

# Attachment D

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## NOTICE OF APPEAL

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

RECEIVED  
MONTEREY COUNTY

2015 SEP -8 PM 3:42

CLERK OF THE BOARD

DA DEPUTY  
HAND DELIVERED

*No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before September 8, 2015 (10 days after written notice of the decision has been mailed to the applicant). Date of decision August 26, 2015.*

1. Please give the following information:

- a) Your name STAMP | ERICKSON
- b) Phone Number (831) 373-1214
- c) Address 479 Pacific Street, Suite One City Monterey Zip CA
- d) Appellant's name (if different) Friends of Quail

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

- Applicant
- Neighbor
- Other (please state) Concerned residents, homeowners, and community members

3. If you are not the applicant, please give the applicant's name: Carmel Canine Sports Center and Wolter Properties LP

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

- |                           | File Number      | Type of Application                | Area          |
|---------------------------|------------------|------------------------------------|---------------|
| a) Planning Commission:   | <u>PLN130352</u> | <u>Combined Development Permit</u> | <u>Carmel</u> |
| b) Zoning Administrator:  | _____            | _____                              | _____         |
| c) Subdivision Committee: | _____            | _____                              | _____         |
| d) Administrative Permit: | _____            | _____                              | _____         |

5. What is the nature of the appeal?

a) Is the appellant appealing the approval  or the denial  of an application? (Check appropriate box)

b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

\_\_\_\_\_  
Please see attached.  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Please see attached.  
\_\_\_\_\_  
\_\_\_\_\_

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency – Planning will provide you with a mailing list.

9. Your appeal is accepted when the Clerk of the Board’s Office accepts the appeal as complete on its face, receives the filing fee (Refer to the most current adopted Monterey County Land Use Fees document posted on the RMA Planning website at [http://www.co.monterey.ca.us/planning/fees/fee\\_plan.htm](http://www.co.monterey.ca.us/planning/fees/fee_plan.htm)) and stamped addressed envelopes.

APPELLANT SIGNATURE  DATE Sept 8, 2015

ACCEPTED \_\_\_\_\_ DATE \_\_\_\_\_

(Clerk to the Board)



## Friends of Quail – Appeal

### 6, 7. There was a lack of fair or impartial hearing.

The Commission allowed the applicant's legal counsel unlimited time to present its arguments, and denied equal time to opponents's legal counsel. The Commission gave the applicant the opportunity to rebut arguments made, and did not provide that same opportunity to opponents' counsel. The Commission did not limit the applicant's rebuttal period.

The Commission did not discuss the merits of the project. Instead, immediately upon conclusion of the lengthy hearing, a commissioner immediately made a motion to approve, which was followed promptly by another motion to approve. The Commission did not have any substantive discussion of the issues, the merits, the problems, and the environmental impacts.

The Commission lacked any representation from the Fourth or Fifth Supervisorial Districts due to the identify of the project applicant, who is the chair of the Commission and a longtime commissioner. The Fifth District is where the project is proposed, and the Fifth District's constituents would be the ones most affected by the project impacts. The Fifth District was inadequately represented on the Commission.

The Commissioners were affected by their long relationships with the applicant, who is the Chair of the Commission, and who has served on the Commission for more than 15 years. Five of the six commissioners who on August 26, 2015 voted on the Carmel Canine Sports Center (CCSC) project have served on the Commission alongside the CCSC applicant for more than five years.

### 6, 7. The findings or decision or conditions are not supported by the evidence.

Friends of Quail challenges each and every one of the findings and evidence in the Planning Commission resolutions.

As one example, Finding 3 is not supported by the evidence. There is no statement of the specific AM and PM hours that the applicant is to avoid as required through the proposed mitigation. Carmel Valley Road has inconsistent and variable peak hours, and really has peak time periods instead of peak hours. There is no performance standard by which the applicant or the public can ensure adequate compliance with this mitigation. The mitigation is inadequate because it does not control departure times from the project site (i.e., the end of the class

period, when attendees and teachers likely would be departing the site and driving on Carmel Valley Road). The mitigation is inadequate because it merely states that classes shall not start “within PM peak hours” but does not prevent the classes from starting one minute after the peak hours, which would mean that the attendees and teachers would be traveling during the peak hours.

The project would generate nearly 500 new daily trips per day that would create significant unavoidable impacts on Carmel Valley Road and Highway One. The mitigation would not adequately reduce those impacts to less than significant, as explained in this appeal and the letters of Friends of Quail, Quail Lodge, and Carmel Valley Association. No finding and evidence adequately identifies and discusses the unmitigated and unmitigatable traffic impacts to Carmel Valley Road.

The EIR inadequately considers and improperly represents issues around traffic impacts to Valley Greens Drive. The County public works department states that the sight distance to the east is not adequate. The EIR claims to the contrary. The County has not adopted a proposal to restripe the Carmel Valley Road lanes to convert the current dedicated eastbound left turn lane into a so-called “chicken lane.” A proposed change to the striping has not gone through the California Environmental Quality Act (CEQA) analysis and would create increased traffic hazards by placing vehicles and large recreational vehicles in a westbound position, blocking the left turn lane used by Tehama. The proposed restriping likely would be strongly opposed by Tehama and its residents and members. The EIR failed to adequately consider the nature of recreational vehicles – their bulk and mass, their slowness, and the fact that their drivers often are not familiar with the roads and area in which they are driving.

The mitigation of 30 owners with dogs per day in the riparian area could mean up to 180 dogs per day in the riparian area. This potential impact was not adequately disclosed, evaluated, or mitigated. The Commission failed to address the impacts of dogs in the riparian area, even if the dogs are on leashes, and the lack of effectiveness of leash laws. The findings and evidence do not adequately address these issues.

The Planning Commission received the lengthy DEIR and Final EIR only a few days before the hearing, and only on CD. No commissioner mentioned anything in the EIR. It is highly likely that none of them read it or exercised their independent judgment.

The statement of overriding considerations is not supported by the evidence.

Continued ag use of the site is not a priority of the County because otherwise the County would not have zoned the property residential. A new recreation resource for canine activities is hardly significant in light of the many other similar resources in Carmel Valley and the County. The creation of employment opportunities on site is minimal, many of which would be low paying positions, and which likely would not be more numerous than the prior agricultural use. The considerations claimed by the County are not adequate and fail to address or support the significant impacts of the special event use and recreational vehicle park use.

The removal of the mitigations retarding the reservoir/pond are not supported because there is no reliable evidence that the reservoir/pond has been removed from the project description. The applicant and staff made numerous inconsistent statements, including statements to the contrary, at the Commission meeting. The project description of the project, with regard to the reservoir/pond and other features, is not adequately presented in the resolutions. Friends of Quail does not know whether the project description includes the pond or not. There is no condition and mitigation that removes the reservoir/pond from the CEQA project description. The mere annotation of "reservoir not approved" on the map attached to one of the resolutions is not adequate. There is no authority behind that annotation and the County statements and documents are inconsistent on that point. There is no condition requiring remediation of the reservoir site, which was excavated without benefit of permit. The EIR did not adequately address the impacts of grading and remediation, and thus underestimated the environmental impacts.

Riparian rights at the site are in dispute and have not been confirmed in any amount for the project site. The Commission resolution incorrectly refers to "an existing riparian right." The resolution fails to state that a right is not confirmed, and fails to quantify a right, if any, in an amount necessary for the project. The evidence shows that no such right exists, or does not exist in sufficient amounts for the project. The County used the wrong test (substantial evidence) to address this critical question.

The water baseline chosen by the County EIR was not grounded in law or fact, and was "calculated" in a manner that violated CEQA. The project impacts on water supply would be significant and the EIR has underestimated them, as shown by comments of Friends of Quail, Quail Lodge, and several resource agencies. The fallow years have not been adequately considered in the baseline use, nor has the impacts of the project during the historic drought. The proper baseline is zero. The pumping of groundwater for the project would have

significant unanalyzed and unmitigated environmental impacts, including decreasing flows in the river and causing impacts to fisheries and riparian habitat.

The traffic concerns identified by Carmel Valley Association and Tim Sanders have not been adequately addressed or mitigated. The County is treating this project differently from others similarly situated, and without adequate basis in law and fact.

The approvals would allow smoking in and along the Carmel River, thus introducing cigarette butts and ash to the riparian area, with unmitigated and unaddressed environmental impacts.

The project's noise impacts have not been adequately addressed and the expert comments were summarily dismissed without adequate consideration and research.

The approvals would allow 24 special event days per year but prohibits the use of portable toilets for more than ten days per year. Those approvals are potentially inconsistent and sets up an unmitigated health hazard.

#### 6, 7. The decision was contrary to law.

Each of the problems and issues identified in the preceding two sections is repeated as if fully incorporated into this section.

The EIR is fatally flawed in ways identified in writing and orally at or before the Planning Commission. The fatal flaws include but are not limited to water baseline, water rights, water supply, traffic, noise, land use, aesthetics, biological impacts, hazards, biological impacts, special events, recreational vehicles, and other issues. The EIR improperly defers mitigation and fails to establish performance metrics. The Planning Commission adjusted mitigations on the fly at the Commission hearing, without written presentation of the changes to Friends of Quail and without adequate time for Friends of Quail and others, including resource agencies, to review them and comment on them. The EIR failed to respond adequately to comments. The EIR did not adequately present the on-the-ground information, use the proper baseline, investigate the potential impacts, and mitigate adequately for the impacts.

Recreational vehicle (RV) parks are not allowed in the low density residential (LDR) zone, nor are special events of the type proposed for more than ten days/year. The proposed recreational vehicle use is not typically associated with

country clubs and there is inadequate evidence to support any finding to the contrary.

Use permits cannot be restricted to ten years, as the Commission resolution and condition purports to do. The EIR's reliance on a ten-year period is inconsistent with CEQA and results in unmitigated impacts. (See the authorities identified by Friends of Quail in its letter and powerpoint presentation at the Commission hearing.)

The Commission approvals improperly rely to a significant extent on applicant self-reported compliance with the conditions and mitigations, instead of enforceable and independently verified condition compliance.

