; The Open Monterey Project (Molly Erickson); LandWatch; John H. Farrow; Janet Brennan; Project File PLN140089.

Following the release of the Board Report, staff received a request (see attached letter) from the applicant, Brian Clark, requesting that Item #22 be continued to September 5, 2017. Staff informed the applicant that there is no Board meeting on September 5, 2017 and he revised his request to ask for a continuance to September 12, 2017. Staff has also received two additional correspondences (attached) from members of the public since the Board Report was released. Staff recommends that the Board continue the public hearing to September 12, 2017.

Attachments: Letter from Brian Clark dated June 22, 2017
E-mail message (with attachments) from LandWatch dated June 22, 2017
Letter from Carmel Valley Association dated June 19, 2017



June 22, 2017

TO: Planner Schubert

FR: Brian Clark - Carmel Rio Road, LLC Applicant

RE: Continuance of Carmel Rio Road LLC (PLN140089) Board of Supervisors Hearing Scheduled for Tuesday - June 27th, 2017

Applicant, Carmel Rio Road, LLC, requests a continuance on this application until the September 5, 2017 Board of Supervisors hearing.

Carmel Rio Road, LLC and County of Monterey entered into a Settlement and Release Agreement on 1/28/14. Our continuance means the new Supervisors hearing date would be after the required one year completion of the EIR and Hearings requirements timelines stipulated in our Settlement Agreement.

We understand our request impacts the Settlement Agreement performance timelines. We agree to waive the added 70 days we are requesting holding the County of Monterey harmless for this extended performance timeframe since it is us, the applicant, who has asked for the continuance.

The Settlement Agreement terms, Val Verde specific zoning, and Sub-division application (the tentative map application package) all were based on conforming with the Val Verde Drive zoning performance requirement of 25% affordable housing (zoning that was in the 1982, 2010, and 2010 General Plan Update). The Planning Commission recommended denial of the application stating a preference for 35% affordable housing, and in fact, want 50%.

Val Verde Drive specific zoning requires 25% affordable housing, the State requires no more than 20%, Monterey Affordable housing group requires no more than 20% - Monterey also has a regulation (LU 1.19) that stipulates 35%. The "Planners" have selectively plugged in what they'd like regardless of financial viability.

The Settlement Agreement as "drafted" by the County and executed by both parties included 25% affordable housing to comply with Val Verde Drive zoning. The Planners ignored Val Verde Drive specific zoning is 25%, is an integral Settlement Agreement element, and the Sub-division application was designed and engineered to meet this known zoning element.

1 of 2

Brian Clark
6/22/17

Carmel Valley since the enactment of the 2010 General Plan - which included two affordable housing overlay districts in Carmel Valley - has produced exactly ZERO affordable units in 7 years.

WE have lost a DECADE processing this application. Affordable units are only viable at thresholds where the market rate homes offset the cost of the affordable units. The State recognizes the dire need for affordable housing and has regulations requiring "expedited" application handling, density bonuses, grants developer waivers for regulatory hurdles of application and building permit fees. The County does not recognize or adhere to the State Affordable Housing Regulation Incentives to bring affordable units online.

CARMEL RIO ROAD, LLC - PREVIOUS APPLICATION INCLUDED AFFORDABLE HOUSING. PER STATE GUIDELINES - APPLICATION WAS ELIGIBLE FOR EXPEDITED APPLICATION PROCESSING. ***WE REQUESTED EXPEDITED HANDLING IN 2009.***

The Val Verde Drive project is not viable at 35% affordable units. Given the inconceivable decade of processing this application - which includes 25% affordable units - with the County project is not financially viable with any percentage of affordable units.

Thank you for taking our Application Hearing off the June 27th Agenda and rescheduling same for September 5th, 2017.

