

Attachment B

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File No. 2955.02

July 25, 2019

VIA EMAIL & US MAIL

Monterey County
Resource Management Agency
Planning Services
Attn: Brandon Swanson
1441 Schilling Place
Salinas, CA, 93901
swansonb@co.monterey.ca.us

Re: Litigation Stay for Rancho Los Robles Subdivision Tentative Map,
PLN 970159

Dear Mr. Swanson,

This is a request on behalf of permittee Heritage Western Communities, Ltd., for Board of Supervisors approval of a litigation stay of the expiration date of the Rancho Los Robles Standard Subdivision Tentative Map. The request is made pursuant to the authority in California Government Code Section 66452.6.(c) and Title 19, Chapter 19.03.030A2.

The Rancho Los Robles project is presently the subject of a lawsuit in Superior Court for the County of Monterey, Case No. 18CV0011000, involving the conditional approval of

its tentative map by BOS Resolution No. 08-374. The litigation was initiated with the filing of Petitioners' compliant on December 7, 2017. (**Exhibit "A"**).

California Government Code Section 66452.6.(c) and Monterey County Code Title 19, Chapter 19.03.030.A.2 authorize the Board of Supervisors to approve a litigation stay of the term of the Rancho Los Robles Standard Subdivision Tentative Map for up to five years.

California Government Code Section 66452.6.(c) provides:

*The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. **After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay.** The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.*

THE REQUEST

The request is made specifically to stay expiration of the term of the Standard Subdivision Tentative Map (sometimes hereafter the "Tentative Map" or the "Map"), over which the County retains all authority, for the period of time during which Case No. 18CV0011000 or related judicial proceedings (the "Litigation") is pending in a court of competent jurisdiction, not to exceed five years from the present expiration date of the Map. As explained below, the expiration date of the Map has been automatically extended from November 8, 2019 to November 8, 2021.

Stated differently, the Map stay is requested for *the shorter* of: 1) the period during which the Litigation is pending; or 2) until November 8, 2027 (the date five years after the present Map expiration date, November 8, 2021).

A stay of the Map term during the pendency of the Litigation is necessary to protect the benefits of the project approvals, both private and public, which have taken the permittee since 1984 to secure.¹

The County's approval of the Rancho Los Robles project described in the Map has been superseded and revised by the Coastal Commission's issuance of Coastal Development Permit A-3-MCO-09-009. (**Exhibit "B"**).

The Coastal Development Permit is subject to 101 County conditions of approval for Combined Development Permit PLN 970159, as modified by the Coastal Commission. The permittee cannot file a final map to preclude expiration of the Map until it is able to fulfill the prerequisite conditions of approval. As a practical matter, the permittee has not been unable to satisfy any permit conditions due to the pending Litigation. The 35 years which have elapsed since HWC filed its first application for subdivision of the subject property have taken a financial toll. It is highly unlikely that HWC can fulfill the conditions necessary to file a final subdivision map before November 2021, when the Tentative Map will expire, absent a stay or further extension.

The following facts and analysis support this request.

FACTS

On December 9, 2008, the Monterey County Board of Supervisors, by Resolution No. 08-374, approved a project pursuant to the application of Heritage/Western Communities Ltd. ("HWC") for a Combined Development Permit designated PLN 970159 (the "Combined Development Permit"). (**Exhibit "C"**). The application sought, among other things, 103 residential units and a commercial development. The approved project, known as Rancho Los Robles ("RLR"), included eighty (80) residential units and a commercial development.

The approval of the Combined Development Permit was made pursuant to Monterey County Local Coastal Plan, Coastal Implementation Plan (CIP) Chapter 20.82, which provides "a process whereby a development requiring a multiple of discretionary permits pursuant to Title 20 (Coastal) and Title 19 (Subdivision) of the Monterey County code,

¹ HWC, under its prior entity name, first proposed a 204-unit townhome project with up to 36,000 square feet of commercial uses on the project site in 1984, and an EIR was prepared in 1985.

may be considered under a single discretionary permit encompassing *all phases and aspects of the development.*” (Emphasis added.) CIP Section 20.82.010.A.²

CIP Chapter 20.82 provides that a Combined Development Permit may include a subdivision approval governed by specified provisions of Title 19. The Combined Development Permit approved by Monterey County consists of the following discretionary permits described as follows in Board of Supervisors Resolution No. 08-374:

1. A Coastal Development Permit *and* Standard Subdivision
2. A Coastal Development Permit for tree removal
3. A General Development Plan *and* Coastal Development Permit for commercial (now no longer part of the revised project approved by the Coastal Commission)
4. A Coastal Development Permit for demolitions of existing structures and
5. A Coastal Development Permit for development on slopes greater than 25% (*emphasis added*)³

The full Combined Development Permit, including the components approved under Title 20 and the standard subdivision component approved under Title 19 - Subdivision Ordinance, Coastal Zone, was forwarded to the Coastal Commission for review in the County’s February 2009 revised Final Local Action Notice (“FLAN”).

Certain Combined Development Permits are appealable to the Coastal Commission (Coastal Implementation Plan Section 20.86.080) and such appeals are governed by the provisions of Coastal Implementation Plan Section 20.86.090. Two Coastal Commissioners and Petitioner FANS appealed the Board of Supervisors decision to

² CIP Title 20 establishes zoning regulations solely in the Monterey County Coastal Zone. Monterey County Title 19 establishes local subdivision regulations. There are two versions of Title 19. The version of Title 19 applicable in the Monterey County Coastal Zone is designated “Title 19 - Subdivision Ordinance, Coastal Zone.” Thus, both the Coastal Development Permits and the Standard Subdivision approved by the County in the Combined Development Permit were approved under ordinances adopted by the County and applicable in the Coastal Zone, where the Coastal Commission exercises its jurisdiction.

³ Note that the Standard Subdivision and General Development Plan components of the project description are separate and distinct components of the Combined Development Permit from the five Coastal Development Permits, two of which are related to the Standard Subdivision and General Development Plan approvals.

approve Combined Development Permit PLN 970159 pursuant to Coastal Implementation Plan Section 20.86.080.A.3. (Collectively, the “Appeals”.)⁴ The FANS appeal was received by the Commission on February 17, 2009 and filed on February 25, 2009.

On July 14, 2017, the Coastal Commission found that the Appeals raised a substantial issue and assumed jurisdiction.

Following the Appeals, HWC proposed a revised project to the Coastal Commission, with 54 residential units and no commercial development. The Coastal Commission heard the Appeals de novo on November 8, 2017 and voted to approve Coastal Development Permit A-3-MCO-09-009 for the revised project presented by the applicant.

On September 13, 2018, the Commission approved revised findings for the approval of Coastal Permit A-3-MCO-09-009 for Ranchos Los Robles. (**Exhibit “D”**).

Coastal Development Permit A-3-MCO-09-009 modified the County’s Combined Development Permit, including the Map and the General Development Plan. The Tentative Map was redrawn while the General Development Plan for commercial development was eliminated altogether. (**See Exhibit “D”**).

On September 18, 2019, Coastal Development Permit A-3-MCO-09-009 was issued. Thereafter the permittee delivered a signed copy of Coastal Development Permit to the Commission’s Central Coast District Office, acknowledging receipt of the permit and rendering it valid. The Coastal Development Permit recites that its expiration date is November 8, 2019. (**See Exhibit “B”**).

The Coastal Development Permit describes the Revised Project in pertinent part as follows:

The approved project consists of the subdivision of two parcels totaling 33.58 acres into 52 residential lots, the construction of 54 residences and community

⁴ Neither of the Appeals on their faces were limited to only the five Coastal Development Permit components of the County’s Combined Development Permit PLN 970159, but rather appealed all of the components, including the Standard Subdivision and General Development Plan components.

park and recreation facilities, and a series of other related improvements, as described below.

...

Implementation of conditions of approval for County approval PLN970159 (see Exhibit 3), as adjusted where necessary to harmonize the conditions with the above-defined approved project parameters, where such conditions will only be implemented in a manner consistent with the approved project parameters.

The Petitioners filed a complaint initiating the Litigation on December 7, 2017. (**Exhibit “A”**).

ANALYSIS

A. The Effective Date of the Map is November 8, 2017

When the County’s Combined Development Permit for RLR was appealed, the effect was to “stay the proceedings and the effective date of the Appropriate Authority until such time as the appeal is resolved by the Board of Supervisors and/or the California Coastal Commission.” Coastal Implementation Plan Section 20.86.090. In this case, the Appeals stayed the Combined Development Permit and each of its components, including the Standard Subdivision and General Development Plan components, pending a resolution of the Appeals.

When the Coastal Commission found that the Appeals raised a substantial issue on July 14, 2017, it assumed jurisdiction. This action superseded Monterey County’s Combined Development Permit PLN970159.⁵

Coastal Commission attorney Louise Warren has written that the Coastal Commission did not, however, assume authority over the County approved Map for Rancho Los Robles:

⁵ See *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 294; cf., Coastal Implementation Plan Section 20.82.080 (“For Combined Development Permits appealable to the Coastal Commission pursuant to Section 20.86.080 of this Title, the effective date is..., if appealed, after the appeal has been resolved, pursuant to Section 20.86.090.”).

*The Coastal Commission action did not authorize a VTM; the Coastal Commission does not implement the Subdivision Map Act and does not have authority to approve a VTM. The Coastal Commission provides the authorization required under the Coastal Act for proposed “development”, which is defined to include subdivisions, but this authorization under the Coastal Act is in addition to that required under the Subdivision Map Act, not a substitute for it.⁶ (See **Exhibit “E”**.)*

Because the Coastal Commission never assumed authority over the Map, it necessarily follows that the County retained jurisdiction over the Map under the Subdivision Map Act and the County’s Coastal Subdivision Ordinance, Title 19.

It further follows that, pursuant to Coastal Implementation Plan Section 20.86.090, the proceedings and the effective date of the Board of Supervisors’ decision to approve the Map remained stayed while the Coastal Commission was determining how to resolve the Appeals.

The Coastal Commission “resolved” the Appeals at a de novo hearing on November 8, 2017. The Board of Supervisors’ decision to approve the Map became effective that day pursuant to the authority under Coastal Implementation Plan Section 20.82.080:

For Combined Development Permits appealable to the Coastal Commission pursuant to Section 20.86.080 of this Title, the effective date is after the ten working day appeal period to the Coastal Commission has expired or, if appealed, after the appeal has been resolved, pursuant to Section 20.86.090.⁷

B. California Government Code Section 66452.24 Has Automatically Extended Both the Map and Coastal Development Permit A-3-MCO-09-009 for Twenty-Four Months, Until November 8, 2021

⁶ Although Ms. Warren’s letter mistakenly refers to the Tentative Map as a “VTM”, it is not a Vesting Tentative Map.

⁷ Where the provisions of Title 20, Chapter 20.82 may differ from other provisions of Title 20 or Title 19, the regulations of Chapter 20.82 apply. CIP section 20.82.20.B. Similarly, in the event of a conflict or inconsistency between Title 20 and any County land use regulations, the Coastal Implementation Plan prevails over any other regulations in the County, including Title 19 - Subdivision Ordinance, Coastal Zone. CIP sect. 20.02.060. D.1-5.

Pursuant to Coastal Implementation Plan Section 20.82.080, the Combined Development Permit became effective when the Appeals were “resolved”. The Appeals were resolved by the Coastal Commission approval of the Coastal Development Permit. The effective date of the Coastal Development Permit approval, including the County Standard Subdivision Tentative Map, is therefore November 8, 2017 under CIP Section 20.82.080.⁸

1. Government Code Section 66452.24(a) Applied to Automatically Extend the Map

Government Code Section 66452.24 was added by Statutes 2013, Ch. 62, Sec. 2. (AB 116) effective July 11, 2013. It states in pertinent part:

The expiration date of any tentative map, vesting tentative map, or parcel map for which a tentative map or vesting tentative map, as the case may be, that was approved on or after January 1, 2000, and that has not expired on or before the effective date of the act that added this section, shall be extended by 24 months.

Government Code Section 66452.24(a) applied to extend the Map because the Map approval complies with each statutory requirement for extension as follows (all quotes below are to the referenced statute):

- a. The approval date of the original approval of the Map occurred as part of the approval of Combined Development Permit PLN 970159 on December 9, 2008, which date was “on or after January 1, 2000”;
- b. The Map had a 24-month initial term. (See Government Code Section 66452.6(a)(1); Title 19, Monterey County Code, Section 19.03.030). That initial Map term ran until December 9, 2010, but was stayed (as described above) by CIP Section 20.86.090 until the Appeals were resolved.

⁸ Coastal Development Permit A-3-MCO-09-009 implicitly provides that its effective date is November 8, 2017, by stating that the expiration date is November 8, 2019. Exhibit “A”

- c. With the resolution of the Appeals by the approval of Coastal Development Permit A-3-MCO-09-009 on November 8, 2017, the Map term became effective that date. (CIP Section 20.82.080.) The Map term therefore had “not expired on or before the [July 11, 2013] effective date of the act that added this section [Government Code Section 66452.24(a)]”.

2. When the Coastal Commission Action Superseded the Coastal Development Permit Components of the County Combined Development Permit, Government Code Section 66452.24(d) Automatically Extended Coastal Development Permit A-3-MCO-09-009 Until November 8, 2021

This letter does not request the Board of Supervisors to take any action *at this time*, relative to Coastal Development Permit A-3-MCO-09-009, which is now a Coastal Commission issued permit. However, I request the Board to recognize in its findings for the Map stay, that when the Coastal Commission approved Coastal Development Permit A-3-MCO-09-009, that action automatically superseded the coastal development permit components of the County Combined Development Permit and, as a result, Government Code Section 66452.24(d) automatically extended Coastal Development Permit A-3-MCO-09-009 for 24 months.

Government Code Section 66452.24(d) was added by Statutes 2013, Ch. 62, Sec. 2. (AB 116) effective July 11, 2013. It states in pertinent part:

Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivisions (a) and (b) shall be extended by 24 months if this approval has not expired on or before the effective date of the act that added this section. This extension shall be in addition to any extension provided for in [Sections 66452.13](#), [66452.21](#), [66452.22](#), and [66452.23](#).

Government Code Section 66452.24(d) applied to automatically extend Coastal Development Permit A-3-MCO-09-009, because (all quotes below are to the referenced statute):

- 1) The Coastal Commission’s approval of the Coastal Development Permit was an “approval by any state agency”;
- 2) The Coastal Commission’s approval of the Coastal Development Permit “pertains to a development project [Ranchos Los Robles] included in a map”;
- 3) The Map itself is extended pursuant to Government Code Section 66452.24(a) (as described in Section B.1, above);
- 4) The “effective date of the act that added this section [66452.24(d)]” was July 11, 2013;
- 5) The Coastal Development Permit was initially approved on November 8, 2017 and is valid for two years. (See **Exhibit “B”**.) Thus “this approval has not expired on or before the [July 11, 2013] effective date of the act that added this section [66452.24(d)].”; and
- 6) It necessarily follows under Government Code Section 66452.24(d), that the Coastal Development Permit “shall be extended by 24 months” until November 8, 2021.^{9 10} “This extension shall be in addition to any extension provided for in Sections 66452.13, 66452.21, 66452.22, and 66452.23.”