The approvals would allow canine and human use of the riparian and upland areas in ways that would be unable to be verified and enforced by the County and the public, and that would have unmitigated significant impacts on wildlife, including fish, and the area.

The Final EIR did not show changes to the DEIR in a manner that we can understand. Thus, the exact language of the EIR is unknown and ambiguous. That is inconsistent with CEQA.

Each and every one of the objections raised in the letters of Friends of Quail, Carmel Valley Association, Quail Lodge, LandWatch Monterey County, and all other objections from all other person, regarding the EIR are incorporated fully herein in this appeal. If you need another copy of those letters please let us know and we will provide them promptly.

Attachments:

1. August 25, 2015 letter from Stamp | Erickson on behalf of Friends of Quail to Planning Commission
2. August 26, 2015 powerpoint presentation by Stamp | Erickson on behalf of Friends of Quail to Planning Commission

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August 25, 2015

Cosme Padilla, Acting Chair  
and Members of the Planning Commission  
County of Monterey  
168 West Alisal Street, 2nd Floor  
Salinas, CA 93901

Subject: Carmel Canine Sports Center – August 26, 2015 agenda, item 3

Dear Acting Chair Padilla and Members of the Planning Commission:

We represent Friends of Quail, which is a large group of individuals who are strongly opposed to the Carmel Canine Sports Center project. We reiterate our many objections to the project and the EIR, and we join in the objections stated by Carmel Valley Association and LandWatch Monterey County. This letter addresses some of the many legal infirmities of the County's CEQA analysis, including the Final EIR.

The Final EIR fails to adequately respond to the majority of comments made on the Draft EIR. The FEIR largely defaults instead to nonresponsive statements, as described further below. The FEIR makes frequent and inappropriate use of the non-response "Comment noted" and the word "assume" which is not responsive and is evidence of a failure to investigate. The EIR preparer has a duty to find out and disclose all it reasonably can, and to give good faith, reasoned responses to comments. Instead, the FEIR here merely stated "Comment noted" to all or nearly all of comments made by us and others, and made numerous significant assumptions that were not supported or reasonable.

Many of the FEIR revisions of Draft EIR are vague and ambiguous as to what revisions were intended to be made and what revisions were actually made. Many revisions are not provided in underline-strikeout, which is the usual Final EIR approach. As a result, it is largely unclear what the resulting EIR language is intended to be, after revisions are incorporated. Friends of Quail cannot – and is not required to – guess as to the intended revised EIR language. This was not done. If Friends wanted to quote language from the final EIR, Friends would be unable to do so – to decision makers and to a Court. A few examples of this problem are FEIR p. 1, amendments to Section 1-1; p. 1, amendments to Figures 2-1, 2-1 and Section 2.2; p. 3, revision of section 2.4; p. 4, revision to section 2.4.3.4; p. 5, revisions to Table 3-1 and Figure 3-1. The EIR should show the actual language in underline and strikeout.

The FEIR makes numerous claims as to revisions in which "references" have "been removed," but the FEIR fails to provide the language with strikeouts, so it is confusing and ambiguous as to what DEIR language is intended to be stricken. The FEIR also makes unclear statements such as this one with regard to Table 3-1: "Table

numbering has been revised to exclude any omissions between the numbers of 1 through 14." The statement is confusing because the FEIR does not present the revised table or the correct numbering. Other unclear FEIR statements include the statement that with regard to Figure 3-1, "Figure has been revised consistent with Table 3-1." But because Table 3-1 revisions are not presented in the FEIR, Friends does not know what revisions are made to Figure 3-1. Other confusing FEIR claims are that sentences have been "modified" or "revised" but the FEIR fails to show the underline/strikeout language that has been modified or revised (e.g., FEIR, p. 6, re section 4.1.2.3; p. 9, re section 4.4.3.2; p. 10, re BIO-1; p. 21, re Impact Statement NOI-3). Other FEIR amendments to the DEIR are incomplete and unfinished, and thus Friends does not know what the FEIR intended to change the DEIR language and Friends cannot comment adequately on it. For example, the FEIR changes to Impact BIO-5 includes the following partial sentence "Instead the existing reservoir" [sic]. (FEIR, p. 10.)

As one example of the confusing EIR approach, see the two statements in the FEIR, page 1, as follows:

Statement A

*Section 1.1 of the DEIR was revised as follows:*

As the Applicant would rely only on Riparian Rights for water use, reference to the proposed irrigation reservoir has been removed.

Statement B

**Amendments to Section 2.0, Project Description**

*Figure 2-1 and Figure 2-2 have been revised to show the irrigation reservoir as "Irrigation Reservoir (To Be Filled and Reclaimed)".*

*Section 2.2 of the DEIR has been revised as follows:*

Reference to the proposed irrigation reservoir has been removed.

FEIR Statement A shows added language as underlined, but the FEIR statement B uses italics to show added language. This creates confusion. Further, FEIR Statement B makes similar claims to Statement A ("reference ... has been removed"). Alluding to removing references is not an understandable way to proceed. The Final EIR should simply show the references to the reservoir in strikeout text. If DEIR language is to be "removed" then it should be shown in strikeout, so there is no confusion as to the intended Final EIR language. Statement B also claims that

revisions have been made to two figures, but the revisions are not shown as underlined or stricken.

The EIR is not adequate because it lacks a fixed and stable project description. It appears that the project may have changed in significant ways, but the County statements about the issue are unclear. The EIR makes inconsistent statements about the reservoir as major feature of the project. The Draft EIR made clear that the project includes a reservoir for irrigation and for dock-diving by dogs. The Final EIR calls the reservoir into question, without resolving the matter. The Final EIR makes claims including: "the pond would be removed" (FEIR, J-158); "the reservoir is being removed" (FEIR, J-160 [11-77]); the Project Description has been revised to remove the reservoir and restore this area of the site" (FEIR, J-6). However, the County admitted in writing on August 24, 2015 that no project description revisions have been received by the County since the 2014 project descriptions on which the Draft EIR was based. Thus, the reservoir is still a part of the project. The County failed to include a condition to remove reservoir from the project description and to restore the reservoir site as a result of the grading already done by applicant. Planning Director Mike Novo confirmed on October 10, 2013 that a grading permit was required for the irrigation pond on agricultural land, and that the CCSC applicant graded the irrigation pond/reservoir without benefit of permit.

To make matters worse, the EIR is inconsistent in its handling of the reservoir. The reservoir is a major part of the project description in the DEIR. One inconsistency is that the excavated reservoir was not part of the pre-project baseline, because the applicant excavated the reservoir as part of the project development activities. However, the EIR claims that the reservoir is part of the baseline. (See FEIR, section 2.3.2.) As a separate inconsistent issue, the EIR claims that the irrigation reservoir has been removed from the project description, and at the same time affirmatively adds new language to the description of the proposed reservoir, specifically that "remaining activities [of the reservoir] include conditioning the surface and installing plumbing and liner." (FEIR, p. 2.) Thus, the EIR claims that the applicant will reclaim the reservoir and that the applicant will complete the reservoir. The EIR cannot have it both ways.

The EIR fails to analyze the environmental impacts of filling the excavated reservoir and reclaiming the site. The reservoir would take thousands of cubic yards of fill. The EIR fails to disclose where the fill would come from, the air quality and greenhouse impacts of the grading and reclamation process, and the related environmental impacts. The comment responses that address this issue (e.g., 11-58) are inadequate and incomplete.

The EIR assumption that the CCSC project will be around for 10 years is improper. A use permit runs with the land. The EIR's analysis of impacts based on 10-year assumption resulted in an underestimation of impacts, which in turn resulted in inadequate mitigations (e.g., FEIR, p. 7, Impact AQ-3 revisions). An EIR must not



assume that project would exist for a short time. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450.) Approval of a use permit creates a constitutionally protected property right. (*Malibu Mountains v. County of Los Angeles* (1998) 67 Cal.App.4th 359, 367.) A use permit may not automatically expire, contrary to the County's proposed condition 10. (*Comm. Dev. Commission v. City of Ft. Bragg* (1988) 204 Cal App.3d 1124.)

The FEIR uses an incorrect legal standard and approach by claiming that there is "substantial evidence that the property has a riparian right." CEQA requires an EIR preparer to investigate and find out all that reasonably can, not rely on very low standard of substantial evidence. This EIR has not met the CEQA requirements. Project seeks to use more than 60.91 AFY of Carmel River water. (FEIR, J-7.) Monterey Peninsula Water Management District states that "A riparian right has not been confirmed"; "MPWMD does not have authority to grant riparian rights"; "The SWRCB has not recognized riparian rights for the ... project parcels, and the courts have not established a riparian right for this project"; and "only the courts can confirm riparian rights." (MPWMD, 5/18/15 ltr.) Cal Am argues that the project parcels do not have riparian rights. (Cal Am, 5/18/15 ltr.)

The EIR selected a baseline that did not consider the water use during fallow years (FEIR pp. J-6 and J-7). This is a selective and unreasonable approach to baseline. The approach artificially increased the baseline to a much higher level than appropriate, as the resource agencies commented. The EIR approach failed to adequately evaluate environmental impacts. The EIR preparer does not have legal authority to pick and choose the data that goes into baseline, as the EIR preparer did here.

The EIR assumption of one dog per visit (e.g., FEIR, p. 4) is contrary to the applicant's intent, and results in significant underestimation of the impacts of dogs on the environment. The CCSC membership application expects up to six dogs per membership. The CCSC membership information brochure also expects up to six dogs per membership. Each member would have at least one dog. Some members would have up to six dogs. Thus, the average number of dogs per member would be higher than one.

The FEIR claims that "short term or day use visitors would not have access to use member facilities" and also that a limited number of classes would be offered "to ensure adequate use of the facilities by members." (FEIR, p. 4). Please explain the difference between "member facilities" and "facilities." The County staff's written response (in August 2015) that the definition is "intuitive" is both unhelpful and inaccurate.