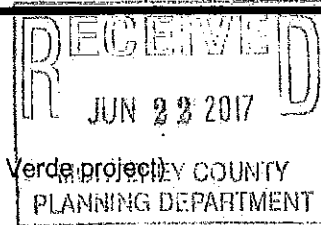
Thank you for your help and continued best of luck -

Brian Clark 6/22/17

Brian Clark - Carmel Rio Road, LLC

Schubert, Bob J. x5183

From: LandWatch ED <execdir@mcldw.org>
Sent: Thursday, June 22, 2017 8:37 AM
To: Schubert, Bob J. x5183
Cc: Molly Erickson
Subject: LandWatch comments Carmel Rio Road subdivision (aka Val Verde project)
Attachments: LandWatchComments_CarmelRioRoadFEIR_FINAL.pdf;
LandWatchAdditionalCommentsRioRoadAmend.pdf;
LandWatchCommentsCarmelRioRoad.pdf



RE: Deny Carmel Rio Road LLC (Val Verde) Subdivision Project and Deny Certification of EIR (PLN140089)

Hi Bob,

LandWatch remains opposed to the Carmel Rio Road subdivision (aka Val Verde project). Please forward our three prior letters (January 19, 2017 original comment letter, January 19, 2017 supplemental comments, and May 5, 2017 comment letter) to the Board of Supervisors for their consideration (letters attached). In summary:

- Projects subject to the County's mandatory Development Evaluation System (DES) cannot be approved until the County establishes the objective, systematic scoring system that Policy LU 1.19 requires. The DES is six years overdue and there is no schedule for its completion.
- The FEIR for the project does not adequately address air quality impacts.
- A CSA 50 flood control project includes a levee adjacent to Val Verde Drive. The potential impacts of the levee on project access and designed were not addressed in either the DEIR or the FEIR.

If for whatever reason the applicant and the County decide to alter the project (e.g., approve the project with 35% affordable housing and clustered design), our expectation is that the project would require additional environmental review and would return to the Planning Commission for another public hearing. Please note that the County's general plan requires both 35% affordable housing and clustered design as well as other design criteria that the project currently fails to meet.

Thank you.

Regards,

Michael

Michael D. DeLapa
Executive Director
LandWatch Monterey County
execdir@mcldw.org
650.291.4991 m

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[Like Us on Facebook!](#)

Begin forwarded message:

From: LandWatch ED <execdir@mclw.org>

Subject: LandWatch comments on FEIR for Carmel Rio Road subdivision (aka Val Verde project)

Date: May 5, 2017 at 3:01:38 PM PDT

To: "Schubert, Bob J. x5183" <schubertbj@co.monterey.ca.us>

Cc: Janet Brennan <janetb@montereybay.com>

Bob,

Based on LandWatch's review of the Final Environmental Impact Report (FEIR) and earlier review of the Draft Environmental Impact Report, we urge the Monterey County Planning Commission to deny the Carmel Rio Road subdivision (aka Val Verde project). Please share our comments (attached) with Planning Commission Chair Cosme Padilla and the other planning commissioners.

Please confirm receipt of LandWatch's letter. Thank you.

Regards,

Michael

Michael D. DeLapa
Executive Director
LandWatch Monterey County
execdir@mclw.org
650.291.4991 m

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May 5, 2017

Cosme Padilla, Chair
Monterey Planning Commission
168 West Alisal Street, 2nd Floor
Salinas, CA 93901-2487

SUBJECT: FEIR for Carmel Rio Road subdivision (aka Val Verde project)

Dear Chair Padilla and Planning Commissioners:

LandWatch has the following comments on the Final Environmental Impact Report (FEIR) for Carmel Rio Road subdivision (aka Val Verde project):

The project is inconsistent with Carmel Valley Road Policies.

In comments on the DEIR, we found the project inconsistent with CV-2.17 policy because it would exceed the thresholds for various segments on Carmel Valley Road. The FEIR (p. 2-4) found the project consistent with the policy because an EIR had been prepared. The FEIR failed to respond to the following DEIR comment:

In similar findings regarding traffic for Rancho Canada Village, staff found the project consistent with the policy since an EIR was prepared for the project. In effect, this strained interpretation of the policy intended to manage Carmel Valley traffic would permit the County to deny approval of small projects for which no EIR is prepared but permit approval of large projects for which EIRs are prepared. Such an interpretation is absurd as a matter of policy. Furthermore, such an interpretation violates the requirements that circulation policies be consistent with land use policies because it permits land uses that are not supported by transportation systems. **Inconsistency with this policy should be identified as significant and unavoidable.**

The project is inconsistent with General Plan policies that require a Development Evaluation System.