⁹ Commission counsel opines without legal support (Exhibit E) that she does not believe Government Code Section 66452.24(d) would not apply to extend the expiration date of the Coastal Development Permit, as the permit had not yet been approved on the effective date of that code section. Nothing in Government Code Section 66452.24(d), either explicitly or implicitly, requires that the state agency permit approval must have originally occurred *before* the effective date of the act that added Government Code Section 66452.24(d). The legislature could have so provided had it intended to thus limit the effect of the statute.

¹⁰ After the initial County approval of the Combined Development Permit in 2008, the expiration date of the Combined Development Permit was stayed by CIP Section 20.86.090. The stay was in effect until either the July 14, 2017 date of the Coastal Commission substantial issue determination (which the *McAllister* decision held superseded a County Combined Development Permit), or November 8, 2017 when the Commission “resolved” the Appeals, which action Coastal Implementation Plan Section 20.82.080 provides renders the Combined Development Permit “effective”. If the Coastal Commission substantial issue determination did not nullify the Coastal Development Permit components of the County Combined Development Permit, then those components of the County permit became effective on November 8, 2019 (pursuant to CIP Section 20.82.080). In that case, Monterey County is the permitting entity for the entire Combined Development Permit, and the County has the authority to extend the entire Combined Development Permit pursuant to CIP Section 20.82.110.A, which provides: *The Director of Planning and Building Inspection may extend a Combined Development Permit upon receipt of a written request from the permittee, provided such request is made at least 30 days prior to the expiration of the Combined Development Permit. The written request shall be filed with the Appropriate Authority and set forth reasons supporting the request.*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Blum", followed by a horizontal line extending to the right.

Mark Blum

cc: Supervisor John Phillips
Carl Holm
Wendy Strimling
Michael Goetz
Client

EXHIBIT A

Dec 07 17 02:49p

p.4

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED BY FAX
ALAMEDA COUNTY

December 07, 2017

CLERK OF
THE SUPERIOR COURT
By Lynn Wiley, Deputy

NOTICE TO DEFENDANT: CALIFORNIA COASTAL COMMISSION, COUNTY (AVISO AL DEMANDADO): OF MONTEREY, BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY, and DOES 1-50, Respondents. HERITAGE/WESTERN COMMUNITIES LTD, HERITAGE DEVELOPMENT CORPORATION, and DOES 51-100, Real Parties in Interest.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**FRIENDS, ARTISTS AND NEIGHBORS OF ELKHORN SLOUGH
and LANDWATCH MONTEREY COUNTY, Petitioners**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar esos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

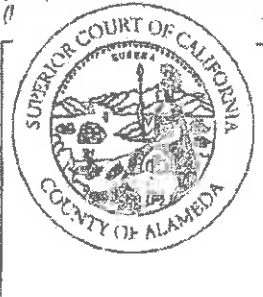
The name and address of the court is:
(El nombre y dirección de la corte es): Alameda County Superior Court

CASE NUMBER
(Número del caso): 17-7885240

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, *Lynn Wiley* *ante que no tiene abogado*, es):
William P. Parkin, Wittwer Parkin LLP, 147 S. River St., Ste 22, *do not* *do not* z, CA 95060 (831) 429-4055
December 07, 2017

DATE: (Fecha) Clerk, by (Secretario) Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): *Board of Supervisors of the County of Monterey*
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): *Public entity*
- by personal delivery on (date): *12-18-17*

EXHIBIT B



California Coastal Commission

COASTAL DEVELOPMENT PERMIT

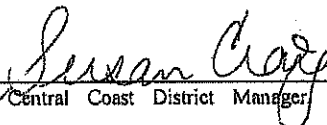
CDP/A-3-MCO-09-009 (Rancho Los Robles Subdivision)

Issue Date: September 18, 2018

Page 1 of 1

Coastal development permit (CDP) number A-3-MCO-09-009 was approved by the California Coastal Commission on November 8, 2017. CDP A-3-MCO-09-009 provides for the subdivision of two parcels totaling 33.58 acres (one 16.96 acres and one 16.62 acres) into 52 residential lots; demolition of one single-family residence, two barns, and removal of two mobile home units; construction of 54 residences, comprised of 50 single-family residences and four residences in duplexes; dedication of 3.5 acres of land to Monterey County for future parks and recreational facilities; dedication of 17 acres of land and one existing single-family residence to a future to-be-formed Community Services District for future parks and recreational facilities; and construction of roads and related improvements (all as more specifically described in the Commission's CDP file). The project site is located at 100 Sill Road in Las Lomas in North Monterey County (APNs 412-073-002 and 412-073-015).

As of September 18, 2018, the CDP can now be issued. Thus, by my signature below, the CDP is issued on behalf of the California Coastal Commission:


Susan Craig, Central Coast District Manager for John Ainsworth, Executive Director

Acknowledgement

The undersigned Permittee acknowledges receipt of this coastal development permit and agrees to abide by all terms and conditions thereof. The undersigned Permittee acknowledges that Government Code Section 818.4 (that states in pertinent part that "a public entity is not liable for injury caused by the issuance of any permit") applies to the issuance of this coastal development permit.

Monterey Bay HDC Corporation, General Partner
By its President, Charles B Allen 9/18/18
Permittee: Heritage Western Communities, Ltd. (Attn: Charles Allen) Date

Please note that this coastal development permit is not valid unless and until a copy of it with the signed acknowledgement has been returned to the California Coastal Commission's Central Coast District Office (14 Cal. Admin. Code of Regulations Section 13158(b)). Please also note that, per 14 Cal. Admin. Code of Regulations Section 13156(g), commencement of construction of the approved development must take place within two years of the date of the Commission's approval of the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the CDP must be made *prior* to the expiration date (which, in this case, is November 8, 2019).

EXHIBIT C

Before the Board of Supervisors in and for the
County of Monterey, State of California

RECEIVED

JAN 23 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

In the matter of the application of:
Rancho Los Robles Subdivision (PLN970159)
Resolution No: 08 – 374

- a. Certifying the Rancho Los Robles Subdivision EIR No. 02-03 including adopting)
a statement of overriding consideration; and)
- b. Approving a Reduced Single Family Development Alternative for the Rancho Los)
Robles Project consisting of: a Combined Development Permit (PLN0970159))
including: 1) Coastal Development Permit and Standard Subdivision to allow for)
the division of two parcels of 16.96 and 16.62 acres (33.58 acre total) into 76 lots)
consisting of: 68 single family residential parcels with lot sizes ranging from)
4,200 sq. ft. to 18,000 sq. ft.; four duplex lots; one 1.76-acre mixed use parcel;)
and 9.7 acres of common area parcel including 2.5-acre community recreation)
area with a small parking lot and two 0.5-acre mini-parks, all in general)
conformance with the Staff recommended Reduced Density Alternative; 2))
Coastal Development Permit to allow the removal of up to 25 coastal oak trees)
and on-site relocation of 0.1-acre of willow trees; 3) General Development Plan)
and Coastal Development Permit to allow for commercial or quasi-public)
development of the commercial parcel and the construction of a four unit)
apartment building above the commercial space; 4) a Coastal Development Permit)
to allow for the demolition of two single family dwellings, two barns, a garage)
and the removal of two mobile homes, 5) Coastal Development Permit to allow)
development on slopes greater than 25%. The property is located at 100 Sill)
Road, Royal Oaks (Assessor's Parcel Numbers 412-073-015 & 412-073-002-)
000), North County Area Plan/Land Use Plan.)
(PLN970159/Rancho Los Robles, 100 Sill Road, Las Lomas, North County Coastal)
Zone)

The Final Environmental Impact Report for the Rancho Los Robles Subdivision (State Clearinghouse Number 2002091010)] and Rancho Los Robles application (PLN970159) came on for public hearing before the Monterey County Board of Supervisors on December 9, 2008. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

- 1. **FINDING: PROJECT BACKGROUND:** The County of Monterey has duly considered the Rancho Los Robles application (PLN970159).

EVIDENCE: (a) On August 21, 2000, Heritage Western Communities, LTD, submitted an application consisting of a Combined Development Permit including:1) Coastal Development Permit to allow the demolition of two single family dwellings, two barns, a garage and the removal of two mobile homes; 2) Coastal Development Permit to allow a standard

subdivision (with clustering) consisting of the division of two parcels totaling 33.58 acres into 102 lots to include: 97 single family residential lots ranging in size from 4,050 to 19,742 square feet, 1.76-acre commercial parcel, 0.6-acre multi-family residential parcel, 1.89-acre community recreation parcel, one mini park parcel, and one parcel of common area; 3) Coastal Development Permit to allow removal of 25 oak trees; 4) General Development Plan to allow commercial or public/quasi-public development on the 1.76 acre commercial parcel; 5) Coastal Development Permit to allow the construction of a 4-unit apartment complex; and 6) Coastal Development Permit to allow development on slopes greater than 25%. Said application we deemed complete on September 20, 2000.

- (b) On September 19, 2000 the project was referred to the North County Land Use Advisory Committee (LUAC) for consideration. The LUAC voted to recommend approval of the proposed project. On July 2, 2007, the project was referred back to the North County Land Use Advisory Committee to consider the project. The LUAC voted separately on the four measures: 1) NO (5 to 0) to allow a subdivision of 97 lots; 2) NO (5 to 0) to remove 25 trees; 3) YES (5 to 0) to approve the commercial development and the four apartment units along Hall Road; and 4) YES (3 to 2) to the demolition of the existing structures on the property.
- (c) From September 4, 2007 through October 29, 2007, the Rancho Los Robles Subdivision Draft Environmental Impact Report ("DEIR") was circulated for public review (EIR #02-03). The DEIR contains extensive analysis of the proposed development, with and without mitigations compared to a Reduced Density Alternative, a Mixed Density Alternative, a Reduced Water Use Alternative, No Project Alternative and Future Development Alternative.
- (d) On December 13, 2007 with continuances to December 20, 2007, February 28, 2008, March 27, 2008 and April 10, 2008, the Monterey County Standard Subdivision Committee held a duly noticed public hearing to consider analysis of project consistency as well as the DEIR prepared for the subject project. The Subdivision Committee recommended approval of the Staff Proposed Reduced Density Alternative that includes the following: 76 total lots including 68 single family lots, four duplex lots, 1.76-acre lot with a General Development Plan allowing mixed use of 17,000 square foot commercial, public/quasi-public space with four apartment units above, 9.7-acre open space parcel, and a 2.5-acre park; removal of 25 oak trees and 0.1-acre (5,000 square feet) of willow trees with on-site replacement; align proposed and existing roads on Sill Road and create one access road to Hall Road (hereafter "Reduced Density Alternative" or "Staff Proposed Reduced Density Alternative."). This variation on the Reduced Density Alternative includes minor reconfigurations of the proposed tentative map that enhanced circulation, improved park design and further reduced several of the environmental impacts identified.

- (e) From March 21, 2008 to May 5, 2008, a revised draft EIR (“RDEIR”) was circulated for public review because the County of Monterey determined that the addition of a global warming section and classification of a cumulative hydrological impact as significant and unavoidable constituted new information under this section.
- (f) On September 17, 2008, the County released the Rancho Los Robles Subdivision Final EIR (“FEIR”) which included responses to all significant environmental points raised by persons and organizations that commented on the DEIR or the RDEIR.
- (g) On October 8, 2008, the Planning Commission held a duly noticed public hearing to provide direction to staff regarding recommendations on the project and voted 5-2 for staff to return with findings and evidence to recommend denial of the project. On October 29, 2008, the Planning Commission adopted a resolution to recommend that the Board of Supervisors deny the proposed project citing concerns over regional water supply and traffic congestion, and recommending that the Board find that project benefits would not outweigh the project’s environmental effects.
- (h) On December 9, 2008, the Board of Supervisors held a duly noticed public hearing to consider certification of the FEIR and the project application. The Board of Supervisors approved the Staff Proposed Reduced Density Alternative and directed staff to adjust the findings and conditions as appropriate to correspond to the Reduced Density Alternative.

2. FINDING: CONSISTENCY - The Staff Proposed Reduced Density Alternative (described above) as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, North County Land Use Plan (LUP), Monterey County Coastal Implementation Plan Part 2 --Regulations for Development in the North County Land Use Plan Area (“North County CIP”), and the Monterey County Zoning Ordinance (Coastal - Title 20), which designates this area as appropriate for development.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. As conditioned and mitigated, the Staff Proposed Reduced Density Alternative is consistent with the Monterey County General Plan, North County LUP, North County CIP, and Title 20. Communications were received during the course of review of the project indicating inconsistencies with the text, policies, and regulations in these documents. Said communications were received in response to the DEIR and the RDEIR and are addressed by the County in the Final EIR. The Final EIR concludes that the proposed project is consistent with the text, policies, and regulations in the aforementioned documents. The

Staff Proposed Reduced Density Alternative addresses and eliminates some of those inconsistencies.

- (b) Project Site. The property is located at 100 Sill Road (Assessor's Parcel Numbers 412-073-015 & 412-073-002-000), North County Area Plan. This area is identified as the unincorporated town of Las Lomas in the North Monterey County Coastal Zone. The project area consists of two lots totaling 33.58 acres with frontage on Hall Road to the south and Sill Road to the north. Existing development consists of a horse ranch that includes two barns, a riding ring, two mobile homes and two single family homes (four units). The existing structures have all necessary public facilities and are served by two on-site wells and multiple septic systems.
- (c) Zoning. The parcels are zoned Medium Density Residential "MDR (CZ)" with an asterisk that refers to North County Land Use Plan Special Treatment Area recommendations for general commercial uses within the project site. The project complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, and is therefore suitable for the proposed development.
- (d) Minimum Lot Size. The minimum building site that may be created in the MDR zone is 6,000 square feet unless otherwise approved as part of a clustered development (North County CIP, Section 20.12.060.A). The total lot area is 33.58 acres and the area proposed for residential lots is 16.33 acres (48%). The proposed project clusters development along the upper portion of the property and lot sizes range from 4,050 to 19,742 square feet with an average lot size of 7,043 square feet. The Staff Proposed Reduced Density Alternative would have fewer lots of somewhat smaller average size developed over a smaller portion of the site; most notably development would be relocated away from the southern edge of the terrace to eliminate ridgeline development, and some lots would be removed from the end of Oak Ridge Court to retain additional woodland.
- (e) Environmentally Sensitive Habitat Areas (ESHA). Policies in Chapter 2.3 of the North County LUP are directed at maintaining, protecting, and where possible enhancing sensitive habitats. The North County LUP prohibits development within ESHA including wetlands and riparian habitat (LUP Policy 2.3.2.1). Biological assessments prepared for this project identified a wetland, as defined under the Coastal Act, within the southern portion of the project site along Hall Road (LUP Policy 2.3.2.5). This wetland is fed by a drainage swale that carries waters received from agricultural and residential development north of the site to Elkhorn Slough within a mile southwest of the site. This project is designed to use an existing low area as a detention pond and seasonal recreation area (e.g.; soccer field), which constitutes development within 100 feet of ESHA (LUP Policy 2.3.3.B.4). The County Parks Department finds that this area cannot adequately be used for this type of recreation and that alternative facilities must be created on site (*See*

Finding #12). The Staff Proposed Reduced Development Alternative better meets the goal and policies of the LUP since less runoff would be created, a smaller detention basin is needed, the active park land would be re-located to the upper terrace, and fewer disturbances would be created for the wetland. Conditions require a naturalized basin design that would enhance wetland function at the site, which preserves the wetlands and promotes filtering of pollutants prior to storm water running off toward Elkhorn Slough. As conditioned, the area around the wetland will remain in open space with a conservation easement recorded (LUP Policies 2.3.2.2, 2.3.2.3, and 2.3.2.6) over the southern portion of the site to ensure protection of this habitat and to help filter out pollutants before water is released downstream into Elkhorn Slough (LUP Policies, 2.3.3.B.5, 2.3.3.B.8, and 2.3.3.C.1&2). The Staff Proposed Reduced Density Alternative incorporates a design that addresses non-point discharge and erosion before runoff reaches sensitive downstream habitat (e.g. Carneros Creek and Elkhorn Slough). As conditioned, the Staff Proposed Reduced Development Alternative is consistent with County policies and the Coastal Act regarding protection of wetlands (*See Finding #5c*).