The EIR claims about water rights are wrong on the law and the facts. The EIR claims also are internally inconsistent. The FEIR claim that "the applicant would rely

on riparian rights to secure water usage" (FEIR, p. 10) fails to consider adequately the very real possibility that the riparian rights have been severed or are inadequate for the project. Multiple EIR statements on the issue of water rights are patently incorrect. For example, the DEIR states that "MPWMD does not have the authority to assign a water right..." which the FEIR incorrectly rewrites to say "MPWMD does that [sic] the authority to assign a water right" (FEIR, p. 14). The FEIR incorrectly claims that the MPWMD has confirmed that the applicant has provided adequate documentation of a riparian right. (FEIR, p. 19.) Because the MPWMD does not have the authority to adjudicate, assign, or approve a water right, any documentation provided to MPWMD is irrelevant.

The FEIR "caps" on activity in the riparian area are inconsistent and ambiguous, and thus the impacts could be far greater than estimated in the FEIR. The FEIR inconsistently claims that "30 dogs" will be allowed in the riparian area (e.g., FEIR, p. 11) and that "30 owners with dogs" would be allowed (FEIR, p. 12). The condition addresses only owners, not dogs. (Condition 17, MM BIO-4b.) The CCSC application materials allow multiple dogs per owner, so "30 owners" could mean 90 or more dogs.

The responses to the noise comments are inadequate. The new EIR noise appendices are conclusory and unsupported. The barking of 100 to 300 dogs is not an expected or wanted noise in residential zone or quiet rural Carmel Valley neighborhood. The FEIR admits that intermittent dog barking would be anticipated (FEIR, J-80 [9-9], J-175-176) but argues that noise levels would not exceed thresholds of significance. The EIR misses the issue: that dog barking is annoying and unwanted sound – similar to a car alarm, or construction next door, or tile-cutting across the street. Nobody likes those noises - even though not above threshold. Think of a dog at night that barks every few seconds – the noise is not above a decibel threshold, but it is annoying and unwanted, and negatively affects quality of life and the peaceful enjoyment of homes.

County staff claims that the project could be considered a "country club" use, but the project is not consistent with a "country club" use. Country clubs do not permit 70 RVs to create an encampment for 24 days/year of 140+ people and 200+ dogs.

FEIR comment response 10-7 appears to be incorrect. The FEIR claim that "the queue would be 11 vehicles *or less*" is incorrect. It appears that the FEIR intended to say "the queue would be 11 vehicles **or more**." The FEIR should be corrected.

The FEIR reference to "the approved master plan" (FEIR, p. 21) makes no sense, and is inconsistent with the referenced condition/mitigation in the proposed Planning Commission resolution. We have asked County staff to explain exactly what is meant by the term, and the authority for the FEIR claim that "substantial conformance" is the proper legal standard. We have not received a response.

The FEIR revisions to mitigation measure MM TRANS-2 show that the County would authorize and require the CCSC applicant to "preclude left turning movements

from Valley Greens Drive onto Carmel Valley Road during special events." (FEIR, p. 26.) We have asked County staff whether that means that all left turns would be precluded, including local traffic and CCSC special event traffic? If so, then traffic seeking to make a left turn onto Carmel Valley Road would be required to use Rancho San Carlos Road, or it would go through the Valley Greens Shopping Center parking lot (to avoid the prohibition) and make a left turn from an exit from the parking lot. The EIR failed to adequately analyze the traffic, safety, noise and other impacts of the (diverted) increased traffic on the Quail residential area, on the narrow Rancho San Carlos Bridge, and the Rancho San Carlos intersection, and on the shopping center.

MM-TRANS-5 refers to "Weekday A.M. and Weekday P.M. peak hours" (FEIR, p. 27). I have asked County staff these questions: Please tell me what the EIR considers to be the "Weekday A.M." peak hours and the "Weekday P.M. peak hours," and tell me where in the EIR we can find the statements that state what the A.M. and P.M. "peak hours" are. We cannot find that information in the EIR or the EIR sources. The EIR (DEIR and FEIR both) make vague, ambiguous and inconsistent use of the term "peak hour" without defining it. In fact, the peak hours of CV Road traffic change from day to day, and CV Road typically has multiple peak hours. The EIR fails to identify the weekend AM and PM peak hours. Mitigation MM TRANS-5 is not enforceable if nobody knows which hours are prohibited, and it is not adequate if the decision makers do not know which peak hours have been identified.

The EIR averaged October-November 2014 traffic counts with June 2014 traffic counts. But the October-November counts included weekends. And June counts did not include school traffic, which is significant and would change the outcome. The EIR claims this approach results in "the typical volumes along the segments." (FEIR, p. J-105). This approach artificially skewed the EIR analysis to result in a conclusion that there would be fewer impacts than the project would actually cause. This makes no sense. The issue is peak hour impacts. CEQA requires analysis of foreseeable impacts, including worst-case scenarios of the traffic impacts in this case.

The EIR claims that the project grading would include restoration of the site (J-106) and admits that previous grading for the reservoir was not included in the CEQA baseline. Thus, the EIR should have analyzed the impacts of the grading and excavation for the unpermitted reservoir that the applicant did, and also the restoration of the same unpermitted reservoir. The EIR has not done this adequately, or mitigated for the impacts.

Comment responses 11-28 and 11-29 are not responsive. It merely repeats the EIR assumptions, and does not clarify the size of the reservoir. The difference in the amount of grading between a 1-acre excavation and a 1.5-acre excavation is significant because the excavation depth is approximately 6 to 8 feet. The EIR failed to provide the information requested for an informed decision. The revisions to section 2.5.4 are not supported and cannot be accurate. If, as the DEIR stated, "Grading of

approximately 6,253 CY would be required for the irrigation reservoir,” then that amount of grading should be doubled to account for both the excavation of the reservoir (already completed without a permit) and also the reclamation of the reservoir. The FEIR failed to account for the quantity and impacts of the total amount of grading.

The EIR estimates of grading are not adequately supported and are not reliable. An acre foot is 1,613 cubic yards. The EIR claims that the reservoir is 1 acre to 1.5 acre in size. The reservoir is approximately 6 to 8 feet deep. Thus, if the reservoir is 1 acre in size and 5 feet deep, that is grading of 8,066 cubic yards. If the reservoir is 1.5 acres in size, that is grading of more than 12,000 cubic yards. Reclamation of the reservoir would double those amounts. Both excavation and restoration are part of the project. The EIR estimate of 6,253 cubic yards is significantly lower than the correct figure, and the impacts of the grading have also been underestimated. Response 11-29 failed to provide the information requested: the source of the 6,253 cubic-yard calculation.

The proposed RV park is an incompatible land use in the neighborhood. RV parks are not allowed in LDR Zone (MCC, § 21.14). The staff report admits that “RVs are not typically associated with Country Clubs.” The 70 recreational vehicles would create a high-density encampment of 150 to 200 people plus 100 to 300 dogs, in the midst of the quiet, low density residential neighborhood. Transient use means that occupants have no connection to the neighborhood, similar to campers at a campground or overnight occupants at a motel. Recreational vehicles are like 70 movable motel rooms – and motels are not allowed in the LDR zone, either. The County staff report inaccurately characterizes, and understates, the many objections that the neighbors and CVA have to the RV use.

RV Parks are expressly allowed in other County zones, such as the VO zone (21.22.060.D). RV Parks belong in the zones where they are allowed, not in quiet residential zones like this one.

The EIR improperly assumed there would be “a maximum of 500 individual annual paying members” with “one dog per visit” (FEIR, p. 4), and based its analysis on those improper assumptions. The CCSC materials list membership categories as being individual, couples, family or founding, and that the latter three categories (couples, family, or founding) include two or more adults as members, and up to 6 dogs. The EIR analysis failed to adequately consider the memberships that include more than one “individual.” The project description did not commit to cap memberships at 500. The EIR did not cap the membership at 500 individual memberships, or at 100 visits by individuals per day. The EIR failed to adequately consider and quantify the impacts of short term visitors, day use visitors, and guests of members, including traffic, noise, and other environmental impacts. Comment response 11-13 claims that the EIR assumed a maximum of 500 memberships. That is not accurate. As stated above, no such assumption is stated in the project description or required as a condition of approval.

The County's approach to the responses to DEIR comments is not consistent with CEQA. As one example, when a response to a comment makes a change to the EIR as a result of the comment, the response fails to state the language of the change, and where the changed language can be found in the Final EIR. For example, see the following responses to comments: 10-35, 11-12, 11-17. This is not an exhaustive list. There are many examples of this EIR flaw, some of which are mentioned elsewhere in this letter. The problem with this approach is that the reader (the public and the decision makers) then have to hunt throughout the Final EIR looking to see if a change was made, and what the change was. It turns reading the EIR into an unreliable scavenger hunt for the public – a scavenger hunt where the public does not know what to look for. It would have been simple for the response to comments to identify the section that was changed and the revised language, but this FEIR did not do that. To make matters worse, numerous responses to comments claim to have made a change to the EIR text, when in fact according to the "Amendments to the EIR" section of the Final EIR, no change has been made, nor has the changed text been found by us in the EIR despite our diligent searches. Examples of this problems include comment responses 11-38, 11-41, 11-49, and 11-68 which claim to make text changes that do not appear in the "Amendments to the EIR" section and the mitigations proposed to be imposed by the EIR and the County (e.g., 11-68).