In response to our comment regarding inconsistency with the Development Evaluation System (FEIR, p. 2-42), the FEIR references an "interim system" which it has used for several recent projects. While finding consistency with a jerry-rigged system, it ignores inconsistency with the basic requirement for 30% affordable housing.

The County has not yet implemented General Plan Policy LU 1.19, which mandates preparation of a Development Evaluation System ("DES") "to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments of five or more lots or units and

developments of equivalent or greater traffic, water, or wastewater intensity." The DES applies to this Project because it is not within a Community Area, Rural Center, or Affordable Housing Overlay district.

General Plan Policy LU 1.19 mandates that the County establish the DES "within 12 months of adopting this General Plan," i.e., by October 26, 2011. The DES is now *six years* overdue. Planning staff did not bring the first workshop proposal for the DES to the Planning Commission until July 31, 2013. The Planning Commission did not review the proposal in detail. Instead, based on a discussion led by Commissioners Diehl, Vandevere, and Brown, the Commission provided direction to staff to return with specific comments to staff regarding the scope and content of the DES.

The DES is a mandatory requirement of the General Plan and a critical constraint on sprawl development. **Projects subject to the DES cannot be approved until the County establishes the objective, systematic scoring system that Policy LU 1.19 requires.** Accordingly, the County should not approve this Project until it implements its General Plan by establishing the DES and evaluating this Project with the DES.

Relevant provisions of the DES

The DES must be an objective and predictable scoring system to determine which projects may be approved. Thus, it must be "a pass-fail system and shall include a mechanism to quantitatively evaluate development in light of the policies of the General Plan and the implementing regulations, resources and infrastructure, and the overall quality of the development."

The DES is required to include evaluation criteria, including but not limited to the following:

- a. Site Suitability
- b. Infrastructure
- c. Resource Management
- d. Proximity to a City, Community Area, or Rural Center
- e. Mix/Balance of uses including Affordable Housing consistent with the County Affordable/Workforce Housing Incentive Program adopted pursuant to the Monterey County Housing Element
- f. Environmental Impacts and Potential Mitigation
- g. Proximity to multiple modes of transportation
- h. Jobs-Housing balance within the community and between the community and surrounding areas
- i. Minimum passing score

Since the DES must be objective, quantitative, and predictable, and must create a pass-fail system with a minimum score, the County must devise a scoring system that implements at least the criteria enumerated in LU Policy 1.19.

LU Policy 1.19 also provides specific criteria for affordable housing for residential development subject to the DES, i.e., any project of five or more units outside Community Areas, Rural Centers, and Affordable Housing Overlay districts. These affordable housing requirements are as follows:

1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units to be considered

2) If the project is designed with at least 15% farmworker inclusionary housing, the minimum requirement may be reduced to 30% total.

The purpose of the DES is to avoid sprawl development and encourage development that meets General Plan aspirational goals.

LU 1.19 is an important form of mitigation to avoid impacts associated with sprawl development. The announced purpose of LU 1.19 was also to ensure that the Community Areas and Rural Centers remain the priority areas for growth and that only 20% of future growth occurs outside these designated growth areas. See, e.g., 2010 General Plan FEIR, Master Response 2.1.2.

When the Planning Commission reviewed and rejected staff's initial version of the DES, they provided essential guidance that illuminated the purpose of the DES.