The project proposes to preserve an area of willow trees (approximately 5,000 square feet with an additional 2,000 square feet extending off-site) within an open space lot at the northeast corner of the project site. The project proposes a reduced ESHA setback to the willow riparian. Investigation of the willow riparian area indicates that it is highly isolated and not connected to or along a recognizable drainage. Water flowing within the area appears to be primarily from agricultural irrigation run-off from adjacent fields. The EIR determined that relocation of the willow riparian would be adequate to protect the ESHA. Relocation within a topographically more appropriate area, such as adjacent to the existing low area, would result in synergistic relationships with the other natural areas and superior habitat value. The Staff Proposed Reduced Density Alternative would include the relocation of the willow riparian habitat to a location within the project site that is contiguous to other open areas and which would result in increased biological value of the willow riparian ESHA. (*See Finding #5d*)

- (f) Tree Removal. The project includes a Tree Removal Permit for the removal of 25 Oak trees in accordance with the applicable policies of the North County LUP and the Monterey County Zoning Ordinance (Title 20). The Staff Proposed Reduced Density Alternative would remove some residential lots from within the wooded area at the end of Oak Ridge Court (*See Finding #5i and Finding #11*)
- (g) Agriculture. Agriculture is a priority use under the Coastal Act and Chapter 2.6 of the LUP establishes policies that address this resource. Although the project site was historically used for limited grazing operations, grazing is not a coastal dependant agricultural use (a use that

requires mild coastal climate) and development of the surrounding area has limited the potential for such continued agricultural use. Approximately 10 acres of the project site is currently used for production of strawberries. The slopes and the presence of oak woodlands on the property restrict potential use for crop production (LUP Policies 2.6.2.4 and 2.6.3.8). The project site occupies a location within the town of Las Lomas, and is adjacent to residential development on the west, most of the north, and the east. The project site's Medium Density Residential land use designation is an indication that the certified Coastal Plan for North County (LUP Policy 2.6.3.1 LUP) determined that this land is better suited for dense residential and commercial development than for agricultural uses. The project site is classified as "Other Land" on the State Department of Conservation's Important Farmland Map of Monterey County. The EIR determined that the proposed project would have a less than significant impact on agricultural resources.

- (h) Parks. The Monterey County Department of Parks and Recreation has calculated the requirements for parkland and open space according to requirements in Title 19 of the Monterey County Code (Monterey County Subdivision Ordinance). The subdivision as proposed by applicant would create 101 housing units that will require 0.9 acres of parkland. A portion of the proposed parkland is within an area that is a wetland under the Coastal Act definition (*See Finding #2e and Finding #5c*) Additional parkland that is suitable for active use is required within the proposed project (*See Finding #12*). The Staff Proposed Reduced Density Alternative will include 80 units that will require 0.72 acres of parkland. The Staff Proposed Reduced Density Alternative will create 2.5 acres of parkland with room for active recreation and another 0.5 acres of small playground open space. The location of the open space and parkland is recommended by the County Parks and Recreation Department because it fits their requirements for access and size and is capable of supporting active recreation outside of wetlands. The proposed park would also address recreational needs in the broader community.
- (i) Public Access. The North County LUP does not indicate a trail near the project site. However, the applicant will dedicate a public recreation trail easement over the subdivided property for the public riding and equestrian trail shown in North County Trails Plan. (*See Finding #13*).
- (j) Visual Resources. Chapter 2.2 of the LUP establishes policies to protect views by limiting development of hills, slopes and ridgelines. A visual survey of the area (CIP Section 20.144.030.A.1.b) determined that development on the south-eastern portion of the project site would be located in an area that is visible from public vantage points (LUP Policies 2.2.2.1 and 2.2.2.4). This site generally slopes up from the south (Hall Road) to a terrace in the center of the site. As a result, the vantage from Hall Road creates ridgeline development along the

southern edge of the terrace. The proposed commercial development will block some views from Hall Road (*See Finding #14*) The Staff Proposed Reduced Density Alternative eliminates all housing visible from Hall Road (e.g. ridgeline development) by placing the parkland at the southern edge of the upper terrace.

- (k) Slope. The project proposed by the applicant would require a Coastal Development Permit to allow the creation of two lots on 25% slopes but housing envelopes would be located outside of 25% slopes. (*See Finding #15*). The Staff Proposed Reduced Density Alternative eliminates all lots and housing on 25% slopes by moving lots and housing sites back toward Sill Road and removing housing on steep areas at the end of Oak Ridge Road.
- (l) Land Use. A Land Use Map is included as part of the LUP (Chapter 4.3) to establish allowed land uses. The intent is for new development to be consistent with the densities of the LUP Land Use Map, taking into consideration the protection of the area's agricultural, natural, and water resources (LUP Key Policy 4.3.4 and Policy 4.3.6.D.1). The property is designated for medium density residential development, four units per acre with a Special Treatment designation to allow for preservation of the site's natural resources and to provide amenities to the community including meeting or recreational uses and/or convenience commercial uses (LUP Policy 4.3.6.D.6) The applicant's proposed project proposes a net density of 3.3 residential units per acre, and the Reduced Density Alternative proposes a net density of 2.4 residential units per acre. Both the project and the Reduced Density Alternative, as conditioned, provide protections in their design for on-site natural features by clustering development. The site has limited viability for continued agricultural uses (*See Finding #2g*). The California Water Service Company has prepared a water supply assessment as required by SB610 and has issued a "can and will" serve letter for water. The Pajaro County Sanitation District has issued a "can and will" letter for sewer services (LUP Policies 4.3.5.2 and 4.3.6.D.2, Monterey County Code Sections 19.03.015.L and 19.07.020.K). Also *See Finding #16* relative to Inclusionary Housing Needs.
- (m) Water Resources. The North County LUP establishes a building limit based on a known existing overdraft of aquifers in the North County area (LUP Policy 4.3.5.7). Policies are designed to limit development in order to avoid exacerbating already over-drafted conditions. The 101 potential residential units proposed for the project have been accounted for in calculating the remaining balance of available development under this policy; therefore, development of the project would not exceed the maximum buildout for the North County coastal area (North County CIP Section 20.144.140(B)(3)(a)). An EIR mitigation measure requires phased development of the project based on water balance limits identified in the EIR, to ensure that development conforms to the water use levels projected in the EIR (*See Finding #5y, Finding #6b and*

Finding #17). The Staff Proposed Reduced Density Alternative limits development to 80 residential units, further reducing demand on the water supply. The clustered design includes a large area of open space around the homes that will help balance the site with current hydrological conditions (LUP Policies 4.3.5.7 and 4.3.6.D.1 and CIP Section 20.144.070.E.11.b). The Staff Proposed Reduced Density Alternative uses less water and creates less off-site runoff than the project due to fewer lots and more parkland/open space.

- (n) Subdivision. Pursuant to Section 66474 of the California Government Code (Subdivision Map Act) and Section 19.03.025 (Title 19-Subdivision Ordinance, Coastal Zone) of the Monterey County Code, the County has not made any of the findings for denial of a subdivision (*See Finding #18*).
- (o) LUAC. The project was referred to the North County Land Use Advisory Committee (LUAC) for consideration (*see Finding #2b*).
- (p) Subdivision Committee. The Subdivision Committee held a duly noticed public hearing to consider analysis of project consistency as well as a DEIR prepared for the subject project (*see Finding #2d*).
- (q) Planning Commission. The Planning Commission held a duly noticed public hearing to consider analysis of project consistency as well as a DEIR prepared for the subject project (*see Finding #2g*).
- (r) Site Visits. Various project planners and the EIR consultants have conducted multiple site inspections to verify that the project on the subject parcel conforms to the plans listed above.
- (s) Project File. The application, project plans, and related supporting materials in Project File PLN970159, available for review at the Monterey County offices at 168 West Alisal Street in Salinas during regular business hours.

3. FINDING: SITE SUITABILITY – The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Parks and Recreation, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the project or the Staff Proposed Reduced Density Alternative, as conditioned. Conditions recommended by these departments/agencies have been incorporated.
 - (b) The EIR indicates that the Reduced Development Alternative is environmentally superior to all proposals for the site especially in reducing water demands and protecting site visual character, preventing ridgeline development, and reducing site impacts to wetlands and trees. The Staff Proposed Reduced Density Alternative is substantially the same as the Reduced Development Alternative studied in the EIR. Under the Staff Proposed Reduced Density Alternative the park requirements

will be fulfilled on site within the required proximity to the proposed housing. North County LUP and CIP ordinances would be satisfied without extensive conditions or construction. Access within the site and to surrounding development and Hall Road is also improved with a street entry to the proposed commercial uses along Hall Road.

- (c) Technical reports by outside engineering, arborist, archeological and geological consultants indicated that there are no on-site physical or environmental constraints that would indicate that the site is not suitable for the use proposed. The following reports have been prepared:
- "Preliminary Archeological Reconnaissance for the Oaktree Ranch, East of Hall, South of Watsonville, Monterey County, California" prepared by Archeological Consulting, December 21, 1983
 - "Water Supply Assessment Report for Rancho Los Robles, Monterey County, California"(LIB070525) prepared by California Water Service Company, June 22, 2006
 - "Natural Resource Evaluation for Rancho Los Robles" prepared by California Wildlife Ecology, February 11, 2004.
 - "Rancho Los Robles Botanical/Biological Report" prepared by Cowan, Bruce, Environmental Landscape Consultant, July 21, 1992.
 - "Rancho Los Robles Geology and Soils Report" prepared by E2C Inc., January 15, 2003.
 - "Transportation Impact Analysis for Rancho Los Robles" prepared by Fehr and Peers, July 30, 2003.
 - "Preliminary Geotechnical Report for Oak Tree Ranch" (LIB070436) prepared by Haro Kasunich Associates, Inc., December 28, 2004.
 - "Soil Profile and Percolation Tests Recreation Area" prepared by Haro Kasunich Associates, Inc., July 26, 2005.
 - "Technical Memorandum, Rancho Los Robles Project" prepared by Haro Kasunich Associates, Inc., April 4, 2006.
 - "Preliminary Drainage Analysis" prepared (LIB070433) by Ifland Engineers Inc., June 14, 2006.
 - "Draft Rancho Los Robles Project Specific Water Balance Study" prepared by Ifland Engineers, Inc., October 21, 2005.
 - "Preliminary Tree Resource Evaluation" (LIB060360) prepared by James P Allen Consultants, Santa Cruz, CA, July 28, 2006.
 - "Oak Tree Ranch Subdivision Biological Assessment" prepared by Melanie Mayer Consulting, August 2000.
 - "Spring Follow Up Survey, Oak Tree Ranch Proposed Subdivision" (LIB070529) prepared by Melanie Mayer Consulting, July 16, 2001.
 - "Geologic Investigation Oak Tree Ranch Subdivision" (LIB070435) prepared by Nolan, Zinn, and Associates, November 24, 2004.

- “Rancho Los Robles Supplemental Traffic Report” prepared by Pinnacle Transportation Engineers, May 2, 2006.
 - “Technical Memorandum, Hydrological Assessment, Rancho Los Robles EIR” prepared by Todd Engineers, September, 2002.
 - “Technical Memorandum, Peer Review Hydrologic Assessment Rancho Los Robles (Oaktree Ranch) DEIR Monterey California” prepared by Todd Engineers, October 12, 2006.
- (d) Staff conducted numerous site inspections to verify that the site is suitable for this use.
- (e) Materials in Project File PLN970159.

4. FINDING: CEQA - The the County of Monterey has prepared the EIR in accordance with the requirements of CEQA, and the final EIR has been completed in compliance with CEQA.

- EVIDENCE:** (a) Public Resources Code Section 21080 (d) and California Environmental Quality Act (CEQA) Guidelines Section 15064 (a) (1) require environmental review if there is substantial evidence that the project may have a significant effect on the environment. The Rancho Los Robles Draft Environmental Impact Report (“DEIR”) was prepared in accordance with CEQA and circulated for public review from September 4, 2007 through October 29, 2007.
- (b) The DEIR contains extensive analysis of the proposed development, with and without mitigations compared to a Reduced Density Alternative, a Mixed Density Alternative, a Reduced Water Use Alternative, No Project Alternative and Future Development Alternative. The Reduced Development Alternative was the best choice to reduce environmental impacts and traffic impacts (TABLE 30 DEIR).
- (c) CEQA Guidelines Section 15088.5 requires re-circulation of an EIR if the lead agency determines that significant new information is added to the EIR after public review but before certification, and the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental impact. The County of Monterey determined that the addition of a global warming section and classification of a cumulative hydrological impact as significant and unavoidable constituted new information under this section. A revised draft EIR (“RDEIR”) was prepared and was circulated for public review from March 21st to May 5th 2008.
- (d) The Rancho Los Robles Subdivision Final EIR (“FEIR”) was prepared and released to the public on September 17, 2008 and responds to all significant environmental points raised by persons and organizations that commented on the DEIR or the RDEIR. Together, the DEIR, RDEIR and FEIR constitute the Rancho Los Robles Subdivision EIR.
- (e) Staff reviewed the development application and conducted numerous site visits.

- (f) The Rancho Los Robles Subdivision EIR reflects the independent judgment and analysis of the County.
- (g) The Rancho Los Robles Subdivision EIR was duly noticed and circulated for public review, and public comments were received and considered. The County distributed the Notice of Preparation to all Responsible Agencies on August 30, 2002. Responses to the Notice of Preparation were considered in the preparation of the EIR and included as an appendix to the EIR. The County distributed a Notice of Completion with copies of the EIR, and posted the Notice of Completion at the Monterey County Clerk's office. The County published a Notice of Availability in the Monterey County Herald on September 1, 2007. During the public review period for the DEIR (September 4, 2007 to October 29, 2007) the County received comment letters from the Merced County Local Agency Formation Commission; Offices of William Yeates representing Friends, Artists, and Neighbors of Elkhorn Slough; Horan, Lloyd, Karachale, Dyer, Schwartz, Law, and Cook, representing the applicant; Pajaro Valley Water Management Agency; and Kenneth Walker and responded to their comments. The County of Monterey received comment letters from Gary and Yvette Yoshida, Marjorie Kay and the California Coastal Commission after the close of the public review period. During the public review period for the RDEIR (March 21st to May 5th 2008) the County received comments from Kenyon Yeates LLP representing Friends, Artists, and Neighbors of Elkhorn Slough.
- (j) The Monterey County Resource Management Agency Planning Department, located at 168 West Alisal Street, 2nd Floor in Salinas, is the custodian of the documents that constitute the record of proceedings upon which the determination to adopt the EIR is based.
- (j) Upon approval of the project analyzed in the Rancho Los Robles Subdivision EIR, the County will monitor the implementation of mitigation measures in accordance with the applicable Mitigation Monitoring Program.
- (k) See also the preceding and following findings and supporting evidence.