The EIR preparer failed to provide reasonable, good-faith responses to comments. Examples of this include comments/responses as follows: 11-12 (failure to consider proposed mitigations and conditions); 11-14; 11-15 (failure to respond to the question seeking a definition of a term used by the DEIR); 11-18 (failure to address and correct the DEIR figure that shows only one access to the riparian/river area; 11-29 (not responsive); 11-30 (not responsive to second and third paragraphs of comment) 11-32 (not responsive); 11-34; 11-35; 11-38; 11-39; 11-40; 11-42 (failure to identify location of picnic tables, a project element); 11-43 (no evidence that property owner has given permission for project applicant to use emergency access); 11-44; 11-69 (failure to disclose location and extent of trails, failure to address scientific fact that the presence of dogs has a negative impact on wildlife, regardless of whether the dogs are leashed or stay on trails; no mitigation requires the dogs to stay on the trails [see cond. 16, MM BIO-4a in staff report to Planning Commission], contrary to the FEIR claim); 11-70 (inadequate response to comments on ineffectiveness of signage); 11-76 (commenting on MM BIO-4a and BIO-4b [which do not require plans], but response instead deals with BIO-4c); 11-78 (not responsive); 11-79 (failure to provide requested support for questioned DEIR conclusions); 11-80 (failure to address the lack of reasonable and reliable enforceability of counting 300 dogs, and likelihood that more than 300 dogs would be on site during special events, which is unanalyzed impact); 11-81 (failure to provide support for questioned DEIR claim about short term noise; denying fact that dog barks would be repeated during special events); 11-84 (response that Public Works found sight distance to "conform to requirement" is not accurate; the referenced 17 July 2015 memorandum states otherwise; industry documents show that distance is far below safety standard); 11-85 (comment is as to blind intersection and traffic speed;

response does not mention either blind nature or speed, and instead addressees collisions); 11-86 (no response as to comments made); 11-87, 11-88, 11-90 (inadequate response to specific comments made, including the site-specific egress and ingress issues at Valley Greens and the shopping center); 11-91 (inadequate response to the issue of the lack of effectiveness of temporary traffic controls at the Valley Greens intersection); 11-92 (comment is on scheduling of classes as mitigation; response is as to left turn channelization, and does not respond to comment; response states that mitigation TRANS-5 was "revised to state that classes shall not start before 9:30 A.M. or after 4:00 P.M." but that claim is not consistent with FEIR amendments [p. 27] or proposed condition in draft resolution; no evidence that mitigation reflects actual peak hours on CV Road; actual peak hours of eastbound traffic are inconsistent with proposed mitigation; mitigation would be ineffective to reduce to less than significant impact); 11-93 (same as 11-92; nonresponsive because County used "typical" standard that is not the on-the-ground volume of eastbound CV Road traffic, which is the primary direction at issue for people driving to the project site; furthermore, a prohibition on classes starting after 4 or 4:30 also would not be effective because people leaving the project site would do so during the PM peak hours).

The EIR preparer failed to adequately respond to suggested mitigations and conditions. Examples of this include comments/responses as follows: 11-14; 11-39 (prohibit access to the riparian area to mitigate for impacts); 11-49 (same; eliminate picnic tables and other structures south of the fence line); 11-68 (failure to address likelihood that project site visitors would feed wildlife); 11-75 (suggested mitigation to prohibit dogs south of the food-safety fence and lock the access gates);

Other FEIR comment responses incorrectly characterized the comment, or gave incomplete or nonsensical answers. Examples of this include comment 11-21, pointing out that dog whistles would cause unwanted noise impacts. Comment response 11-21 says that use of dog whistles "could be encouraged by the Applicant."

The EIR preparer failed to ensure that the EIR assumptions would be enforced as conditions of any project approval. Examples of this include comment/response as follows: 11-14 (limiting visits to the number assumed by the EIR); 11-17 (no condition requiring that ranch manager live onsite or be able to respond 24 hours a day during special events).

MM BIO-4c does not adequately specify performance criteria and therefore is inadequate mitigation under CEQA. No pre-project baseline has been documented and established as part of the EIR or at all.

Comment response 11-20 is inaccurate because it claims that the reservoir was "found to not result in significant impacts warranting . . . removal." That claim is inconsistent with the FEIR's conclusions that the reservoir would have significant impacts because it did not have water rights and therefore would be removed.

Comment response 11-13 fails to respond to many of the comments made. The FEIR took more than a page of detailed comments and lumped them into a single "comment 11-13." The response did not address many of the specific points made about estimates, visits, dogs, and impacts. The CVAC is not a comparable use, and the EIR should not have relied on it. There are many athletic and health clubs in the area, including Carmel Valley Ranch, the mouth of the Valley, and multiple clubs in Monterey, Pebble Beach, the Highway 68 Corridor (Pasadera, Corral de Tierra), and Salinas. In contrast, the County claims that the CCSC project would be unlike anything currently available for dog recreation in the County. Thus, the usage of CCSC foreseeably could be significantly higher than the CVAC use, and the impacts of the usage foreseeably could be significantly higher than the EIR assumed.

The EIR should have reasonably looked into and investigated whether the private segments of Valley Greens Drive and Rancho San Carlos Road conform to County standards, including bridge width. This is relevant to the mitigations proposed. (FEIR, J-101 [10-6]), and it is information to which the public and decision makers are entitled in order to determine the adequacy of the proposed mitigations.

The EIR claims that Valley Greens sight distance is adequate. (E.g., FEIR, J-104 [10-41]). That claim is not consistent with the County Public Works memorandum that admits that the sight distance is a concern, and that Public Works needs to improve the intersection to address the concern. The EIR claim also is not consistent with Caltrans principles, which require greater sight distance. The EIR claim also is not consistent with the actual drivers who use the intersection, and who have experienced long delays and sight distance problems in seeing westbound cars approaching the intersection, until the last minute.

The EIR comment responses 11-23, 11-24 and 11-25 failed to meet the good faith requirement of CEQA by failing to show where any existing trails are located in the riparian/ruderal area, and by failing to describe the very limited extent of the current use by MPWMD of the trails. The EIR also failed to provide a baseline of current wildlife, vegetation, and animal corridor activity in the riparian/ruderal area, making it impossible to accurately measure the impact of dog/human use proposed as part of the project. The EIR's selection of 30 dogs per day was not reasonable because there is no evidence that restriction would minimize impacts, as the EIR claims. Comment response 11-26 failed to respond adequately to the question. Nothing would prevent dogs or their owners from going to the southern reach of the river, and thus those impacts are foreseeable and potentially significant, but have not been investigated or mitigated.

The FEIR failed to adequately consider comments that proposed mitigations to reduce impacts. The FEIR failed to adequately consider comments that proposed changes and improvements to ineffective DEIR mitigations. No mitigation requires

dogs to stay on the trails. No mitigation limits the length of leashes of dogs, or requires owners to hold onto the leashes. No mitigation limits the number of humans who could go into the river as part of the project.

The analysis under Impact BIO-6 is inadequate. The impact is intended to focus on the operation of the proposed Project site as well as the associated noise generated at the Project site that would potentially adversely affect the use of the Carmel River as a riparian wildlife corridor. But the EIR analysis does not mention the impacts on the corridor or pathway usage, and instead focuses on decibel levels. The impact analysis fails to consider the usage by dogs and humans of the riparian and ruderal areas of the project site, on both sides of the river, and how that wildlife would be affected. Wildlife do not care about decibel levels. They are affected by many other impacts, such as the scents of dogs and humans; the fear and disturbance to their nests, breeding areas, feeding areas, hunting grounds, and travel patterns; the flushing factor; and similar impacts. The EIR does not adequately address these potentially significant impacts. The response 11-52 does not comply with CEQA because the response does not adequately respond to the issues raised by the comment.

Response 11-50 is not responsive. The mere fact that the river "along the Project site" is seasonally dry for "a few months" during the non-rainy season of the years is not an adequate excuse for the EIR's failure to obtain and consider a biological resources assessment during the period of time that the river was flowing. The Carmel River usually is flowing in January and February.

The EIR uses a water pumping baseline that does not comply with CEQA. The EIR uses a new twist in its approach, calling it a "calculated baseline". That approach is not condoned or legal. The EIR's "calculated baseline" is selective use of prior years, starting approximately seven years ago and then selectively choosing some years and not others. The effect is to end up with a very high figure that does not reflect reality now or in the period of past years. That approach does not comply with the County's approach to water baseline for other large projects in Monterey County, or with CEQA law.

The comment responses with regard to impacts on river flows and salmonids are incomplete, conclusory, and not adequate in other ways. (E.g., 11-55 through 11-57.) As the resource agencies have made clear, the project would cause a drop in flows, which would affect the salmonids and other wildlife.

The FEIR lumped two paragraphs commenting on two unrelated topics into a single Response 11-59, and failed to respond to the second paragraph. Responses 11-60, 11-61, and 11-62 are not responsive to the comments made; those comments are not addressed in Master Response 1.



Response 11-63 is not accurate and nonresponsive. The FEIR claims that the 30 dog per day limit is proposed as part of the project. The public records do not support the claim. The County has confirmed that the applicant's project descriptions are dated May 2014, plus a December 2014 description attached to the initial and revised NOPS. None of those descriptions mention a 30-dog limit, contrary to the FEIR claim. Response 11-64 is not responsive. It is foreseeable that there will be significant unmitigated impacts because the mitigation is foreseeably ineffective.

Response 11-65 is not responsive and is inconsistent with other FEIR statements because it claims that the reference "to an existing 'picnic table' has been removed" but the statement is not shown in the FEIR as being struck out. The FEIR shows the paragraph referencing the picnic table with added text underlined, but did not show any deleted text on picnic table in strikeouts. To make matters worse, instead the FEIR added a new reference to "the existing picnic table" (p. 8).

Response 11-66 is inadequate. The County records show that MPWMD staff use the trails only to maintain the MPWMD restoration work, which is not a frequent or regular use. However, the FEIR failed to delete the EIR language that the trail "is likely used regularly." The statement is unsupported and conclusory.

The EIR places inappropriate and illegal emphasis on future plans, including the events management plan, the operations plan, the habitat management plan, etc. The reliance on these future plans constitute an impermissible deferral of analysis of impacts, and a failure to establish baseline, and a failure to establish performance criteria and metrics by which impacts would be measured. The comment responses on this issue are not responsive. (E.g., 10-71 (referring to undefined "success criteria"); 11-67 (referring to undefined and vague "quantitative coverage" and "density triggers", neither of which have been established as part of the EIR process, and which are unknown to the public and decision makers); 11-73 (failing to state what the objective triggers are, and who chooses the trigger); 11-74 (no description of baseline of "vegetation cover" and no description of "density control trigger" – both of which are vague and ambiguous terms, as well as no metrics and no baseline).

Request

The project should be denied. The EIR is fatally flawed. This is the wrong project at the wrong location. Thank you.