- The DES is not a device for determining whether a project is consistent with the General Plan. If a project is not consistent with the General Plan, it should not even be reviewed under the DES.
- The DES must be designed to screen out all but the exceptional projects that justify departing from the goal of focusing growth in Community Areas and Rural Centers.
- The DES must be designed to implement the General Plan goal to limit growth outside these areas 20% of overall growth.
- The DES must provide a pass/fail system, with a minimum passing score.
- The DES must provide objective criteria.
- Projects should be rewarded for meeting the General Plan's aspirational goals and exceeding its minimum standards.

The County should move to establish the DES promptly, and it should not deem applications complete or approve projects subject to the DES until it establishes the DES.

The County has a mandatory duty to establish a DES, and to do so timely, since LU Policy 1.19 states that it "shall be established within 12 months." Accordingly LandWatch asks that the County ensure that implementation of LU 1.19 be made a priority.

LU Policy 1.19 provides that the development projects subject to its provisions must meet the minimum passing score of a DES. Approval of such projects without scoring them through a DES, which must be established as a "systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments," would be inconsistent with the General Plan.

*In short, establishment of the DES is an essential prerequisite to approving projects subject to LU Policy 1.19. Until the County establishes a DES, approving a residential project of 5 or more units, or a development of equivalent traffic, water or wastewater intensity, outside a Community Area, Rural Center, or Affordable Housing overlay would be *ultra vires* because the County is powerless to issue permits that are inconsistent with the General Plan.*

Until the DES is established, LandWatch asks that the County refrain from deeming any development application for a project subject to LU 1.19 complete or from approving any such project.

The FEIR does not adequately address air quality impacts.

In comments on the DEIR, we stated that temporary emissions of Toxic Air Contaminants could have significant impacts on sensitive receptors and that a quantitative assessment using an accepted model to specifically address diesel exhaust emissions should be undertaken noting that the Carmel Middle School

is 500 feet east of the project (FEIR p. 2-27). The FEIR found that such an analysis is not warranted due to the short-term duration of construction and related diesel exhaust emissions. (FEIR P. 2-32).

“Health Effects of Diesel Exhaust”, a fact sheet by Cal/EPA’s Office of Environmental Health Hazard and the American Lung Association states:

Exposure to diesel exhaust can have immediate health effects. Diesel exhaust can irritate the eyes, nose, throat and lungs, and it can cause coughs, headaches, light-headedness and nausea. In studies with human volunteers, diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also causes inflammation in the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks.

The EIR is inadequate because it fails to address diesel exhaust emissions with a quantitative assessment using an accepted model to specifically address diesel exhaust emissions. Diesel engines are a major source of fine-particle pollution. The elderly and people with emphysema, asthma, and chronic heart and lung disease are especially sensitive to fine-particle pollution. Numerous studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks and premature deaths among those suffering from respiratory problems. Because children’s lungs and respiratory systems are still developing, they are also more susceptible than healthy adults to fine particles. Exposure to fine particles is associated with increased frequency of childhood illnesses and can also reduce lung function in children.

The FEIR’s air quality consistency analysis is inadequate.

Air Quality Consistency is used to determine if a project would have a significant impact on regional air quality. The Monterey Bay Area Resource District (MBARD) has adopted specific procedures to determine consistency with its Air Quality Plan. The procedures require that approved and unconstructed projects be identified. The analysis in the DEIR assumed that there are no approved and unconstructed projects in unincorporated Monterey County. Our comments identified 9 such projects that should have been used in the analysis (FEIR P. 2-27). The FEIR did not include a revised consistency determination to address this inadequacy.

The FEIR fails to address construction traffic adequately.

The FEIR includes information on construction traffic, which was not included in the DEIR. It finds that there would be 1,596 truck trips needed to move 11,168 cubic yards of fill to the site. It further finds construction traffic would be less than the project’s operational AM and PM peak hour traffic. (FEIR P. 2-41)

The FEIR fails to identify circumstances unique to construction traffic such as delay, impact on traffic flow, etc., and it fails to identify trip length or the roadways that would be used to transport the fill. Construction traffic would add new trips to the already overburdened road system. Without data from an accepted traffic model to show otherwise, construction traffic should be found to have significant cumulative and unavoidable impacts on Carmel Road and segments of Highway 1 similar to the findings for operational traffic.