5. FINDING: ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT - The project would result in significant and potentially significant impacts that would be mitigated to a less than significant level due to incorporation of mitigation measures from the EIR into the conditions of project approval

- EVIDENCE:** (a) The Rancho Los Robles Subdivision DEIR (State Clearinghouse Number 2002091010) dated August 28, 2007 and circulated for public review from September 4, 2007 through October 29, 2007.
- (b) The Rancho Los Robles Subdivision RDEIR dated March 21, 2008 and circulated for public review from March 21, 2008 to May 5, 2008.

- (c) The Rancho Los Robles Subdivision Final EIR (FEIR) prepared on September 17, 2008 and provided to agencies that commented on the DEIR or the RDEIR, no less than ten days prior to the Board of Supervisors meeting at which a determination was made on the project.
- (d) The Rancho Los Robles Mitigation Monitoring Program, adopted in conjunction with this project approval.
- (e) Administrative record maintained at the Monterey County Resources Agency – Planning Department, 168 West Alisal Street, Salinas, California, including material in Planning Department file PLN 970159.
- (f) Public Resources Code section 21004 and CEQA Guidelines sections 15040 and 15041 provide the authority for a lead agency to impose mitigation measures on discretionary approvals to the extent those measures are consistent with the general provisions of state law, the state constitution, and case law relating to such authority. The project is a discretionary action upon which the County can impose conditions of approval.
- (g) Per the Board of Supervisors' December 9, 2008 motion approving the Staff Proposed Reduced Density Alternative and directing staff to adjust the findings and conditions of approval/mitigation measures accordingly, the mitigation measures have been revised to correspond to the Staff Proposed Reduced Density Alternative.

5a FINDING: IMPACT TO VISUAL CHARACTER WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 1 and 2 will reduce potentially significant visual impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions. Changes or alterations have been required or incorporated into the project through the mitigations below as conditions of approval which avoid or substantially lessen the impacts to a level of insignificance.

Effects on Project Site and Vicinity Visual Character (DEIR Chapter 2.1). The proposed project would add built elements that would be out of character with the rural visual qualities of the project site and surrounding area. These urban elements would be out of place within the predominant rural character of the surrounding land uses. Houses and backyard fences would be visible among the oak trees from Hall Road and Sill Road, and affect the character of the oak woodlands. Additionally, fences would face Sill Road for more than 1,000 feet.

Commercial and high density residential development would be visible at close range from Hall Road, and would introduce hard urban edges, including buildings, parking lots, and signs, out of character with the rural surroundings. The commercial and high density residential development would create an isolated pocket of new urban development between the open spaces of the scenic easement and recreational area to the west and north and the rural residential and agricultural areas to the east and south of the project site. Although CIP development standards establish requirements for sign materials and landscaping, other aspects of typical urban style development could be out of place with the generally rural character of the Las Lomas area.

Although the recreational area would maintain much of the project site in open space, common recreational elements such as chain link fences, restrooms or portable toilets, field lighting, and parking lots could adversely affect the rural character of the project site. The earth berms proposed in front of the storm water basin and at the top of the slope could result in a uniform and un-natural slope that is out of character with the surrounding natural features. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 1. In order to preserve the wooded character of the western portion of the project site and the rural character of the surrounding areas, final improvement plans or landscape plans for the residential areas shall include a fencing plan. Fence Designs for rear fences of lots ~~28-32, 54-56, 87-89, and 92-97, and fences facing Sill Road on lots 5-17, 60-67, 81 and 82,~~ shall meet the following criteria:

- a. Designs shall blend with the surrounding oak woods and rural character;
- b. Designs shall be open or partially open, such as a wood frame with welded wire, partially open slats, or split rail, and shall not exceed four feet in height from finish grade;
- c. Materials shall be of informal character, such as weathered wood, grape stakes, and/or welded wire;
- d. A minimum 15-foot landscape lot shall be provided to the street side of fences, and native and drought tolerant trees, shrubs or vines shall be used to partially screen the fences. A berm, about one-to two feet high, should be incorporated into the design at locations where such a berm would not pose a concern to the health of existing oak trees;
- e. Plants shall be those included on the County brochure Suggested Native Species Landscaping List in the North County Coastal Zone or the County brochure Drought Resistant Plants, or other appropriate native California plants as identified by a qualified landscape architect;
- f. Streets, sidewalks, pathways, fencing, and landscaping shall be designed to eliminate the removal of established trees along Sill Road.
- g. Title restrictions shall be recorded on affected lots to maintain the fence design requirements.

Mitigation Measure 2. In order to preserve the rural character of the project site and surrounding area, the applicant shall prepare design standards for the commercial, apartment, recreational, open space, and storm water basin components. The design standards shall be recorded on the titles for the affected parcels and shall apply to all site development, architectural, and landscape plans for the commercial, recreational, open space, and storm water basin components. The design standards shall conform to the following requirements:

- a. Natural materials, simulated natural materials, texturing and/or coloring shall be used for paved sidewalks, walkways, patios and similar areas, using a design that will blend with the rural character of the surrounding area. When feasible, a hard-packed paving material such as decomposed granite is preferred in lieu of poured concrete or asphalt;
- b. Building architecture shall be rural in style, featuring rustic elements drawn from barns and other early architecture, with designs and materials historically used in rural north Monterey County;

- c. Poured concrete curbs and gutters shall be eliminated or minimized to the extent feasible. If curbs are required, designs such as a rolled curb with less defined edges than standard angular curbs and gutters shall be used;
- d. Business signage shall be consolidated onto no more than two signs, and shall conform to CIP requirements for design and materials;
- e. Lighting shall be limited to no more than three-quarters the height of the tallest building on the project site, or 20 feet if there are no buildings, shall be designed to limit off-site glare, and shall be designed to blend with the architecture of the buildings and/or the rural setting;
- f. Substantial vegetative screening shall be provided to obscure off-site views of built accessory elements, including trash enclosures, rest rooms, and bleachers; trash enclosures shall also be screened with a fence or wall integrated with or matching building architecture.
- g. Split rail or similar open fence designs shall be used when fences are necessary (*see also Mitigation Measure 14*);
- h. Partial vegetative screening, with plants approximately two to four feet in height (to preserve view angles for cars entering and exiting), shall be provided to obscure off-site views of parking areas;
- i. Partial vegetative screening of buildings shall be provided, with an average of at least one tree per 30 feet of frontage planted along Hall Road, and at least one additional tree planted within 50 feet of the west or south side of each commercial building for each 50 feet of building front on the west or south elevation;
- j. Plants shall be those included on the County brochure Suggested Native Species Landscaping List in the North County Coastal Zone or the County brochure Drought Resistant Plants, or other appropriate native California plants as identified by a qualified landscape architect; trees near the drainage basin should be predominantly species typical of wetland and riparian areas;
- k. Plants shall be allowed to grow to natural forms; trees planted beneath overhead wires should be selected with mature heights compatible with the wires;
- l. The drainage basin shall be naturalized in appearance, with a transition to native plantings except where adjacent to the recreational area; the site plan and landscaping for the entire commercial, recreational, streetscape, and open space area shall be designed to blend the built features into the natural surroundings, with elimination of curbs and sharp divisions to the extent practical;
- m. The earth berm along Hall Road shall be limited to no greater than four feet in height and contoured to achieve a non-uniform appearance;
- n. Plant material shall be planted in a non-uniform pattern along, and on top of, the earth berm, to achieve a variation in the appearance of the earth berm's height; and
- o. The site plan shall place buildings near the front of the site with parking to the side or rear.

EVIDENCE: (a) The EIR analyzes consistency with applicable North County LUP visual policies and CIP zoning requirements. Building flagging and a visual analysis were completed and several site visits were conducted to assess site and surrounding visual conditions and project effects.

- (b) North County LUP Visual Resources policies 2.2.2 General Policy 3, 2.2.2 General Policy 3, and 2.2.2 General Policy 5 that require subdivisions and structures minimize visual intrusion on a site and its surroundings. CIP section 20.144.030 (B) establishes visual resources development standards for the site. The mitigation measures are consistent with these policies and ordinance and are fully enforceable by the County as conditions of project approval.
- (c) Mitigation Measure 1 requires fence designs and landscaping that will blend with and harmonize with the existing rural and woodland character of the site. Therefore, implementation of the measure will ensure consistency with County visual polices.
- (d) Mitigation Measure 2 requires site and building design standards that ensure a rural character to all development within the commercial, apartment, recreational, open space, and storm drainage basin components of the project. Therefore, implementation of the measure will ensure consistency with County visual polices.
- (e) Monterey County requires approval of grading plans, site plans, building plans, and landscape plans prior to development of subdivisions. Design standards will be recorded on property titles and remain enforceable in perpetuity.
- (f) Per the Board of Supervisors' December 9, 2008 motion approving the Staff Proposed Reduced Density Alternative and directing staff to adjust the findings and conditions of approval/mitigation measures accordingly, the mitigation measures have been revised to correspond to the Staff Proposed Reduced Density Alternative. The Staff Proposed Reduced Density Alternative reduces the visual impact by eliminating lots creating ridgeline development when viewed from Hall Road.

5b. **FINDING: IMPACT FROM RIDGELINE DEVELOPMENT WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 3 will reduce significant visual impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.**

Impact from Ridgeline Development (DEIR Chapter 2.1). The project would result in several houses on new lots that would break the ridgeline when viewed from Hall Road. A preliminary visual analysis prepared by the Monterey County Planning and Building Inspection Department and staking and flagging of selected lots by the applicant indicates that the proposed project would result in ridgeline development. Changes to the project plans, including a top-of-slope earth berm, grading down of some lots, and height restrictions on some lots, would reduce the potential for ridgeline development. In addition, shielding of some lots by the fronting commercial and apartment structures is proposed. The berm would primarily benefit lots at the top of the slope, and toward the west; the grading and commercial blocking would primarily benefit lots to the east end of the project site. However, the grading and berm conflict with grading provisions of the CIP, and are an unacceptable approach to reduce ridgeline development.

Without the benefit of the berm and grading, 15 lots would result in ridgeline development. Three of these would be acceptable with one-story restrictions. Subdivision that would result in ridgeline development would be a significant environmental impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 3. In order to prevent ridgeline development the following measures shall be implemented:

- a. The top-of-slope berm shall be eliminated from project plans (an undulating berm up to four feet tall is acceptable as a landscaping feature), and lot cuts or fills shall be no deeper than four feet. The top of slope area shall be landscaped with oak trees and other native vegetation to provide near 100 percent screening of future houses on proposed lots. At least one 24-inch boxed (minimum) oak tree shall be planted for each 50 feet ~~between lot 54 and the cul-de-sac at the eastern~~ along the southern edge of the project site park;
- ~~b. Lots 4, 40, and 41 shall have structural height limits recorded on the property titles, with a maximum height of 18 feet above finished grade at any given contour line.~~
- c. ~~Lots 1, 3, 32, 39, and 93, shall be individually designed for which restrictions in height are not adequate to prevent ridgeline development as viewed from Hall Road, shall not have building permits issued until top of slope landscaping has been in place for no less than two years. Landscaping used to screen proposed structures shall be in place for no less than two years prior to issuing a building permit for that lot.~~
- d. Landscaping shall consist of shrubs and trees included on the County brochure Suggested Native Species Landscaping List in the North County Coastal Zone or the County brochure Drought Resistant Plants, or other appropriate native California plants as identified by a qualified landscape architect. At least half of the trees shall be native oak species. The landscaping shall begin at the high point of the slope, extending generally northward for a width of no less than 20 feet, be designed to screen buildings on the lots from Hall Road, and provide a natural appearance at the top of the slope. Trees shall be minimum 36-inch box, with relocated mature trees preferred if available. A portion of the oak trees should have two trunks or low branches to emulate natural oak woodland on the project site. At time of permit issuance, the County shall conduct a field visit to determine if additional planting or height restrictions are necessary, based on the effectiveness of the plantings.
- ~~e. Lots 24-31 shall either meet the criteria in "c" and "d" or shall not be permitted until such time as the commercial building is under construction.~~

EVIDENCE: (a) The EIR analyzes consistency with applicable North County LUP visual policies and CIP zoning requirements. Building flagging and a visual analysis were completed and several site visits were conducted to assess site and surrounding visual conditions and project effects.

(b) North County LUP Visual Resources policies 2.2.2 General Policy 3; 2.2.2 General Policy 4; and 2.2.2 General Policy 5 require subdivisions and structures to minimize visual intrusion, grading and tree removal. CIP Section 20.144.030(B)(7) establishes visual resources development standards for ridgeline development for the site. The mitigation measure

is consistent with these policies and ordinance and is fully enforceable by the County as a condition of project approval.

- (c) Mitigation Measure 3 requires removal of the high berm from project plans, building height restrictions for some lots, landscaping that will screen new development, and concurrency for front buildings that will provide screening of back buildings. Therefore, implementation of the measure will ensure consistency with County visual polices and ridgeline development standards.
- (d) Monterey County requires approval of grading plans, site plans, building plans, and landscape plans prior to development of subdivisions. Design standards will be recorded on property titles and remain enforceable in perpetuity. The County will enforce the conditions of approval.
- (e) The Staff Proposed Reduced Density Alternative eliminates ridgeline development by locating a park at the southern edge of the upper terrace, so that no lots will have houses that break the ridgeline (*See Finding#13*).
- (f) Per the Board of Supervisors' December 9, 2008 motion approving the Staff Proposed Reduced Density Alternative and directing staff to adjust the findings and conditions of approval/mitigation measures accordingly, the mitigation measures have been revised to correspond to the Staff Proposed Reduced Density Alternative. The Staff Proposed Reduced Density Alternative reduces the visual impact by eliminating lots creating ridgeline development when viewed from Hall Road.

5c. FINDING: IMPACT ON WETLANDS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 4a and 4b will reduce significant biological impacts to a less than significant level. The mitigation measures are implemented and enforced through permit conditions.