Very truly yours,

STAMP | ERICKSON


  
Michael W. Stamp  
Molly Erickson

Table of Exhibits

A	CCSC membership application – discussed in the letter.
B	CCSC membership information brochure - discussed in the letter.
C	Map of CCSC site, and surrounding roads and intersections – to show location of traffic impacts.

# **EXHIBIT A**



# Membership Application

*\*Please note that applications may be followed by an in-person/dog interview before final membership approval is granted*

**NAME:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**BILLING ADDRESS:** \_\_\_\_\_

**HOME PHONE:** \_\_\_\_\_ **CELL:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_

**MEMBERSHIP LEVEL (individual, couples, family or founding):** \_\_\_\_\_

*For couples, family or founding memberships, please list the names of all other registered adult members on your account;*

\_\_\_\_\_  
\_\_\_\_\_

**LIST SPECIFIC DOGS ON YOUR ACCOUNT:**

**Dog #1: Name** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Breed** \_\_\_\_\_

**Dog #2: Name** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Breed** \_\_\_\_\_

**Dog #3: Name** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Breed** \_\_\_\_\_

**Dog #4: Name** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Breed** \_\_\_\_\_

**Dog #5: Name** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Breed** \_\_\_\_\_

Dog #6: Name \_\_\_\_\_ Age: \_\_\_\_\_ Breed \_\_\_\_\_

Please tell us the activities or sports that you would most like to see accommodated at CCSC:

---

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Are you currently a member of any canine clubs or organizations (sporting or non)? If so, please list them;

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---

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**PLEASE SUBMIT YOUR INITIATION FEE BY CHECK ALONG WITH THIS COMPLETED APPLICATION TO;**

**Carmel Canine Sports Center  
P O Box 221974  
Carmel, CA 93922**

**THANK YOU & WOOF!!!**

For office use

Ck#	Entered	
Amount		
Type		

# **EXHIBIT B**

# CARMEL CANINE SPORTS CENTER

## MEMBERSHIP INFORMATION

APRIL 2013

phone: 831-620-6544  
email: info@CarmelCanineSports.com  
www.CarmelCanineSports.com

8100 Valley Greens Drive  
Carmel, CA 93923  
831-620-6544

### HOURS

Monday - Friday: 7 am - 8 pm  
Saturday - Sunday: 8 am - 7 pm  
*Unlighted areas open daylight hours only*

### Membership General provisions

- Everyone entering the facility must have a current signed waiver on file
- Everyone entering the facility must agree to follow the posted rules
- Dogs must have proof of current vaccinations according to specified requirements
- Members are responsible for their dogs and guests / dogs and guests may not be left on site unattended
- One adult may be primarily responsible for no more than three dogs on site at one time

### ALL MEMBERSHIPS INCLUDE:

- Access to CCSC facilities during operating hours
- Reserve training areas up to 2 weeks in advance
- Priority registration / member discounts for classes, workshops and special activities

*The first 100 memberships will be CHARTER MEMBERSHIPS Rates for Charter Memberships will not change for 5 years if payments remain current. Rates will be adjusted once Charter Memberships are filled.*

### SPECIAL CHARTER MEMBERSHIP RATES

#### SINGLE MEMBERSHIP

- One named adult and one specific dog included
  - \$300 one-time initiation
  - \$800 annual dues  
*(single payment or \$68/month)*

#### COUPLES MEMBERSHIP

- Up to two named adults and three specific dogs included
  - \$400 one-time initiation
  - \$1100 annual dues  
*(single payment or \$88/month)*

#### FAMILY MEMBERSHIP

- Up to three named adults and up to six specific dogs included
  - Family members under 18 included
  - \$500 one-time initiation
  - \$1300 annual dues  
*(single payment or \$108/month)*

### FOUNDING MEMBERSHIP 25 available

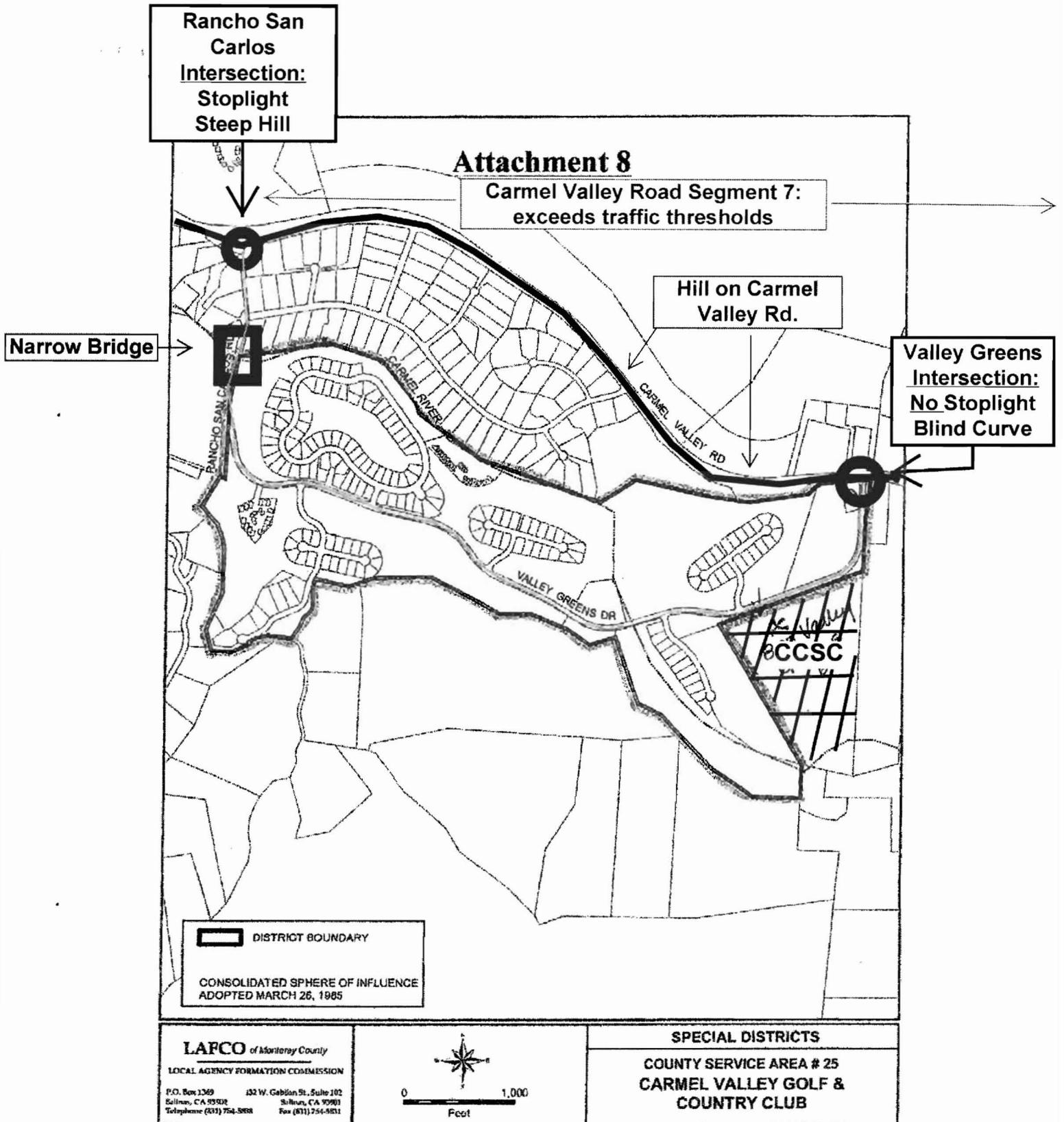
- Up to two named adults and six specific dogs included
- May be transferred to an eligible recipient of the member's choice
- Family members under 18 included
  - \$10,000 single payment
  - No additional membership fees for 10 years
  - Renewable if lease is extended or if CCSC moves to another location

*If you have a situation that does not reasonably fit into any of the categories as described, or for group rentals, special events or other contracted uses, please contact us to discuss how we might accommodate your particular needs.*



# **EXHIBIT C**






**Monterey County PLANNING COMMISSION**  
**AUGUST 26, 2015**

**Item No. 3**  
**Carmel Canine Sports Center**

**STAMP | ERICKSON**  
**on behalf of Friends of Quail**



# Opponents

- ▶ Friends of Quail – hundreds of neighbors and property owners
- ▶ Carmel Valley Association – largest and oldest residents' association in County
- ▶ Quail Lodge – hospitality business
- ▶ LandWatch Monterey County
- ▶ Hundreds of County residents and owners

# CCSC project would cause 500 new traffic trips every day!

## ▶ Significant and Unavoidable Traffic Impacts

1. Highway One from Ocean to CV Rd. – LOS F
2. CV Road intersection at Rancho San Carlos
3. CV Road intersection at Valley Greens Drive