Impacts of the proposed CSA Flood Control Project not addressed

A CSA 50 flood control project includes a levee adjacent to Val Verde Drive. The potential impacts of the levee on project access and design were not addressed in either the DEIR or the FEIR.

In conclusion, we urge the Planning Commission to find the FBIR for Carmel Rio Road subdivision inadequate and not recommend its certification to the Board of Supervisors.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized with large, overlapping loops and a long horizontal stroke at the end.

Michael DeLapa
Executive Director



January 19, 2017

Bob Schubert
Project Planner
Monterey County Planning Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901-2487

SUBJECT: DEIR FOR CARMEL RIO ROAD PROJECT – ADDITIONAL COMMENTS

Dear Mr. Schubert:

This letter provides additional comments to our previous letter regarding the DEIR for the Carmel Rio Road subdivision project.

As noted in our previous comments, 2010 General Plan policy LU-1.19 applies to the project and was not addressed in the consistency analysis. LU 1.19 mandates preparation of a Development Evaluation System ("DES") "to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity." The DES applies to such projects that are outside of Community Areas, Rural Centers, and Affordable Housing Overlay districts.

The goal of LU 1.19 is to ensure that at least 80% of future development occurs in Community Areas, not as sprawl. Even though the General Plan requires the County to adopt the DES within one year (i.e., by 2011), we understand the County has still not adopted it. An ad hoc or purely qualitative assessment of the Project to find it consistent with the LU 1.19 criteria is not consistent with the procedure required by LU 1.19.

Thank you for the opportunity to review the DEIR.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized and cursive.

Michael DeLapa
Executive Director



January 17, 2017

Bob Schubert
Project Planner
Monterey County Planning Department
168 West Alisal Street, 2nd Floor
Salinas, CA 93901-2487

SUBJECT: DEIR FOR CARMEL RIO ROAD PROJECT

Dear Mr. Schubert:

LandWatch Monterey County has reviewed the draft environmental impact report (DEIR) for the proposed Carmel Rio Road subdivision, which would convert approximately eight acres of farmland, currently used for row crops, into 31 residential units. The project would violate a variety of General Plan policies, including those related to air quality, aesthetics, hydrology and water quality, and traffic and circulation. Although some of these are well described in the DEIR, others are not, rendering the DEIR legally defective. Among its most obvious flaws, the DEIR:

- Ignores traffic and circulation Policy CV-2.17.
- Defers analysis of flood protection.
- Excludes analysis of air quality impacts from construction traffic.
- Excludes analysis of conflicts with County affordable housing policy.

Our specific comments follow.

1. **Air Quality**

- A. Diesel Exhaust, Short-term Construction Toxic Air Contaminants (TACs). The DEIR states that TACs were only qualitatively assessed. The DEIR finds:

The health risk associated with high concentrations of diesel exhaust-PM10 from construction equipment has a carcinogenic and chronic effect. The project could potentially expose sensitive receptors to temporary health hazards associated with TACs due to the operation of construction equipment. However, concentrations of mobile source diesel particulate matter (DPM) would only be present during temporary construction activities. PM10 emissions associated with construction activity would be well below the 82 pounds per day threshold established by the **Monterey Bay Unified Air Pollution Control District**. Additionally, the lower density setting of the project site and lack of tall buildings to block air movement would allow emissions to disperse. (DEIR, P. 4.2-19)

Temporary emissions of TACs could have significant impacts on sensitive receptors. A quantitative assessment using an accepted model to specifically address diesel exhaust emissions should be undertaken to support the finding. Modeling should address impacts

at the Carmel Middle School, which is 500 feet east of the project as well as the Bialek Garden adjacent to the school.