Effects on Wetlands (DEIR Chapter 2.2). The project site includes a wetland as defined by the Coastal Act. The hydric soils and wetland vegetation necessary for classification as jurisdictional wetlands under the U.S. Army Corps of Engineers definition are not present, but the site is periodically inundated by rainwater run-off and qualifies as a wetland under the Coastal Act definition. The wetland is defined as ESHA in the North County LUP/LCP. The proposed project would result in the removal or disturbance of ESHA during construction activities or by increased human and domestic animal activity. CIP Sections 20.144.040.B and C establish requirements for approval of subdivisions and development on parcels containing ESHA or within 100 feet of ESHA. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 4a. In order to protect the wet lowland area, the final map and related documentation shall include the following:

- a. Placement of a conservation easement over the wet lowland area, as defined by the Coastal Act, including a 50-foot setback each side of the edge of the wet lowland area. The wet lowland area shall be defined as the areas lower than 12 feet as shown on the subdivision map dated May 12, 2006; however, the boundary of this area may be

- modified within the same general location on the project site, provided the total area remains constant, and the storage capacity may be increased (however, refer to "b" below). The conservation easement shall prohibit vegetation removal, excavation, grading, filling, and construction of roads and structures within the wetlands easement, except as may be permitted under the conditions outlined in a Nationwide Permit under Section 404 of the Clean Water Act (Note that the wet lowland area is not currently considered a jurisdictional wetland, and therefore not subject to securing an Army Corps permit, California Department of Fish and Game Streambed Alteration Permit or Regional Water Quality Control Board Water Quality Certification). Such exceptions may include activities for watershed restoration or other activities that will ensure the long-term maintenance of the habitat. No grading, structures, roads, water tanks, surface or sub surface utility lines, animal grazing, or other activities shall be allowed except as may be necessary to reduce the potential risk of wildfires, to maintain the vigor of the habitat, to maintain the diversity and value of the habitat, to remove non-native plants, or to otherwise ensure the long-term maintenance of the habitat. Lining for use as a storm water pond shall be limited to the use of clay. Turf shall not be allowed within the wetland boundaries, but may be located within the 50-foot set-back area on one side of the wetland; chemical fertilizers and pesticides shall not be applied within the 50-foot buffer area.
- b. If disturbance to wet lowland area habitat occurs as part of the project, habitat shall be replaced at a ratio of 3:1. Creation of mitigation areas will be required to follow the restrictions identified in (a).
- c. Covenants, Conditions, and Restrictions (CC&Rs) shall be placed on the deed for lots adjacent to the setbacks listed above in order to ensure the long-term protection and maintenance of the scenic and conservation easements:
- 1) Prohibit property owner from removing native vegetation and trees, unless approved in writing by the Monterey County Planning and Building Inspection Department and disclose to lot or home purchasers the North Monterey County landscaping requirements;
 - 2) Prohibit motor vehicle and bicycle use, pets, storage, dumping, or any other activities within the conservation easement that could adversely affect the ecological and scenic importance of these easements;
 - 3) Disclosure to lot or home purchasers of the potential for contamination of the easement area and downstream waters by their use of pesticides, herbicides, fungicides, and fertilizers on residential lots, and their responsibility to use these products sparingly and in accordance with label requirements in order to protect the easement area and downstream waters; and
 - 4) Disclose to purchasers of lots adjacent to the setbacks listed above the ecological and scenic importance of the conservation easement, the presence of special-status plants, and habitat protection measures implemented as part of the development.
- d. Sign posting of the conservation easement boundary no less than every 100 feet within the project site, and erection of a split rail or similar fence between active recreational use areas and the wetland area to minimize human and domestic animal encroachment. The fence should not preclude movement of amphibians. (*see Mitigation Measure 14*)

Mitigation Measure 4b. In order to protect the sensitive habitat during construction, the contractor shall install temporary fencing along the conservation easement area boundary prior to commencement of grading and construction activities. Four-foot fencing shall be fastened to t-post stakes placed at eight-foot intervals. Signs shall be installed to clearly designate sensitive habitat boundaries. Erosion control shall be installed to prevent washing of soil or materials into the wetland during construction. Soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials shall not be allowed within the conservation easement. The fencing shall remain in place during the entire construction period. If construction is to occur within the buffer areas, protective fencing shall be placed as near the boundary of the conservation easement as possible. Permanent open-rail fencing may be installed in lieu of the temporary fencing.

Implementation of Mitigation Measure 19 listed in DEIR Chapter 2.3 Geology and Soils requiring an erosion control plan also contributes to the mitigation of this impact. Mitigation Measure 19 is included as a condition of project approval.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. Several biological reports and letters were written by biological consultants during preparation of the EIR. The biologists who prepared the biological resources section of the EIR conducted site visits to ascertain site conditions.
- (b) The wetlands identified on the site do not meet the three criteria required to qualify as wetlands under the jurisdictional of the U.S. Army Corps of Engineers, because the site lacks the required hydric soils and wetland vegetation; however, the wetland is documented as being periodically under water, which qualifies it as a wetland under the definition of the Coastal Act.
- (c) North County LUP Environmentally Sensitive Habitat policies 2.3.2 General Policy 1; 2.3.2 General Policy 2; 2.3.2 General Policy 3; and 2.3.2 General Policy 6 identify wetlands as environmentally sensitive habitat, prohibit development within wetlands, and require compatibility of development with adjacent habitat, and long-term protection through deed restrictions or conservation easements. North County LUP Environmentally Sensitive Habitat Policy 2.3.2 General Policy 9 prohibits invasive plants and encourages native plants. North County LUP Environmentally Sensitive Habitat Policy 2.3.3 Specific Policy 3 restricts domestic pets within sensitive habitat areas. CIP Section 20.144.040 (B and (C) establishes development standards for wetlands. The mitigation measures are consistent with these policies and ordinance and are fully enforceable by the County as conditions of project approval.
- (d) Mitigation Measure 4a requires placement of a conservation easement including a 50-foot buffer; restricts activities within the conservation area; requires CC&Rs to advise adjacent landowners of maintenance duties adjacent to the conservation areas; and requires signage and

fencing around the periphery of the conservation easement. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat polices.

- (e) Mitigation Measure 4b requires practices to protect the habitat during construction.
- (f) Monterey County requires approval of final maps, grading plans, site plans, and landscape plans prior to development of subdivisions. CC&Rs will be recorded on property titles and remain enforceable in perpetuity. The County will enforce the conditions of approval during the review and approval of these plans.
- (g) The Staff Proposed Reduced Density Alternative removes the parkland uses from the location of the Coastal Act wetland, reduces site run-off which reduces the size necessary for the storm water basin, and therefore significantly reduces impacts on wetland resources compared to the project.

5d. FINDING: IMPACT ON WILLOW RIPARIAN HABITAT WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 5a and 5b, or Mitigation Measure 5c will reduce significant biological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Impact to Sensitive Natural Communities (Willow Riparian) (DEIR Chapter 2.2). Willow riparian woodland is defined as ESHA in the North County LUP/LCP. Although the area of willow riparian vegetation is set aside on a small lot, the proposed project could result in the removal or disturbance of ESHA during construction activities or by increased human and domestic animal activity. CIP Sections 20.144.040.B and C establish requirements for approval of subdivisions and development on parcels containing ESHA or within 100 feet of ESHA. In this case, due to the fragmented, isolated, and monolithic nature of the willow riparian woodland, and based on site visits and analysis by the EIR consultant's biologist, the EIR determined that re-establishment of the willow to another location on the project site would be an acceptable alternative to protection of the existing habitat. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 5a. In order to protect environmentally sensitive habitats on the project site, the final map and final improvement plans shall include the following:

- a. Placement of a conservation easement over the willow riparian habitat including 10 feet from the extent of the riparian vegetation. The conservation easement shall prohibit vegetation removal, excavation, grading, filling, and construction of roads and structures within the easement;
- b. The lot plan shall be reconfigured to extend the parcel labeled "Mini Park" in the northeast corner to include the entire willow riparian area (which extends into lot number 18) and the 10-foot setback area; and

- c. Covenants, Conditions, and Restrictions (CC&Rs) shall be placed on the deed for lots adjacent to the setback listed above in order to ensure the long-term protection and maintenance of the scenic and conservation easements:
- 1) Prohibit property owner from removing native vegetation and trees, unless approved in writing by the Monterey County Planning and Building Inspection Department and disclose to lot or home purchasers the North Monterey County landscaping requirements;
 - 2) Prohibit motor vehicle and bicycle use, pets, storage, dumping, or any other activities within the conservation easement that could adversely affect the ecological and scenic importance of these easements;
 - 3) Disclosure to lot or home purchasers of the potential for contamination of the easement area and downstream waters by their use of pesticides, herbicides, fungicides, and fertilizers on residential lots, and their responsibility to use these products sparingly and in accordance with label requirements in order to protect the easement area and downstream waters; and
 - 4) Disclose to purchasers of lots adjacent to the setbacks listed above the ecological and scenic importance of the conservation easement, the presence of special-status plants, and habitat protection measures implemented as part of the development.
- d. Sign posting of the conservation easement boundary no less than every 100 feet within the project site (*see Mitigation Measure 14*).
- e. If disturbance to willow riparian habitat occurs as part of the project, habitat shall be replaced at a ratio of 3:1. Creation of mitigation areas will be required to follow the restrictions identified in (a).

Mitigation Measure 5b. In order to protect the buffer areas during construction, the contractor shall install temporary fencing along the conservation easement area boundary prior to commencement of grading and construction activities. Four-foot fencing shall be fastened to t-post stakes placed at eight-foot intervals. Signs shall be installed to clearly designate the sensitive habitat boundary. Erosion control shall be installed to prevent washing of soil or materials into the riparian area during construction. Grading shall occur within the willow riparian conservation easement only as allowed under a Streambed Alteration Agreement and/or Section 404 permit. Soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials shall not be allowed within the conservation easement. The fencing shall remain in place during the entire construction period. Permanent open-rail fencing may be installed in lieu of the temporary fencing.

Mitigation Measure 5c. In lieu of Mitigation Measures 5a and 5b, the project proponent may elect to remove the existing riparian willow habitat for development, and re-establish willow riparian habitat at a 3:1 ratio at appropriate locations in the lower portion of the project site. An appropriate location would be along a drainage or free-draining slope or adjacent to a wetland area or pond, and outside of recognized existing wetland areas. Use of the existing on-site willow stock should be preferred in establishing the replacement habitat. A Habitat Restoration Plan shall be prepared in consultation with the California Department of Fish and Game.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. Several biological reports and letters were written by biological consultants during preparation of the EIR, and the biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
- (b) Willow riparian habitat occupies an area of about 5,000 square feet at the northeastern corner of the project site, and extends off-site a short distance (less than 2,000 square feet). The limits of the habitat are established by Sill Road to the north, active agricultural land to the southwest, and a driveway on property to the east (*aerial photos in Figure 5 and Figure 8 in the DEIR*). The habitat is comprised of a single species (arroyo willow) and very limited in extent.
- (c) North County LUP Environmentally Sensitive Habitat policies 2.3.2 General Policy 1; 2.3.2 General Policy 2; 2.3.2 General Policy 3; and 2.3.2 General Policy 6 identify riparian corridors as environmentally sensitive habitat, prohibit development within environmentally sensitive habitat areas, and require compatibility of development with adjacent habitat, and long-term protection through deed restrictions or conservation easements. North County LUP Environmentally Sensitive Habitat Policy 2.3.2 General Policy 9 prohibits invasive plants and encourages native plants. North County LUP Environmentally Sensitive Habitat Policy 2.3.2 Specific Policy 3 restricts domestic pets within sensitive habitat areas. CIP section 20.144.040(C)(2)(b) establishes environmentally sensitive habitat development standards for riparian areas. The mitigation measures are consistent with these policies and ordinance and are fully enforceable by the County as conditions of project approval.
- (d) The mitigation measures allow two approaches to reducing impacts on the willow riparian habitat: protection in place with the establishment of a buffer and conservation easements (*Mitigation Measures 5a and 5b*); or re-establishment of the habitat at a 3:1 ratio in another location (*Mitigation Measure 5c*).
- (e) Mitigation Measure 5a requires placement of a conservation easement including a 10-foot buffer; restricts activities within the conservation area; requires CC&Rs to advise adjacent landowners of maintenance duties adjacent to the conservation areas; and requires signage around the periphery of the conservation easement. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat policies.
- (f) Mitigation Measure 5b requires practices to protect the habitat during construction.
- (g) Mitigation Measure 5c allows re-establishment of willow riparian habitat at a 3:1 ratio. Development of the project will further isolate this area of willow riparian vegetation, and replacement elsewhere on the site may improve the habitat value of the willow riparian habitat compared

to leaving it at the present location. If the riparian habitat were relocated to the drainage in the southwestern portion of the site, the relocation could address erosion problems as well. The Reduced Density Alternative would re-locate the willow riparian vegetation elsewhere on the project site in accordance with this measure.

- (h) Implementation of Mitigation Measure 19 in DEIR Chapter 2.3 Geology and Soils requiring an erosion control plan and Mitigation Measure 11 in DEIR Chapter 2.2 Biological Resources requiring the grading plan to include tree protections also contributes to the mitigation of this impact.
- (i) Monterey County requires approval of final maps, grading plans, site plans, and landscape plans prior to development of subdivisions. CC&Rs will be recorded on property titles and remain enforceable in perpetuity. The County will enforce the conditions of approval during the final review of these plans.

5e. FINDING: IMPACT FROM INVASIVE PLANTS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 6 will reduce significant biological impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Impact from Invasive Non-native Plants (DEIR Chapter 2.2). Invasive, non-native plant species often appear after grading and construction activities because invasive species are able to grow and become established in disturbed areas more readily than native species, thereby displacing native species. Any deterioration of habitat quality caused by further spread of non-native, invasive plant species into native habitats off-site resulting from grading and construction activities associated with the proposed project would be a significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 6. In order to prevent the spread of invasive non-native species, the project landscape plans shall include a re-vegetation and native vegetation protection component to include the following requirements:

- a. An eradication plan for plants listed in the County brochure Invasive Plants in Monterey County and currently growing on the project site.
- b. Use of plants listed in the County brochure Invasive Plants in Monterey County shall be prohibited;
- c. Graded areas shall be planted, mulched, or covered between October 15 and the following April 15 each year, and shall be stabilized against wind or water erosion if inactive for more than 48 consecutive hours;
- d. Plant materials used in landscaping, erosion control, or habitat restoration shall consist of plants that are included on the County brochure Suggested Native Species Landscaping List in the North County Coastal Zone or the County brochure Drought Resistant Plants, or other appropriate native California plants as identified by a qualified biologist or landscape architect, except that lawns shall be allowed in accordance with Monterey

County Code Section 18.44 and vegetable and flower gardens shall be allowed within fenced backyards; and

- e. To prevent erosion and conserve water, bare soil between newly installed plant materials shall be mulched, covered with jute netting, or seeded with a mix of seeds best suited for the climate and soil conditions, and native to the north Monterey County region; open space planting shall be installed in the fall to take advantage of winter rains and reduce irrigation needs, especially beneath oaks; slopes of 11 percent or more should be stabilized with netting and/or hydroseeding; protection should be installed within 24 hours of completion of planting or sooner if rain is expected; and
- f. Except as part of the re-vegetation of open space areas, no plantings shall be placed within six feet of the trunks of oak trees.