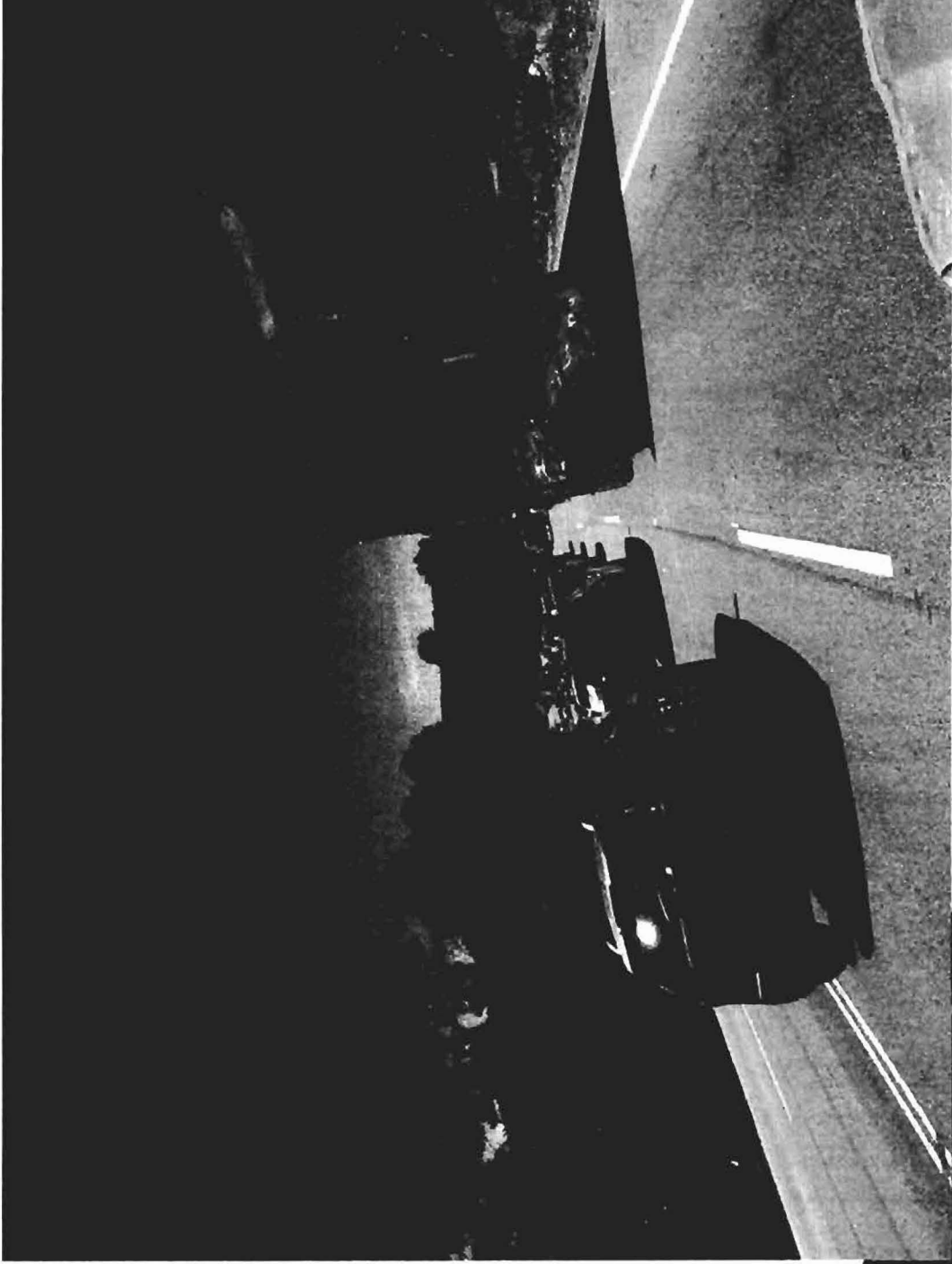
Compare to housing at site: 70 new trips/day



# Traffic: Carmel Valley Road



# Highway One between Ocean Ave. & Carmel Valley Rd.: LOS F



# Rancho San Carlos Road: narrow bridge



# Valley Greens Dr. at Carmel Valley Rd.: unsafe sight distance, County concern





# Water baseline is zero

- ▶ Agreed: State Water Resources Control Board (5/13/15); Calif. Dept. of Fish & Wildlife (5/18/15); NOAA Fisheries (5/15/15); Stamp|Erickson; Tony Lombardo
- ▶ SWRCB: project demand “would decrease flows” in river, cause “impacts to fisheries”
- ▶ NOAA Fisheries: “additional pumping ... will decrease flows in the river”

# Applicant does not have confirmed right to water from overdrafted Carmel River

- ▶ Project insists on 60.91 AFY year round. (FEIR J-7.)
- ▶ Monterey Peninsula Water Management Dist.:
  - “A riparian right has not been confirmed.”
  - “MPWMD does not have authority to grant riparian rights”
  - “The SWRCB has not recognized riparian rights for the ... project parcels, and the courts have not established a riparian right for this project.”
  - “only the courts can confirm riparian rights.” (5/18/15 ltr.)

Cal Am: Site does not have riparian rights.



# CCSC Membership Application

(downloaded August 21, 2015 from CCSC website)



## Membership Application

*\*Please note that applications may be followed by an in-person/dog interview before final membership approval is granted*

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

BILLING ADDRESS: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ CELL: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

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*For couples, family or founding memberships, please list the names of all other registered adult members on your account:*

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\_\_\_\_\_

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Dog #5: Name \_\_\_\_\_ Age: \_\_\_\_\_ Breed \_\_\_\_\_

Dog #6: Name \_\_\_\_\_ Age: \_\_\_\_\_ Breed \_\_\_\_\_

**Dog #1: Name** \_\_\_\_\_

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**Dog #3: Name** \_\_\_\_\_

**Dog #4: Name** \_\_\_\_\_

**Dog #5: Name** \_\_\_\_\_

**Dog #6: Name** \_\_\_\_\_

# CCSC Membership Information

(downloaded August 21, 2015)

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APRIL 2013

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email: info@CarmelCanineSports.com  
www.CarmelCanineSports.com

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- May be transferred to an eligible recipient of the member's choice
- Family members under 18 included
  - \$10,000 single payment
  - No additional fees for 1
  - Renewal extended to another

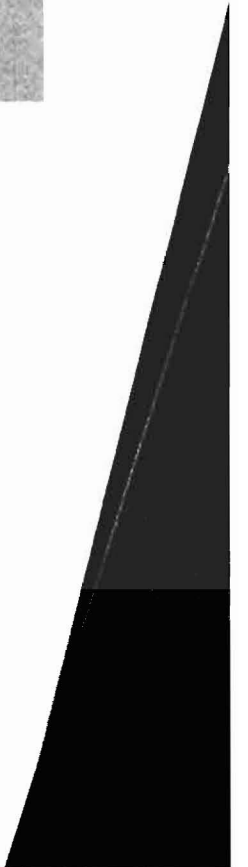
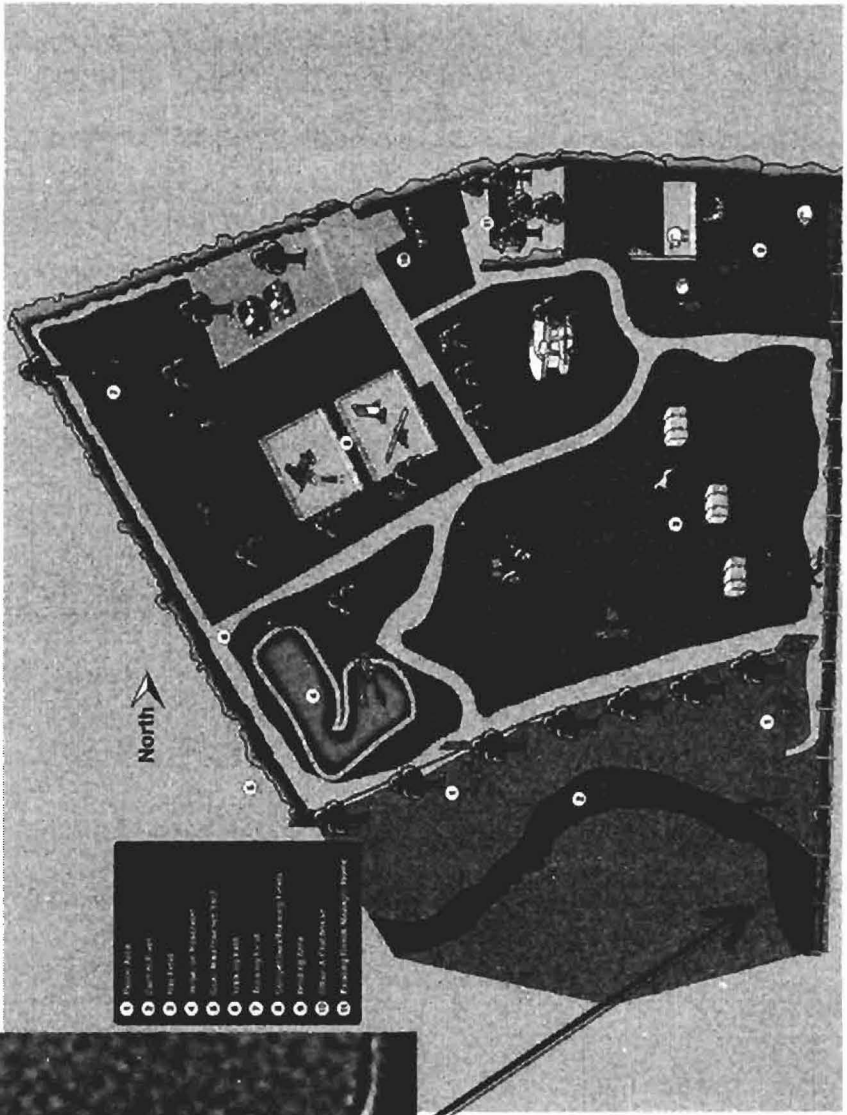
*If you have a sit reasonably / categories as de rentals, speci contracted uses, discuss how we your par*