Additionally, haul trips and related motor vehicle emissions appear to be significantly underestimated. Appendix C shows the number of grading trips at 10 for four vehicles and a hauling trip length of 20 miles. (DEIR Appendix C, P. 6) The assumptions regarding the number of haul trips is unclear. However, the Project Description states a total fill of 11,359 cu. yds. is needed for the project (DEIR P. 2-15). An average commercial dump truck holds 10 to 14 cu. yds. Assuming a range of 10 to 14 cu. yds. per trip, 811 to 1,136 trips would be needed to deliver the soil and an additional 811 to 1,136 trips would be return trips to the site. The number of haul trips assumed in the emission calculations should be clearly identified in DEIR Appendix C and a revised estimate prepared as needed.

- B. Project Consistency with the AQMP. The consistency analysis shows no "approved but not built DUs" in Monterey County (DEIR, Appendix C, P. 155). This conflicts with the traffic analysis, which includes trips for approved but unbuilt projects. The Traffic and Circulation section of the DEIR references a list of approved but unconstructed projects identified in DEIR Appendix G. However, Appendix G addresses hydrology and water, not traffic.

LandWatch's data show the following approved but unconstructed projects in unincorporated Monterey County: East Garrison 1,142; Morisoli-Amaral 318; Rancho San Juan 1,147; September Ranch 95; Ferrini Ranch 185; Harper Canyon 17; Santa Lucia Preserve 178; Pebble Beach Inclusionary Housing 24; and Rancho Canada Village 130. The analysis should be updated to address these data.

2. Aesthetics

A. The DEIR finds:

The proposed project would convert the existing rural character of the site to a more urban character. However, the project location makes it a natural extension of the existing urban landscape of lower Carmel Valley. By adhering to the CVMP policy CV-1.1, the development would maintain the rural character of the region and thus would not degrade the existing visual character or quality of the site. Impacts would be Class III, less than significant.

Please explain how replacing existing agriculture with the construction of four residential units per acre maintains the rural character of the area. Please also address consistency with the following surrounding land uses:

The properties directly to the north and south of the project site are consistent with the rural setting. The properties directly to the north consist of two roughly 2.6 acre lots, each with a single residence and the remaining property dedicated to equestrian uses or open space. To the south, properties are similarly dedicated to single family residences coupled with equestrian uses and woodland habitat. (DEIR P. 4.1-6)

3. **Hydrology and Water Quality**

A. The DEIR finds:

Construction of the proposed project could potentially result in an increase in pollutant discharges to waters of the State, but compliance with Monterey County 2010 General Plan and Carmel Valley Master Plan policies, as well as existing regulatory requirements, would help to reduce or avoid such impacts. Mitigation to reduce off-site runoff to the maximum extent feasible would ensure that the proposed project would not violate water quality standards or waste discharge requirements or otherwise degrade water quality. This impact would be Class II, significant but mitigable.

Mitigation would include measures "to the maximum extent feasible."

Please describe feasible mitigation measures and identify which measures or parts of measures were included in the impact analysis. If they are not defined, please explain how a finding of significant but mitigable impact was determined.

Additionally, neither the final design of the project nor the estimated off-site peak flows are known at this time. (DEIR, P. 4.8-21) Please explain how a finding of significant but mitigable impact was determined when data are not available to quantify impacts.

B. The DEIR finds:

Construction and operation of the proposed project would alter the on-site topography and increase the amount of on-site impervious surface, which could increase the rate and amount of on- and off-site runoff and result in erosion, flooding, and the need for expanded stormwater drainage facilities. Compliance with existing regulations and policies would help to reduce or avoid such impacts. Mitigation to reduce off-site runoff to the maximum extent feasible would ensure that the proposed project would not result in on- or off-site erosion or flooding or the need for expanded stormwater drainage facilities. This impact would be Class II, significant but mitigable.

Mitigation would include measures "to the maximum extent feasible."

Please describe feasible mitigation measures and identify which measures or parts of measures were included in the impact analysis. If they are not defined, please explain how a finding of significant but mitigable impact was determined.

Also, as noted, neither the final design of the project nor the estimated off-site peak flows are known at this time. (DEIR P. 4.8-21) Please explain how a finding of significant but mitigable impact was determined when data are not available to quantify impacts.