- EVIDENCE:**
- (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. The biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
 - (b) North County LUP Environmentally Sensitive Habitat Policy 2.3.2 General Policy 9 prohibits invasive plants and encourages native plants. The mitigation measure is consistent with this policy and is fully enforceable by the County as a condition of project approval.
 - (c) Mitigation Measure 6 requires a plan to eradicate invasive plants, exclusion of invasive plants from landscape plans, and planning requirements. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat policies.
 - (d) Monterey County requires approval of final maps, grading plans, site plans, and landscape plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

- 5f. FINDING: IMPACT ON SPECIAL STATUS AMPHIBIANS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 7 will reduce potentially significant biological impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.**

Effect on Special-Status Amphibian Species (DEIR Chapter 2.2). No special-status amphibian species were observed on the project site during surveys conducted in August 2000 and subsequent surveys conducted in March, April and June 2001. However, adult individuals may disperse across the project site.

If individuals of this species are found on the project site, construction and site preparation activities could result in the direct loss of this species through injury or mortality from being crushed by construction equipment and materials, or consumption by predators attracted to the project site. Post-construction activities associated with use of the project site could result in incidental take of these species from being killed or harassed by residents or pets or killed or injured by contamination from use of landscaping chemicals. The loss of individuals of this

protected species would be a potentially significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 7. In order to avoid losses of special status species during construction or occupancy, the project proponent shall submit a Special Species Salvage and Protection Plan prepared by a qualified biologist in consultation with the California Department of Fish and Game and subject to the review and approval of the Monterey County Planning and Building Inspection Department. The Plan shall include the following:

- a. A qualified biologist shall conduct a pre-construction worker orientation to inform workers of the amphibian's protected status and facilitate identification of the potential presence of Santa Cruz long-toed salamander, California red-legged frog, and California tiger salamander.
- b. Establish work boundaries.
- c. Identify measures to be implemented to avoid loss of these species during construction activities including but not limited to:
 - 1) Who to contact to remove individual amphibians from the project site prior to and during project grading and construction;
 - 2) How/Where to relocate them to nearby protected habitat or other suitable locations identified in the plan; and
 - 3) Appropriate measures to prevent amphibians from entering the site during construction activities.
- d. Reporting requirements to monitor the effectiveness of the Plan.
- e. Construction details to prevent entry of amphibians into private yards or onto streets or parking areas, to reduce the potential for accidental take during occupancy of the proposed project.

- EVIDENCE:**
- (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. Several biological reports and letters were written by biological consultants during preparation of the EIR, and the biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
 - (b) The site is near known populations of special status amphibian species and could provide habitat for these species.
 - (c) North County LUP Environmentally Sensitive Habitat policies 2.3.2 General Policy 1; 2.3.2 General Policy 2; 2.3.2 General Policy 3; and 2.3.2 General Policy 6 identify portions of the site as environmentally sensitive habitat. The mitigation measure is consistent with these policies and is fully enforceable by the County as a condition of project approval.
 - (d) Mitigation Measure 7 requires construction practices be put in place to protect any special status amphibians that are discovered during construction. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat policies.

- (e) Implementation of Mitigation Measures 4a, 4b, 5a, 5b, 5c, and 6 in DEIR Chapter 2.2 Biological Resources requiring other biological protections also contributes to the mitigation of this impact.
- (f) The Staff Proposed Reduced Density Alternative would remove parkland from the low wet area which would preserve additional undisturbed natural habitat suitable for amphibians.
- (g) Monterey County requires approval of grading plans, site plans, and landscape plans, and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5g. FINDING: IMPACT ON NESTING RAPTORS AND LOGGERHEAD SHRIKE WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 8 will reduce significant biological impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Impacts to Nesting Raptors and Loggerhead Shrike (DEIR Chapter 2.2). A pair of red-tailed hawks were actively nesting in a large eucalyptus tree within the oak woodland habitat near the center of the property during the August 2000 field survey, and several other raptor species were observed around the oak trees on the project site. Therefore, the trees located on and adjacent to the project site have the potential to provide nesting habitat for raptors and loggerhead shrike. If active nest(s) of protected bird species exist in the trees at time of construction, any construction and site preparation activities, if conducted during the nesting season, could result in the direct loss of nests, including eggs and young, or the abandonment of an active nest by the adults. The loss of individuals of these species or abandonment of their nests would be a significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 8. In order to prevent injury or disturbance to protected birds, no more than 30 days prior to the removal of any habitat, or the commencement of construction activities that would occur during the nesting and/or breeding season of raptors and loggerhead shrike potentially nesting on the project site (generally March 1 through August 1), a field survey shall be conducted by a qualified biologist to determine if active nests are present in the construction zone or within 250 feet of the construction zone. Areas within 250 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. If active nests are found within the survey area, clearing and construction within 250 feet of the active nest(s) shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist.

EVIDENCE: (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. Several biological reports and letters were written by biological consultants during preparation of the EIR, and the biologists who prepared the

biological resources section of the EIR conducted several site visits to ascertain site conditions.

- (b) The site contains oak woodland and a eucalyptus tree that provide suitable habitat for birds, and a red tail hawk was sighted on the site by a biologist.
- (c) North County LUP Environmentally Sensitive Habitat Policy 2.3.2 General Policy 10 requires construction regulations to protect bird habitat. CIP Section 20.144.040.B requires protections for birds. The mitigation measure is consistent with this policy and ordinance and is fully enforceable by the County as a condition of project approval.
- (d) Mitigation Measure 8 requires a pre-construction survey to determine if protected birds are present, and establishes construction practices including an exclusion zone, if the birds are present. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat policies.
- (e) Monterey County requires approval of grading plans, site plans, landscape plans, and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5h. FINDING: IMPACT ON ROOSTING BATS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 9 will reduce significant biological impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Effects on Roosting Bats DEIR Chapter 2.2). Although no bats were observed during the surveys, oak woodland on the project site provides suitable habitat for species such as the pallid or western mastiff bat. Construction and site preparation activities conducted in the vicinity of roosting bats could result in the direct loss of young, or the abandonment of roosting sites by the adults. Implementation of the following mitigation measure would address Monterey County's required conditions of approval for projects potentially affecting protected species and would reduce the impact to a less than significant level. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 9. Pre-construction surveys for roosting bats will be performed no more than 30 days prior to construction. If roosts are found, a Memorandum of Understanding (MOU) with the CDFG will be obtained by the contractor in order to remove bat species. Alternatively, the construction schedule will be modified to initiate construction after August 1, when young have fledged. If roosts are found, the project proponent shall consult with the CDFG to determine the appropriate construction setback based on the species, location, and number of bats found. Alternative habitat will need to be provided if bats are to be excluded from maternity roosts. If this is the case, a roost with comparable spatial and thermal characteristics will be constructed and provided. CDFG shall be consulted regarding specific designs. This mitigation measure is subject to the review and approval of the Planning Department.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. The biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
- (b) The site contains oak woodlands, other trees, and buildings that provide suitable habitat for bats, which are protected species.
- (c) Mitigation Measure 9 requires a pre-construction survey to determine if protected birds are present, and establishes construction practices and contact procedure with the Department of Fish and Game if bats are present. Therefore, implementation of the measure will ensure consistency with state protections for bats.
- (d) Monterey County requires approval of demolition permits, grading plans, site plans, and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5i. FINDING: IMPACT ON PROTECTED TREES WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 10a, 10b, 11, 12, 13a, and 13b will reduce significant biological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Effects on Protected Trees (DEIR Chapter 2.2). The proposed project would remove 25 protected coast live oak trees, 17 of which are considered landmark. Pavement or excess garden watering could cause the decline or death of additional protected trees once the project has been constructed. Activities that would result in the removal or damage of protected trees, disturb the root zone of protected trees, or result in grading of soil over the base of the trunk of protected trees, would result in a significant impact.

Mitigation Measure 10a. To protect oak trees during grading and road construction, prior to issuance of a grading permit for the road and lots, the grading plan shall indicate the amount of cut and fill required to construct the road, and identify potential protected oak tree removal requirements. Based on potential protected oak tree removal requirements identified in the grading plans, the road shall be adjusted within its general alignment to avoid removal or damage of any protected oak trees (i.e., oak trees greater than six inches in diameter). To minimize its width while still providing a safe street for all users, Sill Road shall be designed with no parking on either side, and improvements to Sill Road shall be placed as far to the north as possible. A sidewalk shall be provided that remains at least 0.5 feet away from the trunk of oak trees over six inches in diameter (measured two feet from the ground), or, where that separation is not possible, a raised platform sidewalk shall be constructed. Any permanent tree protection measures necessary to safeguard protected oak trees from grading or construction activities shall be indicated on the grading plan. The grading plan shall be subject to the review and approval of the Monterey County Planning and Building Inspection Department. Refer to requirements in Mitigation Measures 11 and 13. An arborist shall review improvement plans and be on site during initial staking of the road improvements and shall adjust the location of improvements to

minimize effects on oaks to the extent possible, and file a report within five days of completion of staking.

Mitigation Measure 10b. In order to provide adequate current data on the size, type, and location of protected trees, an updated forest management plan shall be completed prior to the issuance of grading permits.

Mitigation Measure 11. To protect trees and habitat on the project site from inadvertent damage by construction equipment during grading and construction activities, protected trees that are to be retained and conservation easements that are located within or adjacent to the construction zone shall be identified in grading plans, and the following methods employed to protect trees and sensitive habitat during construction.

- a. wrap trunks of protected trees with protective materials and provide protective fencing at least six feet from the trunk;
- b. bridge or tunnel under major roots where exposed. Roots should be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, narrow trencher with sharp blades, or other approved root-pruning equipment. Any roots damaged during grading or excavation should be exposed to sound tissue and cut cleanly;
- c. prohibit soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping or storage of materials under drip line of trees or within conservation areas;
- d. grading within the oak woodland shall be minimized to the greatest extent possible, and a biologist shall oversee staking for grading limits in and around the oak woodland; and
- e. grading shall be prohibited in the conservation easement area unless a Streambed Alteration Agreement and/or Section 404 permit has been obtained.

Mitigation Measure 12. To compensate for the loss of protected trees, each protected tree that is removed shall either be re-located within the project site or adjacent road right-of-way, or be replaced at a minimum 3:1 ratio with a tree of the same species, if native, or if non-native, with a tree from the Suggested Native Species Landscaping List in the North County Coastal Zone. Trees shall be five gallon size at minimum and not root-bound when planted out. Tree trunks and foliage shall be protected by a wire cage. To the extent feasible, trees should be planted in groups to establish or extend habitat areas. Re-location shall be preferred whenever possible.

Mitigation Measure 13a. To protect oaks during development and occupancy of homes, prior to filing of the final map for lots with protected oak trees, a building envelope and tree protection area shall be established and attached to the final map. The tree protection area shall extend 0.5-feet from the trunk per inch of trunk diameter (measured at two feet above the ground) from all oak trees of six inches in diameter or more, and the remaining areas of the lot within approved setback shall constitute the building envelope. Structures, other than raised decks, gazebos, fences, etc. on shallow piers or other non-invasive foundations or supports, shall be prohibited within the tree protection area. Pavement, grading, and irrigation shall be prohibited within the tree protection area. The building envelope, tree protection area, and restrictions shall be recorded on the deed of each affected lot, and the restrictions included in the CC&Rs.

Mitigation Measure 13b. The scenic easement/conservation area shall be expanded to include the entire open space area (excluding the recreation area, but allowing for establishment of drainage and underground utilities, pathways or neighborhood park features provided those features are at least 0.5-feet from the trunk per inch trunk diameter (measured at two feet above the ground). Raised pathway structures may be constructed closer to oak trees subject to the monitoring of a qualified biologist. No private lots shall be within areas with slopes of greater than 25 percent. The homeowners' association shall be responsible for maintenance of the scenic/conservation easement.

- EVIDENCE:**
- (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. Several biological reports and letters were written by biological consultants during preparation of the EIR, and the biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
 - (b) A significant portion of the site is vegetated with oak woodland, including many individual trees that are classified as protected due to their size.
 - (c) CIP section 20.144.050 contains tree protection regulations for North Monterey County's coastal zone. The mitigation measures are consistent with this ordinance and are fully enforceable by the County as conditions of project approval.
 - (d) Mitigation Measure 10a requires adjustments to the project design to reduce the number of trees affected by the project. This would save some of the trees expected to be lost and help reduce the impact of the project on protected trees.
 - (e) Mitigation Measure 10b requires an updated forestry report to establish current data on the trees at the time grading begins. This will allow an accurate assessment of tree loss due to the project and help measure the success of mitigation measures.
 - (f) Mitigation Measure 11 requires protective measures so that trees are not damaged during construction. This measure will safeguard against accidental loss of or damage to trees during construction.
 - (g) Mitigation Measure 12 requires replacement of protected trees that are removed by the project on a 3:1 basis. This ensures that the trees that are lost will be replaced with new trees, and the 3:1 ratio protects against failure of some of the replacement trees to survive. The mitigation monitoring program requires follow-up inspections and replacement of new trees that have died.
 - (h) Mitigation Measure 13a requires CC&Rs that include tree protection measures on individual lots. These measures will protect the trees' root systems during house construction and occupancy and increase the rate of survival of trees on private lots.

- (i) Mitigation Measure 13b expands the conservation area to include all of the open space areas within the project and will help to protect the health of oak trees on the site.
- (j) The Staff Proposed Reduced Density Alternative would remove some residential lots from within the wooded area at the end of Oak Ridge Court.
- (k) Monterey County requires approval of final maps, grading plans, site plans, and landscape plans prior to development of subdivisions. CC&Rs will be recorded on property titles and remain enforceable in perpetuity. The County will enforce the conditions of approval during the review and approval of these plans.

5j. FINDING: IMPACT FROM DOMESTIC ANIMALS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 14 and 15 will reduce significant biological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Effects on Domestic Activities (DEIR Chapter 2.2). People and unleashed pets wandering into the common open space area could disturb or kill wildlife species, which could include special-status species. Disturbance or death of special-status species occurring because of increased human and domestic animal activity would be a significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 14. Prior to approval of improvement plans, a signage and fencing plan shall be prepared to outline the number and location of signs and fences, the language to be included on signs, and a maintenance program for the signs and fences, to discourage people and unleashed dogs from straying into the common open space area, subject to approval by the Monterey County Planning Department. The plan shall require signs and fences to be installed prior to occupancy of adjacent homes (*see Mitigation Measure 3*). Fences and signs shall be maintained by the homeowners' association.

Mitigation Measure 15. Concurrent with filing of final maps, Covenants, Conditions and Restrictions shall be prepared for the subdivision requiring disclosure of potentially sensitive wildlife resources occurring in the vicinity and providing a description of habitat protection measures required as part of the development.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP biological resources policies and CIP zoning requirements. The biologists who prepared the biological resources section of the EIR conducted several site visits to ascertain site conditions.
- (b) North County LUP Environmentally Sensitive Habitat policies 2.3.2 General Policy 1 identifies environmentally sensitive habitat that occurs on the site, and North County LUP Environmentally Sensitive Habitat Policy 2.3.3 Specific Policy 3 restricts domestic pets within sensitive habitat areas. The mitigation measures are consistent with these policies

and ordinance and are fully enforceable by the County as conditions of project approval.

- (c) Mitigation Measure 14 requires signage and fencing to restrict pets from environmentally sensitive habitat within the conservation easement. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat polices.
- (d) Mitigation Measure 15 requires notification to homeowners to raise awareness of the value of the habitat and the importance in keeping pets out of the habitat areas.
- (e) Monterey County requires approval of final maps, site plans, and landscape plans prior to development of subdivisions. CC&Rs will be recorded on property titles and remain enforceable in perpetuity. The County will enforce the conditions of approval during the review and approval of these plans.