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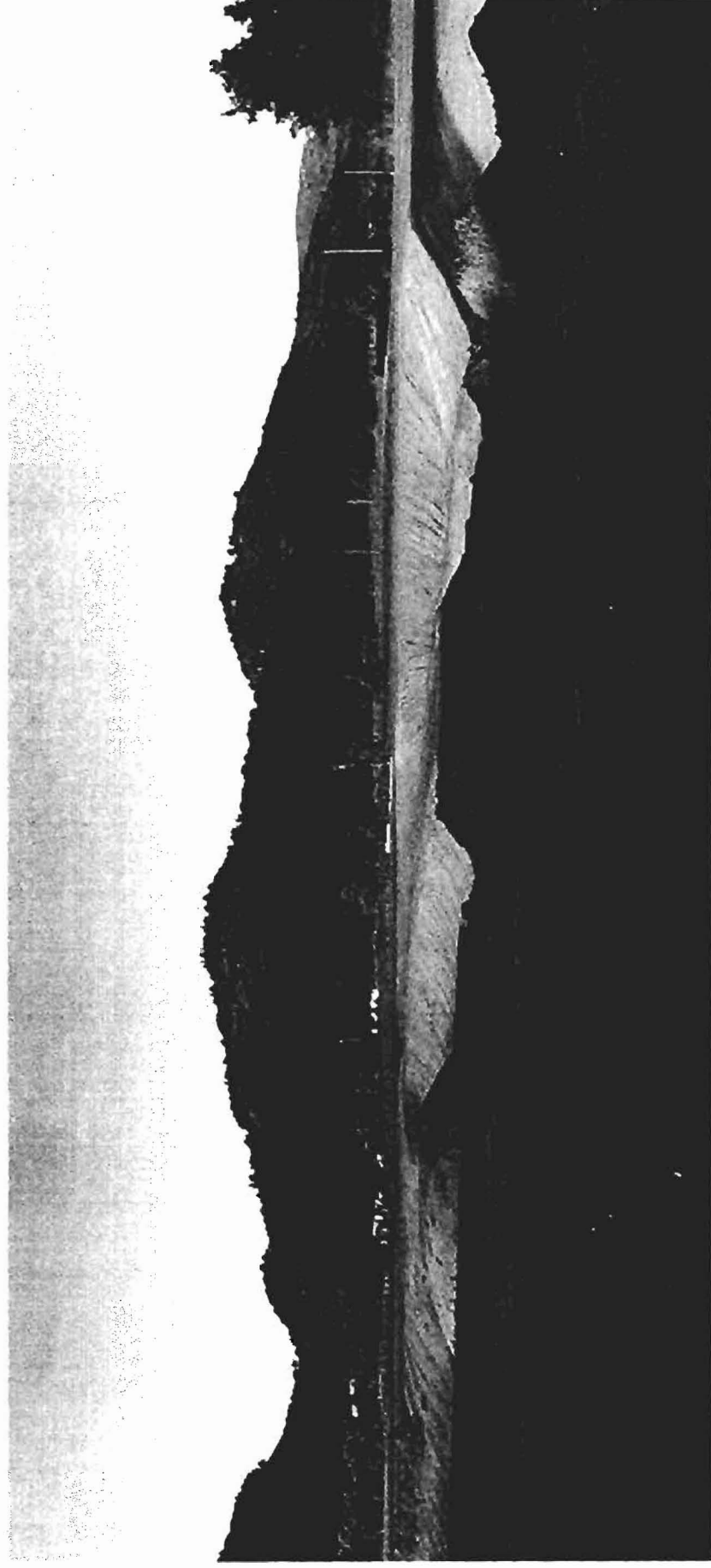
- Up to two named adults and six specific dogs included

## FAMILY MEMBERSHIP

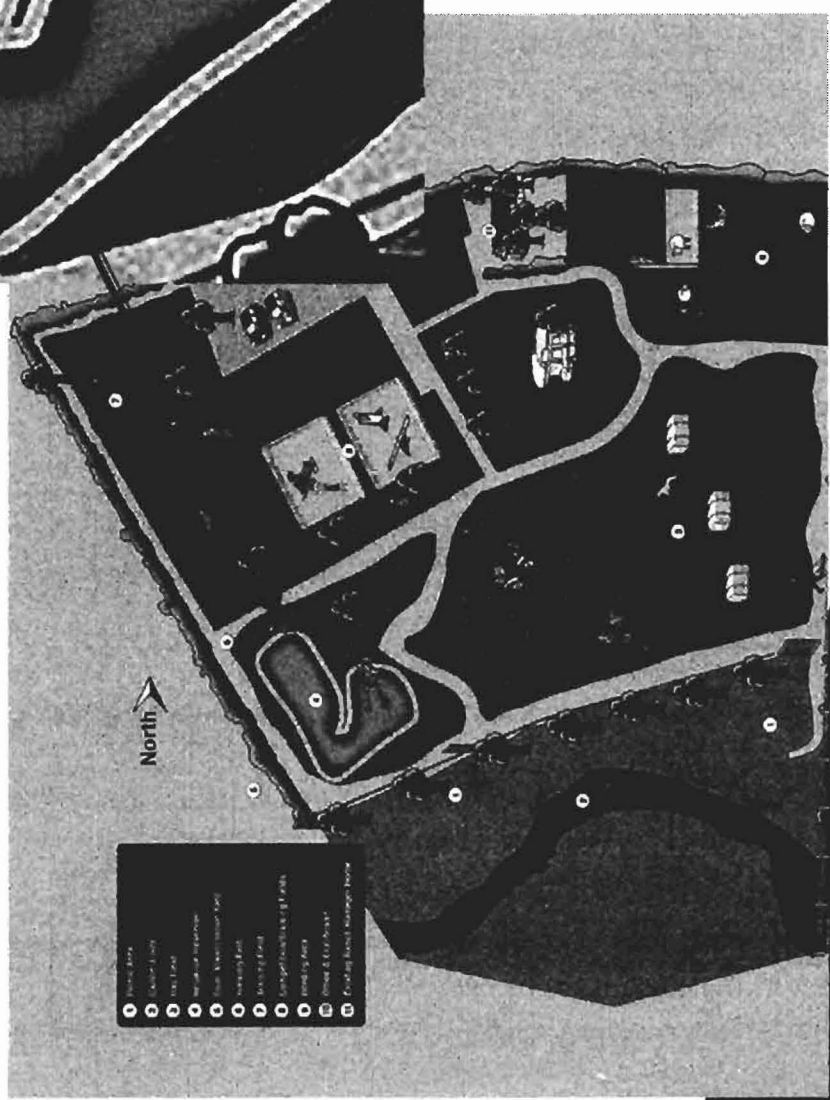
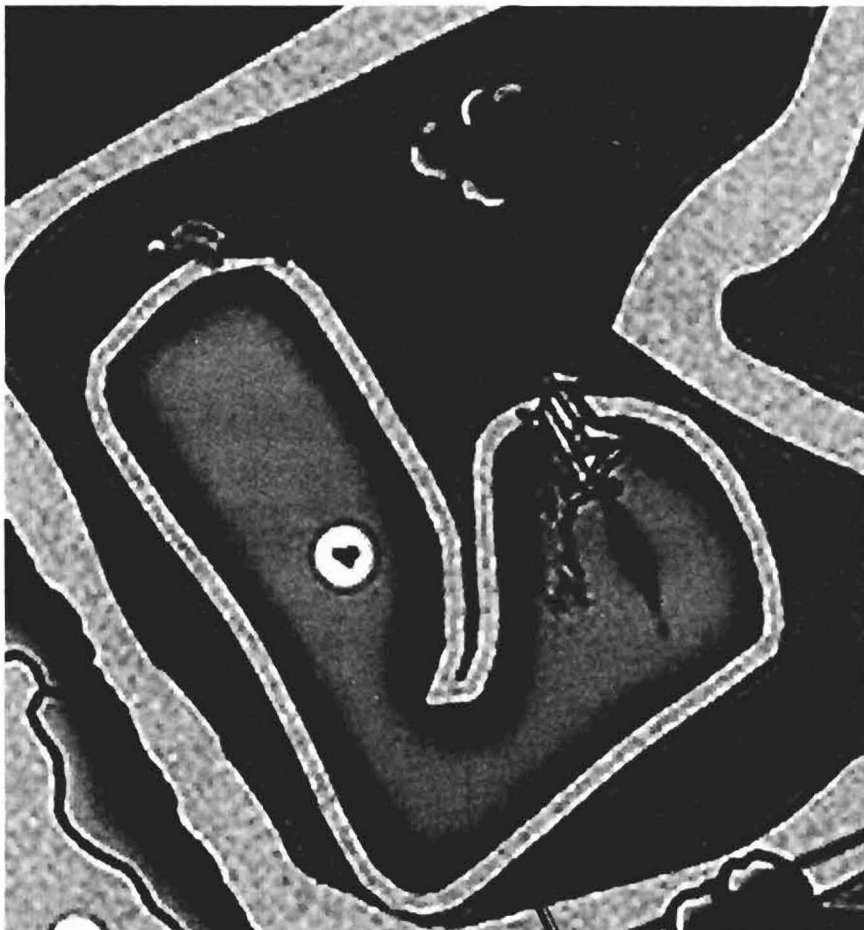
- Up to three named adults and up to six specific dogs included



# On the ground conditions




# Reservoir / Pond



Reservoir

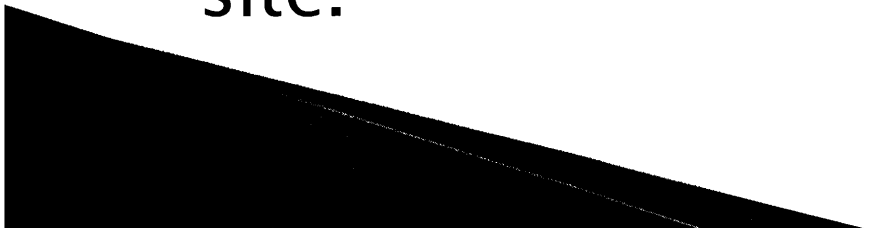
# The applicant already excavated a reservoir without a permit

- ▶ A permit was required for excavation of the reservoir/irrigation pond
  - ▶ Thousands of cubic yards of grading without benefit of permit
  - ▶ Nothing in the County approvals requires the illegal excavation to be remediated
  - ▶ = Special treatment of applicant
- 



# Is the reservoir part of the project?

- ▶ Draft EIR: Project includes a reservoir for dog dock-diving and irrigation
- ▶ Staff report (p. 6): “the irrigation pond needs to be removed from the project description”
- ▶ Final EIR: “The Project Description has been revised to remove the reservoir and restore this area of the site.” (FEIR, p. J-6)
- ▶ But: There is no revised project description that eliminates the reservoir & restores the site.



No sketch.

No current project description.

- ▶ Draft resolution of approval refers to approval of “the attached sketch” (Staff report, ex. D, p. 13) ... but no sketch is attached.
- ▶ Lacking a sketch and a revised project description, do you Commissioners know what project features you are being asked to approve?