C. The DEIR finds:

Construction and operation of the proposed project would place housing within a 100-year flood hazard area which could result in the impedance or redirection of flood flows and the exposure of people and structures to a significant risk of loss, injury, or death involving flooding. Project design features would help to reduce

flood risk. Mitigation would further reduce the risk of loss, injury, or death involving flooding. This impact would be Class II, significant but mitigable.

Mitigation measures are deferred to a later date and include a wide variety of measures that may or may not be implemented. Specific measures to address on-site flooding should be included in a RDEIR. The impact of proposed measures on downstream land uses should also be identified.

- D. The DEIR identifies the construction of retaining walls up to six feet to allow the site to be raised above the flood plain. Please address the impact of the retaining walls on downstream flooding.
- E. Assessment of the availability of water is incomplete and needs further verification (Memorandum from MPWMD Larry Hampson to Molly Erickson, January 9, 2017). This information should be included in a Recirculated DEIR.

4. **Land Use and Project Consistency with the Carmel Valley Master Plan and 2010 County General Plan**

- A. Policy CV-1.10 applies to the proposed project:

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

Only 22.6% of the total 31 units would be built on-site. The remainder of the 25% would be met through payment of an in-lieu fee of \$206,544. While this would meet the County's inclusionary housing requirements, it is inconsistent with Policy CV-1.10 and should be found to be an unavoidable significant impact.

- B. The 2010 General Plan policy LU-1.19 applies to the project and was not addressed in the consistency analysis. It requires the following:

Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or Rural Center: 1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units to be considered."

The project, which includes 25% affordable housing but not the 10% Workforce housing, is inconsistent with the policy.

- C. Project is inconsistent with General Plan Policy LU-2.13, which states:

The County shall assure consistent application of an Affordable Housing Ordinance that requires 25% of new housing units be affordable to very low, low, moderate, and workforce income households. The Affordable Housing Ordinance shall include the following minimum requirements:

- a) 6% of the units affordable to very low-income households
- b) 6% of the units affordable to low-income households
- c) 8% of the units affordable to moderate-income households
- d) 5% of the units affordable Workforce I income households

The project does not include a mix of affordable housing as required.

- D. OS 10.9 applies to the proposed project, which states:

The County of Monterey shall require that future development implement applicable Monterey Bay Unified Air Pollution Control District control measures. Applicants for discretionary projects shall work with the Monterey Bay Unified Air Pollution Control District to incorporate feasible measures that ensure that health-based standards for diesel particulate omissions are met.

As noted in item 1A above, temporary emissions of TACs could have significant impacts on sensitive receptors and a quantitative assessment using an accepted model to specifically address diesel exhaust emissions should be undertaken to support the finding.

- E. County General Plan Policy C 1.1 applies to the project. It states:

The acceptable level of service for County roads and intersections shall be Level of Service (LOS) D, except as follows:

- a. Acceptable level of service for County roads in Community Areas may be reduced below LOS D through the Community Plan process.
- b. County roads operating at LOS D or below at the time of adopting this General Plan shall not be allowed to be degraded further except in Community Areas where a lower LOS may be approved through the Community Plan process.
- c. Area Plans prepared for County Planning Areas may establish an acceptable level of service for County roads other than LOS D. The benefits which justify less than LOS D shall be identified in the Area Plan. Where an Area Plan does not establish a separate LOS, the standard LOS D shall apply.

As noted in the DEIR, LOS D has been established as the minimum acceptable level of service for several segments along Carmel Valley Road. While the traffic impact analysis prepared for the proposed project utilizes these identified LOS standards, the project does not meet the LOS D standard and should be identified as inconsistent.

- F. Policy CV-2.17 was not addressed in the general plan consistency analysis. It requires:

- f) The traffic standards (LOS as measured by peak hour conditions) for the CVMP Area shall be as follows: ...3) Carmel Valley Road Segment Operations:
 - .b) LOS of "D" and ADT below its threshold specified in Policy CV-2.17 (a) for Segments 3,4,5,6 and 7 is an acceptable condition.