5k. FINDING: INDIRECT WATER QUALITY IMPACTS ON BIOLOGICAL RESOURCES WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 19 and 21 will reduce potentially significant biological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Indirect Effects on Off-Site Biological Resources (DEIR Chapter 2.2). The proposed project would result in additional storm water run-off, and eroded soil could be carried as sediment in surface runoff during storms. Urban runoff is often polluted with grease, oil, residues of pesticides and herbicides, heavy metals, etc. These pollutants may eventually be carried to sensitive aquatic habitats used by a diversity of native wildlife species. This is considered a potentially significant cumulative impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

- EVIDENCE:**
- (a) The proposed drainage basin, and implementation of Mitigation Measure 19 in DEIR Chapter 2.3 Geology and Soils which requires an erosion control plan, and Mitigation Measure 23 in DEIR Chapter 2.4 Hydrology and Water Quality requiring water quality measures for storm water run-off, would reduce this cumulative impact to a less than significant level.
 - (b) Monterey County requires approval of final maps, grading plans, site plans, and landscape plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.
 - (c) The Staff Proposed Reduced Density Alternative will reduce run-off volumes and off-site run-off, and allow for a drainage basin that does not include a dual use park. The drainage basin may be more suitable for filtering contaminants from storm water than the project drainage basin.

- 51. FINDING: IMPACT FROM LANDSLIDING WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 16 and 22 will reduce significant geological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.**

Potential for Landsliding (DEIR Chapter 2.3). There is no recorded history of landslides at the project site resulting from either wet subsurface conditions or from strong ground motion. However, based on a slope stability analysis of the south-facing slopes across the project site, there is potential for landsliding, particularly under moist conditions. Several lots are within 50 feet of the top edge of the 25 percent slopes in the center of the project site, and could be affected by landslides. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 16. In order to limit the potential for landsliding, a registered engineer shall prepare design specifications for all structural and site improvement plans (to include houses and habitable accessory buildings, swimming pools, retaining walls, and parking pads) for residential lots within 50 feet of slopes of 25 percent or greater. The following measures shall be included at a minimum:

- a. Subdrains to reduce the amount of surface and subsurface water infiltrating the upper sands and saturating the underlying clays;
- b. Pier and grade beam foundation systems, or other foundation design reviewed and approved by a structural engineer;
- c. drainage of all surface and roof water run-off in closed conduits to the bottom of the slopes, or to locations greater than 50 feet from the top of 25 percent slopes; and
- d. prohibition of habitable structures within 50 feet of the top of 25 percent slopes.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP hazards policies. Geotechnical reports were prepared for the project, and site visits were conducted to observe site conditions.
- (b) North County LUP Hazards Policies 2.8.2 General Policy 1 requires development to be sited and designed to avoid hazards, including geologic hazards. CIP section 20.144.100(A)(2)(c) requires siting and design of development to minimize grading. The mitigation measures are consistent with this policy and ordinance and are fully enforceable by the County as conditions of project approval.
- (c) Mitigation Measure 16 requires a registered engineer to prepare design specifications for all structural and site improvement plans for lots within 50 feet of slopes of 25 percent or greater. Therefore, implementation of the measure will ensure consistency with County geology policies.
- (d) Monterey County Code sections 18.50 and 20.144 require use of drought tolerant landscaping and Mitigation Measure 22 would require further landscape water reductions. The measure would partially address the need to maintain soils in as dry a condition as possible, which would

reduce landsliding hazards. Therefore, implementation of the measure will ensure consistency with County geology policies.

- (e) Monterey County requires approval of final maps, site plans, building plans, and landscape plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.
- (f) The Staff Proposed Reduced Density Alternative removes lots and residential development from the southern edge of the upper terrace to avoid ridgeline development.

5m FINDING: FROM GROUND FAILURE WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 17 and 18 will reduce significant geological impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Potential for Ground Failure (DEIR Chapter 2.3). According to the geotechnical and the geologic investigations, soils on the northeastern slope and the southeastern level area have the potential for liquefaction. No structural development is proposed on the sloped area, but commercial and townhouse buildings are proposed for the southeast corner of the project site. Liquefaction is a potentially significant effect in this area. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 17. In order to ensure that buildings constructed on the level area in the southeast corner of the project site are not susceptible to damage from liquefaction, a registered engineer shall prepare design specifications for building plans and final improvement plans for the southeast corner of the project site that shall include the following recommendations:

- a. appropriate foundation designs;
- b. pre-construction soil preparation techniques to minimize liquefaction potential, such as compaction and increased drainage;
- c. minimization of irrigation and run-off infiltration.

Mitigation Measure 18. In order to ensure that any fill soil, berm, or storm water basin is not susceptible to damage from liquefaction, a registered engineer shall prepare a geotechnical report that shall incorporate the recommendations of the April 4, 2006 Haro Kasunich Associates memorandum, including cone penetration testing of liquefaction potential to at least 50 feet below ground surface (or less if borings hit impenetrable soils), and include the following recommendations:

- a. design specifications for storm drainage basin improvement plans;
- b. appropriate fill materials;
- c. application and compacting of the fill materials; and
- d. soil preparation techniques for underlying native soils.

No fill is to be placed within the area identified as an existing wetland.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP hazards policies. Geotechnical reports were prepared for the project, and site visits were conducted to observe site conditions.
- (b) North County LUP Hazards Policies 2.8.2 General Policy 1 requires development to be sited and designed to avoid hazards, including geologic hazards. CIP section 20.144.100(A)(2)(c) requires siting and design of development to minimize grading. The mitigation measures are consistent with this policy and ordinance and are fully enforceable by the County as conditions of project approval.
- (c) Mitigation Measure 17 requires a registered engineer to prepare design specifications for all structures in the area with elevated liquefaction risk. Therefore, implementation of the measure will ensure consistency with County geology policies.
- (d) Mitigation Measure 18 requires design specifications for the drainage basin to prevent soil saturation and increased chance of liquefaction. Therefore, implementation of the measure will ensure consistency with County geology policies.
- (e) Monterey County requires approval of final maps, site plans, improvement plans and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5n. FINDING: IMPACT FROM EROSION WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 19 will reduce significant geological impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Potential for Soil Erosion (DEIR Chapter 2.3). Site preparation and construction activities would disturb soil, and increase its susceptibility to erosion, particularly where utility work would occur across steep slopes. This could result in erosion and the subsequent sedimentation of surrounding sensitive habitat areas, including Carneros Creek and Elkhorn Slough. Soils left bare following construction of the proposed project would be subject to erosion until landscaping has been established at the project site. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 19. In order to reduce erosion on the project site during and immediately following site preparation activities, prior to any grading or land clearance activity, the project applicant shall prepare an erosion control plan to ensure that long-term erosion and sedimentation risks resulting from construction activities at the project site are reduced. The erosion control plan shall incorporate best management practices and include, but not be limited to, the following components:

- a. Only minor grading may occur between October 14 and April 16, and no grading shall occur during this period on slopes in excess of 11 percent;
- b. Limit disturbance of soils and vegetation removal to the minimum area necessary for access and construction;

- c. Grading limits shall be staked or fenced in the field. The stakes or fencing shall remain in place until all construction activities are complete;
- d. An erosion control fence (i.e., sedimentation control fence) shall be installed around the conservation easement area and along the tops of slopes of 11 percent or greater;
- e. Cover disturbed slopes with straw mulch or jute netting after seeding or planting;
- f. Stockpile topsoil from grading activities to be used at the project site for re-vegetation purposes;
- g. Cover or otherwise protect, such as with chemical stabilizers, stockpiled soils during periods of rainfall;
- h. Prevent storm water flow directly down unprotected slopes, devoid of vegetation, by utilizing straw bales or diversion fencing, and temporary sedimentation ponds;
- i. Ensure grading operations are observed and evaluated by a qualified soils engineer;
- j. Re-vegetate disturbed areas, especially slopes and areas where tree removal has occurred, with a mix of seeds best suited for the climate and soil conditions, and native to the north Monterey County region, or with plant materials listed in the County brochure Erosion Control Planting, or other appropriate native California plants as identified by a qualified biologist, landscape architect, or nurseryman; and
- k. Any disturbed areas within the conservation easement shall be re-vegetated with native grassland vegetation or other appropriate native vegetation as soon as feasibly possible after completion of construction activities.

- EVIDENCE:** (a) The EIR analyzes consistency with applicable North County LUP hazards policies. Geotechnical reports were prepared for the project, and site visits were conducted to observe site conditions.
- (b) North County LUP Hazards Policy 2.8.2 General Policy 1 requires development to be sited and designed to avoid hazards, including geologic hazards. CIP section 20.144.100(A)(2)(c) requires siting and design of development to minimize grading. The mitigation measure is consistent with this policy and ordinance and is fully enforceable by the County as conditions of project approval.
- (c) Mitigation Measure 19 requires an erosion control plan. Therefore, implementation of the measure will ensure consistency with County geology policies.
- (d) Monterey County requires approval of final maps, site plans, improvement plans, building plans, and landscape plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

- 50. FINDING: DOWNSTREAM WATER QUALITY IMPACTS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 6, 19, and 23 will reduce potentially significant water quality impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.**

Effects on Downstream Water Quality (RDEIR Chapter 2.1). The proposed project would add development within the Elkhorn Slough watershed area. Development on the project site

would require grading, the construction of additional streets and driveways, and the development of a storm drain system to accommodate runoff. Urban runoff is often polluted with grease, oil, residues of pesticides and herbicides, heavy metals, and other pollutants that may eventually be carried to sensitive wetland and aquatic habitats. Concentrated storm water run-off across the project site could carry sediments towards Carneros Creek and Elkhorn Slough. These would be potentially significant impacts on downstream water quality. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 23. The applicant shall provide a drainage plan prepared by a registered civil engineer that includes the following components:

- a. storm water detention/sediment retention basin sized to limit the 100 year post-development runoff to the 10-year pre-development rate;
- b. vegetative filter plantings at outfalls to the basin;
- c. sand filters and/or grease/oil water separators at storm drainage inlets in the parking lot(s) or equivalent filtering elsewhere in the system;

The pond(s) shall be fenced for public safety. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency.

Mitigation Measure 23b. The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that storm water detention/sediment retention facilities have been constructed in accordance with approved plans.

Mitigation Measure 23c. Prior to the issuance of any grading permits, a signed and notarized Drainage and Flood Control Systems Agreement shall be provided to the Water Resources Agency (Agency) for review & approval. The agreement shall contain provisions for an annual drainage report to be prepared by a registered civil engineer. The report shall be submitted to the Agency for review and approval no later than August 15 of each year. If the Homeowners' Association after notice and hearing fails to properly maintain, repair, or operate the drainage and flood control facilities, the Agency shall be granted the right by the property owners to enter any and all portions of the property to perform repairs, maintenance, or improvements necessary to properly operate the drainage and flood control facilities in the project. The Agency shall have the right to collect the cost for said repairs, maintenance or improvements from the property owners upon their property tax bills. A hearing shall be provided by the Board of Supervisors as to the appropriateness of the cost.

- EVIDENCE:**
- (a) The proposed drainage basin will detain storm water and provide an opportunity for some pollutants and silt to settle out of the water before the water is released downstream. Therefore, the water leaving the site will be cleaner than if it flowed freely off the site.
 - (b) Mitigation Measure 6 in DEIR Chapter 2.2 Biological Resources requires soils stabilization between new plantings and a re-vegetation plan for open space areas. This measure will reduce exposed soils and risk of erosion and siltation of storm water run-off.
 - (c) Mitigation Measure 19 in DEIR Chapter 2.3 Geology and Soils, which requires an erosion control plan, will reduce erosion and the quantity of silt entering storm water run-off.

- (d) Mitigation Measure 23 requires water quality measures for storm water run-off, such as vegetative filters, that would reduce the quantity of urban pollutants reaching downstream waters. Site design measures such as these are promoted by the U.S. Environmental Protection Agency as a useful method of maintaining clean water. The County will ensure long-term maintenance through an agreement with the applicant/Homeowners; Association.
- (e) Monterey County requires approval of final maps, grading plans, site plans, improvement plans, and landscape plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.
- (f) The Staff Proposed Reduced Density Alternative will reduce run-off volumes and off-site run-off, and allow for a drainage basin that does not include a dual use park. The drainage basin may be more suitable for filtering.

5p. FINDING: IMPACT FROM CONSTRUCTION OF HALL ROAD IMPROVEMENTS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 24 will reduce significant traffic impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Traffic Delays During Construction (DEIR Chapter 2.5). The proposed project would require road and sewer line improvements within the Hall Road right-of-way. The construction of these improvements could require lane closures and one-way traffic controls that could result in significant delays and back-ups on Hall Road. This is a potentially significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 24. In order to reduce the effects of construction work within the Hall Road right-of-way on traffic flows, prior to obtaining an encroachment permit for the work, the applicant shall prepare a Traffic Control Plan, subject to the review and approval of the Monterey County Public Works Department to include the following elements:

- a. time frame and proposed schedule for construction occurring within the Hall Road right-of-way; the most disruptive stages of construction should be planned outside the peak summer period between mid June and mid August;
- b. avoidance of lane closures during peak AM and PM hours to the extent feasible;
- c. placement of barricades or barriers to separate construction activities and traffic;
- d. advance signage alerting traffic along Hall Road and traffic entering Hall Road from Las Lomas Drive;
- e. advisory bicycle and pedestrian detour signage.

EVIDENCE: (a) The project includes the widening of Hall Road fronting the site for the purpose of providing turn lanes and tapers at the project entrance. Hall Road is currently two lanes, and the closure of one of the two lanes

would significantly disrupt traffic, since there would be no alternative lane for that direction of traffic, and there is no suitable alternate route for the high volumes of traffic that travel on Hall Road. Truck movements into or out of the construction area could also disrupt traffic. If motorized traffic is directed onto the shoulder, bicycle and pedestrian traffic could be put in danger

- (b) Mitigation Measure 24 requires preparation of a work plan to address potential areas of concern during construction of the street improvements. Therefore, implementation of the measure will ensure that traffic mitigation is in place prior to the commencement of construction.
- (c) Monterey County requires approval of final maps, improvement plans, and encroachment permits prior to development of off-site subdivision improvements. The County will enforce the conditions of approval during the review and approval of these plans and permits.