# The Project Description is neither fixed nor stable


## CEQA requires:

- ▶ Stable and consistent project description
- ▶ Project can change *only* if clearly documented in the EIR and County documents

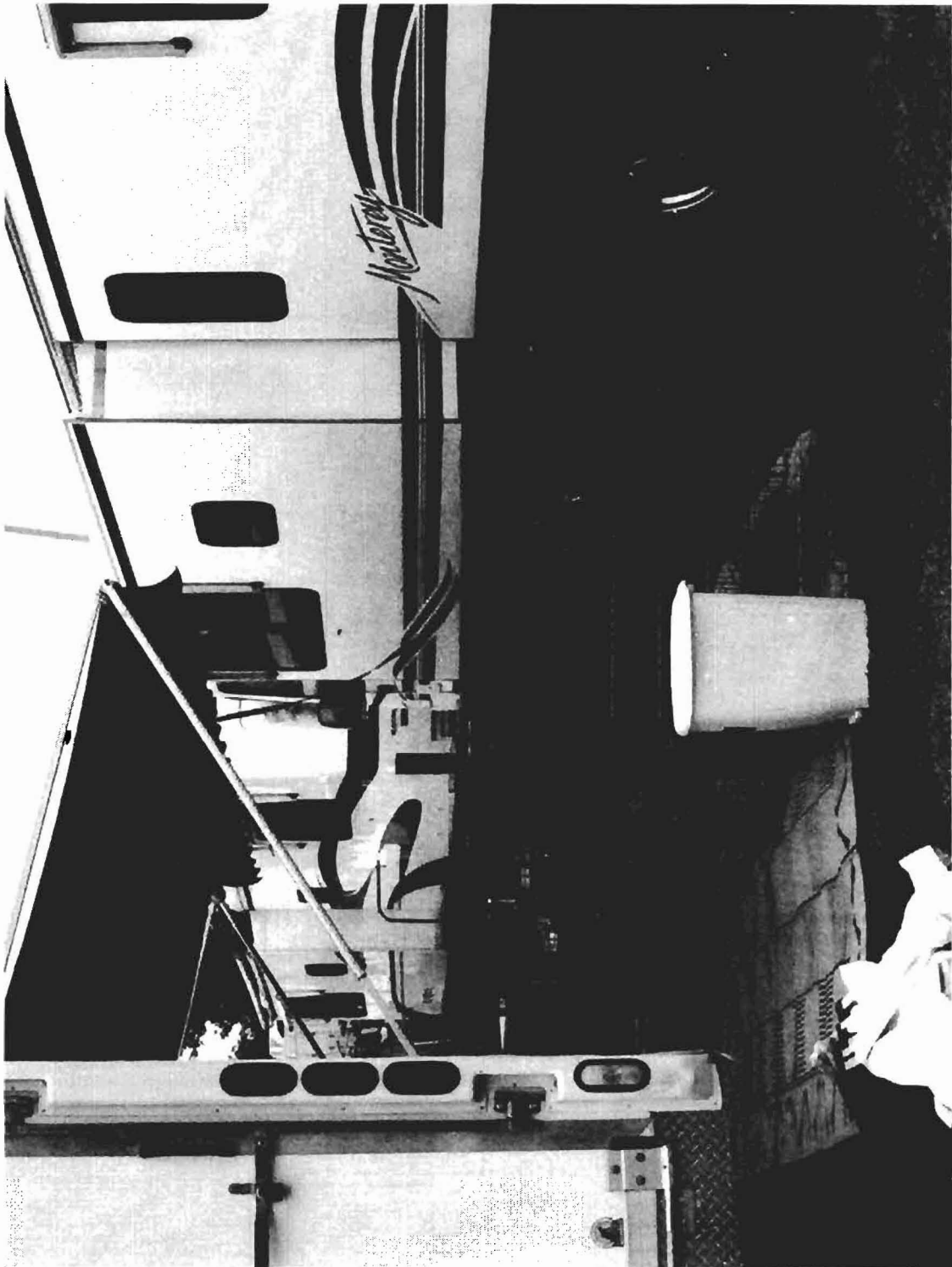
## CCSC and County have not complied:

- ▶ No revised project application eliminating reservoir
- ▶ No mitigation or condition to eliminate reservoir
- ▶ No mitigation or condition to fill large excavated area intended for reservoir

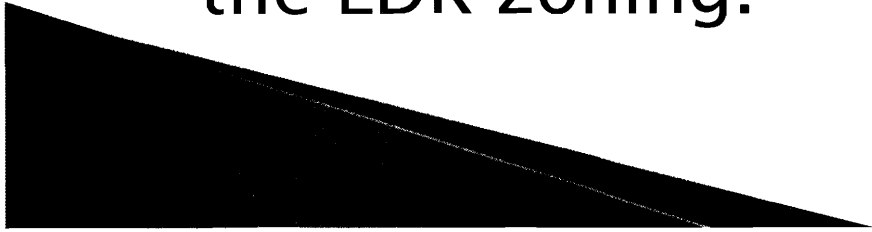
# 70 Recreational Vehicles would be incompatible land use

- ▶ Staff report: “RVs are not typically associated with Country Clubs” (p. 15)
  - ▶ High-density camp of 150–200 people + 100 dogs in midst of quiet residential neighborhood
  - ▶ Transient use: temporary motel; occupants have no connection to the neighborhood
  - ▶ RV parks are not allowed in the LDR Zone (MCC, § 21.14)
- 

# RVs at dog shows



# LDR Zone prohibits “assemblages of people” for more than 10 days/year

- ▶ Use permit may be obtained for “assemblages of people” for races, festivals, etc. not exceeding ten (10) days. (County Code 21.14.050)
  - ▶ Code does not contemplate allowing special events for more than 10 days/year.
  - ▶ CCSC seeks 24 days/year of special events, which is inconsistent and incompatible with the LDR zoning.
- 

## Unreasonable and unsupported “Statement of Overriding Considerations”

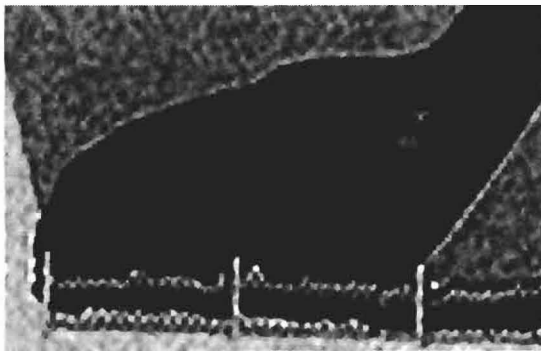
1. “*Preserve ag production*” -- not a County priority for this site. If important, County would not have zoned site as residential.
2. “*New recreational resource for canines*” -- Garland Park, beaches, etc.
3. “*Creation of employment opportunities*” – maximum of eight jobs, likely low salary and part time, no more than ag use

None of “benefits” involve RVs. RV use should not be approved.

- ▶ Claimed limit of 30 dogs/day not supported
- ▶ MM BIO-4b would allow “30 owners” each with up to six dogs.

$$30 \text{ owners} \times 6 \text{ dogs} = \underline{180 \text{ dogs}}$$

- ▶ County should prohibit dogs in riparian area. That is the only way to protect the river, the riparian vegetation and the fish and wildlife therein – the public trust resources.



## Dogs in the River

CCSC website advertises dogs in the river:



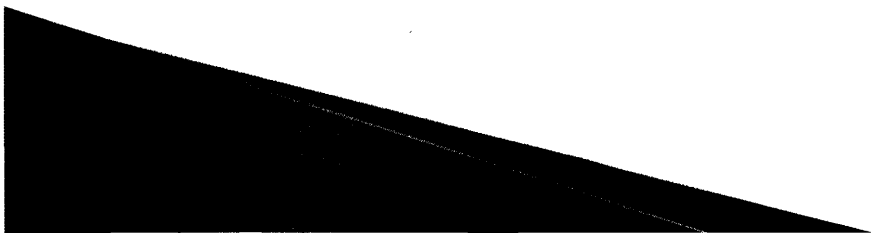
# Dogs' impacts on wildlife and restored riparian area

- ▶ No prohibition on dogs going off the trail
- ▶ No maximum length of leashes
- ▶ No requirement that owners hold on to leashes
- ▶ Studies: leashes & trails do not prevent harm:
  - Mere presence of dogs alters the patterns of wildlife
  - Wildlife does not become habituated to presence of dogs
  - Dog walking displaces native birds from natural areas



# CCSC use permit would run with the land – in perpetuity

- ▶ County EIR assumes 10–year life of permit and impacts (FEIR, p. 22, Table 4.3.8).
- ▶ County resolution cond. #10 claims that approval would expire after 10 years.
- ▶ County is legally incorrect.



- ▶ EIR must not assume that project would exist for a short time. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450)
- ▶ Approval of a use permit creates a protected property right. (*Malibu Mtns. v. County of Los Angeles* (1998) 67 Cal.App.4th 359, 367)
- ▶ A use permit may not automatically expire. (*Comm. Dev. Commn. v. City of Ft. Bragg* (1988) 204 Cal App.3d 1124)



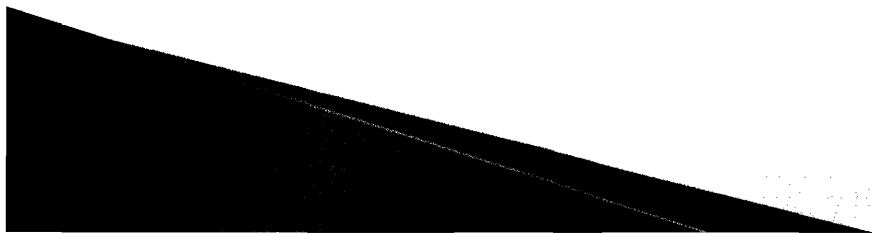
# Houses would have far fewer impacts

## CCSC:

- ▶ 61 AFY water
- ▶ 500 trips daily
- ▶ 70 RVS
- ▶ 24 special event days
- ▶ 100–300 dogs
- ▶ Incompatible land use

## Seven houses:

- ▶ 7.0 AFY water
- ▶ 70 trips daily
- ▶ No RVs
- ▶ No special events
- ▶ 7? dogs
- ▶ Designated land use



# Friends of Quail request: deny project

- ▶ The Carmel Canine project should be denied due to serious and significant problems:
  - Traffic, water, land use, RVs, special events, impacts to riparian areas, noise, and more.
- ▶ No EIR is required for projects that are denied. The EIR should not be certified.