The project is inconsistent with this policy, and project impacts should be identified as significant and unavoidable.

Previously, in the Rancho Canada Village project, County staff claimed the project consistent with this Policy CV-2.17 because an EIR had been prepared. We encourage you to avoid making a similar finding for this project. The County's interpretation would permit land uses that are not supported by transportation systems and therefore violate state law that requires circulation policies be consistent with land use policies. It is impossible to imagine the California Environmental Quality Act would let the County deny small projects for which no EIR is prepared but approve large projects for which EIRs are prepared.

5. **Traffic and Circulation**

- A. This section does not address construction-related traffic that could be substantial (item 1A above). This information should be included in a Recirculated DEIR.
- B. The DEIR finds that project impacts to the following intersections and road segments would remain significant and unavoidable under the existing plus project conditions:

- Intersection #3
- Intersection #7
- Intersection #8
- Road segment #1 (northbound and southbound)
- Road segment #2
- Road segment #3 (northbound and southbound)
- Road segment #6
- Road segment #7

The project would violate Policy CV-2.17 which states: "f) The traffic standards (LOS as measured by peak hour conditions) for the CVMP Area shall be as follows: ...3) Carmel Valley Road Segment Operations; b) LOS of "D" and ADT below its threshold specified in Policy CV-2.17 (a) for Segments 3,4,5,6 and 7 is an acceptable condition."

Inconsistency with this policy should be identified as significant and unavoidable.

Thank you for the opportunity to review the DEIR.

Sincerely,



Michael DeLapa
Executive Director



Carmel Valley Association

preserving the beauty, resources, and rural character of the Valley since 1949

June 19, 2017

Chair Mary Adams and Members of the Board of Supervisors
County of Monterey
168 West Alisal Street
Salinas, CA 93901-2487

Subject: Deny Carmel Rio Road LLC (Val Verde) Subdivision Project and Deny Certification of EIR (PLN140089)

Dear Chair Adams and Supervisors:

The Carmel Valley Association respectfully asks you to deny the project because it does not comply with the County General Plan, Carmel Valley Master Plan, Zoning Ordinance, County Inclusionary Housing policies, and would have unacceptable impacts on land use, traffic, water, flooding hazards, and other issues identified by the public and the Planning Commissioners.

- The project is inconsistent with the CVMP Master Plan and County Zoning Code because it allows a density of more than 4 units per acre in the LDR zone.
- The project is inconsistent with County inclusionary housing requirements and good planning.
- The County has introduced a new interpretation of the unit cap that is not consistent with the CVMP policy and the County's litigation settlement with CVA. The County's brand new analysis is inconsistent with the CVMP section CV-1.6, subdivision (c). The CVMP states: "For purposes of the new residential unit cap set forth in this policy, the term "unit" or "units" means lots created by subdivision (including condominiums), accessory dwelling units, single family dwellings beyond the first single family dwelling on a lot, and apartments." CV-1.6 clearly states that only units added on *qualifying existing lots* [i.e. lots greater than 5 acres] shall not count as part of the total unit cap. In its new analysis, the County now counts 130 new units as 125 because it claims there is some sort of credit for 5 units on "existing" lots, even though these lots do not "qualify" pursuant to the policy. These lots neither exist nor qualify, because they have been subdivided. Correctly counting the units

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approved to date, the remaining cap prior to this project is at most 28, consistent with the County's long standing calculation.

- The Traffic and Circulation components of the EIR violate CEQA and the County General Plan.
- The project would have significant and unmitigated impacts on Highway One.

CVA's long letters to the Planning Commission are already included in the Board packet, and we continue to object to the project on each of the reasons stated in those letters.

The Carmel Valley Association requests that the Board of Supervisors deny the project and not certify the EIR. CEQA compliance is not required for projects that are denied, and the County should not approve the flawed EIR. The Carmel Valley Association and its members thank you.

Sincerely,

Priscilla H. Walton, President, Carmel Valley Association

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