5q. FINDING: IMPACT FROM ADDITIONAL TRIPS ON REGIONAL ROADWAYS MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 25 will reduce significant cumulative traffic impacts in north Monterey County to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Project and Cumulative Traffic at Congested Intersections and Road Segments (DEIR Chapter 2.5). The proposed project would add trips to several intersections along County Route G-12, which are already operating at LOS F. This would be a significant impact, considered under the County thresholds as both a project and cumulative impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 25. In order to mitigate for impacts to congested roads and intersections, prior to filing the Final Subdivision Map the project proponent shall pay a pro-rata share of improvements necessary to maintain acceptable levels of service at the intersections and roadway segments affected by project traffic as listed below. These pro-rata share costs shall be based on the project's contribution as a share of General Plan build-out traffic volumes as indicated in Fair-Share Percentage Calculations Table in the Rancho Los Robles Supplemental Traffic Report (Pinnacle Traffic Engineering, May 2, 2006) subject to the review and approval of the Public Works Director. Fees shall be adjusted for 2008 costs and to reflect the Staff-Proposed Reduced Density Alternative. In the event the Board of Supervisors adopts or agrees to participate in a regional traffic impact fee program, the ad hoc fee for projects included in the regional impact fee program shall be adjusted to match the regional impact fee and counted towards and transferred to the regional traffic fee account when paid. Fees to cover pro-rata shares of the following improvements shall be required:

- a. State Route 1 and Salinas Road - Upgrade the intersection to an interchange with a frontage road to Jensen Road;
- b. Salinas Road and Werner Road - Signalize intersection; Note that the Fehr and Peers report did not recommend signalization of this intersection, relying on gaps created by the

- Salinas Road and Elkhorn Road signal; this signal could be eliminated if the County Public Works Department determines that this signal is not required;
- c. Salinas Road and Elkhorn Road – Signalize intersection for northbound Salinas Road and for southbound Salinas Road to Elkhorn Road.
 - d. Elkhorn Road and Werner Road – Signalize intersection and lane improvements;
 - e. Hall Road and Elkhorn Road – Signalize intersection.
 - f. Hall Road and Willow Road - Provide an acceleration lane on the west leg for northbound left-turns from Willow Road;
 - g. San Miguel Canyon Road and Echo Valley Road - Addition of an acceleration lane for westbound left-turns; Signalize intersection;
 - h. San Miguel Canyon Road and Castroville Boulevard - Addition of an acceleration lane for eastbound left-turns. Signalize intersection;
 - i. San Miguel Canyon Road and Prunedale North Road (or Langely Canyon Road) - Widen and/or channelize and signalize;
 - j. San Miguel Canyon Road between U. S. Highway 101 and Hall Road – Widen to four lanes;
 - k. Hall Road between Elkhorn Road and San Miguel Canyon Road – Widen to four lanes;
 - l. Elkhorn Road between Salinas Road and Hall Road – Widen to four lanes; and
 - m. Salinas Road between State Route 1 and Pajaro – Widen to four lanes.

- EVIDENCE:** (a) Two traffic reports were prepared for the project and were utilized in the DEIR traffic analysis. The traffic reports document existing traffic conditions at 18 intersections and 14 roadway segments in north Monterey County, and indicate that 11 of the intersections and seven of the segments are currently operating at unacceptable levels of service.
- (b) Following is considered a significant impact on traffic:
- a. decrease the level of service at a signalized intersection to LOS D, LOS E, or LOS F from a better level of service;
 - b. add 0.010 or more to the critical movements volume to capacity ratio of a signalized intersection;
 - c. add any traffic to an intersection operating at LOS F;
 - d. cause an un-signalized intersection to meet or exceed traffic signal warrants;
 - e. decrease the level of service on any roadway segment from LOS A, LOS B, or LOS C to LOS D, LOS E, or LOS F;
 - f. decrease the level of service on any roadway segment from LOS D to LOS E or from LOS E to LOS F; or
 - g. Add any traffic to a roadway segment operating at LOS F.
- (c) The project would add new trips to several intersections along Hall Road that already operate at LOS F.
- (d) Mitigation Measure 25 requires the payment of an ad-hoc fee to mitigate the traffic impacts of the project to a less than significant level. The payment of pro-rata fees to reduce an impact to a less than significant level is consistent with CEQA Guidelines section 15130 (a) (3) and case law. In *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (“September Ranch”), the California Appellate Court held

that fees associated with a formally adopted program could be used to mitigate cumulative or project level impacts. The Monterey County Public Works Department has been collecting traffic fees based on project share of build-out traffic for many years.

- (e) Mitigation Measure 27 will require improvements at the intersection of Hall Road and Sill Road.
- (f) Mitigation Measure 28, which requires facilitation of bicycle and pedestrian trips within the site and to the nearby Hall District Elementary School will reduce automobile trips.
- (g) Monterey County requires approval of final maps and improvement plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.
- (h) The Staff Proposed Reduced Density Alternative would reduce the total number of trips as compared to the Project by reducing the number of homes and providing access to the commercial area directly from the subdivision.
- (i) Per the Board of Supervisors' December 9, 2008 motion approving the Staff Proposed Reduced Density Alternative and directing staff to adjust the findings and conditions of approval/mitigation measures accordingly, the mitigation measures have been revised to correspond to the Staff Proposed Reduced Density Alternative.

5r. FINDING: IMPACT FROM REDUCED LEVEL OF SERVICE WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 27 will reduce significant transportation impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Further Degradation of LOS D or LOS E (DEIR Chapter 2.5). The intersection of Hall Road and Sill Road would degrade from LOS E to LOS F in the AM peak period and from LOS D to LOS E in the PM peak period as a result of project traffic. Increased traffic would make use of the crosswalk more difficult. This would be a significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 27. In order to mitigate to the extent feasible for project effects on turning movements at the intersection of Hall Road and Sill Road, the project proponent shall construct the following off-site road improvements at this intersection:

- a. A second lane on the southbound Sill Road approach to Hall Road, with striping for left turns and right turns;
- b. A traffic signal; and,
- c. Relocation of the crosswalk on Hall Road to the west side of the intersection, and programming of the signal light to provide an automatic pedestrian walk phase with every southbound green light.

The project proponent shall be responsible for constructing the improvements prior to the issuance of the first occupancy permit for the proposed project. The project proponent shall enter into a reimbursement agreement with the County for a pro rata reimbursement from future

developments contributing funds to north Monterey County road improvements, with the pro rata share based on a methodology acceptable to the Monterey County Public Works Department.

- EVIDENCE:**
- (a) The DEIR identified significant project impacts to the Hall Road/Sill Road intersection which is located about 1,000 feet east of the site and provides one of two major entries to the site from Hall Road.
 - (b) Two traffic reports were prepared for the project, and the reports concur that the project will significantly affect this intersection. The traffic reports recommend the listed improvements to reduce the impact to a less than significant level.
 - (c) Mitigation Measure 27 will require improvements at the intersection of Hall Road and Sill Road.
 - (d) Mitigation Measure 28, which requires facilitation of bicycle and pedestrian trips within the site and to the nearby Hall District Elementary School will reduce automobile trips.
 - (e) Monterey County requires approval of final maps, site plans, and improvement plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

- 5s. FINDING: IMPACT TO PEDESTRIAN AND BICYCLE ACCESS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 28 will reduce significant transportation impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.**

Effects on Pedestrian and Bicycle Access to Hall District School and the Commercial and Community Recreational Areas (DEIR Chapter 2.5). The proposed project would result in a substantial increase of traffic on Sill Road. Sill Road is narrow, but because traffic volumes are low, provides an adequate pedestrian and bicycle route to Hall District School. The addition of project traffic would reduce the suitability of Sill Road as a pedestrian and bicycle access to Hall District School. The project provides a trail for pedestrian or bicycle access between the existing and proposed residential areas and the commercial and community recreational sections of the proposed project. However, the plan provides no detail as to the design and accessibility of the trail. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 28. In order to ensure an adequate pedestrian and bicycle connections between the residential area and nearby destinations (Hall District School, the recreation area, and the commercial area) one of the following sets of improvements shall be included on the tentative map and/or improvement plans:

- a.
 - 1) a roadway through the project site with sidewalks connecting the residential area directly to Hall Road, to reduce traffic volumes on Sill Road;
 - 2) minimum nine-foot lanes on Sill Road from the project site easterly to Harrington Road;

- 3) a four-foot sidewalk or hard-surfaced pathway on the south side of Sill Road to at least the western edge of the Hall District School, with access onto the school grounds; and
 - 4) a four-foot sidewalk or hard-surfaced pathway on the north side of Hall Road to at least the western edge of the Hall District School, Sidewalks or pathways must meet Americans with Disability Act standards. At least one publicly accessible pedestrian and bicycle access easement (which can be a road and sidewalk) shall be provided to Sill Road and maintained accessible to non-project residents.
 - 5) Commercial access shall be from the connector road. No individual driveways shall access Hall Road.
- b.
- 1) a pedestrian and bicycle access pathway connecting the residential area directly to the commercial and recreational area;
 - 2) minimum eleven-foot lanes on Sill Road from the project site easterly to Harrington Road;
 - 3) a four-foot sidewalk or hard-surfaced pathway on the south side of Sill Road to at least the western edge of the Hall District School, with access onto the school grounds;
 - 4) a four-foot sidewalk or hard-surfaced pathway on the north side of Hall Road to at least the western edge of the Hall District School, Sidewalks or pathways must meet Americans with Disability Act standards. The pathway to the commercial and recreational area must also meet the design requirements of the Caltrans Bicycle Design Manual, must be built of a hard-surfaced material or be paved, with lighting, shielded from Hall Road, provided along the pathway during after-dark business hours at the commercial development. At least one publicly accessible pedestrian and bicycle access easement (which can be a road and sidewalk) shall be provided to Sill Road and maintained accessible to non-project residents. The street, sidewalk, and/or pathway connecting to the school shall be completed in conjunction with project frontage improvements on Sill Road and Hall Road respectively. The street, sidewalk, and/or pathway connecting to the commercial and recreational area shall be completed prior to completion/occupancy of either the recreational or the commercial uses (whichever is earlier).

- EVIDENCE:**
- (a) The mitigation measure is consistent with these policies and ordinance and is fully enforceable by the County as a condition of project approval.
 - (b) Mitigation Measure 28 requires suitable pedestrian, bicycle, and/or motorized circulation improvements to accommodate pedestrian access to the school. The improvements will allow students to walk or bicycle safely between the project and the school.
 - (c) Mitigation Measure 27 will require improvements at the intersection of Hall Road and Sill Road, including a re-located crosswalk.
 - (d) The Staff Proposed Reduced Density Alternative includes an internal street connecting Hall Road and the commercial area with Sill Road.
 - (e) Monterey County requires approval of final maps, site plans, and improvement plans prior to development of subdivisions. The County

will enforce the conditions of approval during the review and approval of these plans.

- 5t. FINDING: IMPACT FROM INCONSISTENCY WITH TRIP REDUCTION ORDINANCE WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measures 29 and 30 will contribute to reducing significant traffic impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.**

Inconsistency with Trip Reduction Ordinance (DEIR Chapter 2.5). CIP section 20.64.250 requires a trip reduction program or facilities to encourage the reduction of single-occupancy vehicle trips. The proposed project includes sidewalks, but no other trip reduction measures. This would be a significant impact. Implementation of Mitigation Measures 28 presented above, requiring pedestrian and bicycle connections to the commercial and recreational areas of the project site, and to the Hall District School and Las Lomas Drive, and the following mitigation measures, would reduce this impact to a less than significant level.

Mitigation Measure 29. In order to facilitate the use of alternative transportation and reduce single-occupancy automobile trips, final improvement plans for the commercial and recreational components shall include the following components:

- a. Bicycle racks;
- b. Bus pull-out and shelter, as described in the Monterey Salinas Transit Development Review Guidebook or subsequent publications, located at either the commercial or recreational area, with a direct and convenient sidewalk or pathway connection to the commercial buildings and residential areas;
- c. crosswalk at the commercial driveway/roadway intersection with Hall Road and minimum corner radius allowed by County improvement standards; and
- d. Dedication of five of the commercial or recreation area parking spaces for use as a park-and-ride facility.

Mitigation Measure 30. In order to facilitate telecommuting and reduce single-occupancy automobile trips, all residential floor plans shall include an office space of at least 50 square feet in a separate room or an alcove, and plan notes shall require the provision of communications wiring to the office space.

- EVIDENCE:**
- (a) The EIR analyzes consistency with applicable North County LUP transportation policies and CIP zoning requirements. A traffic report was prepared for the project.
 - (b) CIP Section 20.64.250 requires a trip reduction program or facilities to encourage the reduction of single-occupancy vehicle trips. The mitigation measures are consistent with these policies and ordinance and are fully enforceable by the County as conditions of project approval.
 - (c) Mitigation Measure 29 requires measures at the commercial and recreational area to facilitate use of transportation alternatives to the single-occupant automobile, including measures to promote walking,

bicycling, transit, and car pooling. Therefore, implementation of the measure will ensure consistency with County traffic polices.

- (d) Mitigation Measure 30 requires a suitable home office space in each house, and facilitates tele-commuting. Although not all employees will be able to take advantage of this option, the facilities will be provided for those who can, and commute trips will be reduced. Therefore, implementation of the measure will ensure consistency with County traffic polices.
- (e) Monterey County requires approval of final maps, site plans, improvement plans and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5u. FINDING: IMPACT FROM CONSTRUCTION DUST WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 31 will reduce significant air quality impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Short-term Construction Dust Emissions (DEIR Chapter 2.6). Construction emissions would include onsite and offsite generation of fugitive dust. The proposed project could grade an area in excess of the 2.2-acre MBUAPCD threshold and result in a potentially significant environmental impact from fugitive dust. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 31. The project plans shall contain a dust control plan subject to review and approval by the Monterey County Planning and Building Inspection Department prior to issuance of a building permit, to include all or some (specifically if measures (m) and (n) are employed, measures (a) through (l) would not be necessary) of the following measures, as necessary to adequately control dust:

- a. Water all active portions of the construction site at least twice daily;
- b. Suspend all excavation and grading operations when wind speeds exceed 15 miles per hour averaged over one hour, if watering activities are inadequate to control airborne dust;
- c. Replace ground cover or apply MBUAPCD-approved chemical soil stabilizers according to manufacturer's specifications to all inactive portions of the construction site (previously graded areas inactive for four days or more), when airborne dust conditions are visible;
- d. Apply water two times daily or chemical stabilizers according to manufacturer's specifications to all inactive portions of the construction site (previously graded areas inactive for four days or more), when airborne dust conditions are visible;
- e. Sufficiently water or securely cover all material transported off-site and adjust on-site loads as necessary to prevent airborne dust conditions. Haul trucks shall maintain enough freeboard to prevent airborne dust conditions;
- f. Plant vegetative ground cover in, or otherwise stabilize disturbed areas as soon as grading and construction activities in those areas are completed;

- g. Cover material stock piles that remain inactive for more than 72 consecutive hours;
- h. Provide dust free stabilized surfaces at the exit of construction sites for all exiting trucks;
- i. Mechanically sweep adjacent public streets at the end of each day if visible soil material is carried out from the construction site;
- j. Limit traffic speed on all unpaved roads to 15 miles per hour or less;
- k. Post a publicly visible sign that specifies the telephone number of the on-site contractor and person to contact regarding dust complaints. This person shall respond to complaints and take corrective action by the end of the same day if the complaint is received by 12:00 noon and within 24 hours if the complaint is received later than 12:00 noon. The phone number of the MBUAPCD shall be visible to ensure compliance with Rule 402 (Nuisance);
- l. The grading contractor shall appoint a qualified site monitor to ensure that the plan is implemented.
- m. The grading contractor shall meet with the principal of Hall District School prior to commencement of grading, to review the dust control plan and provide information for submitting complaints;
- n. Limit the area of grading to 2.2 acres per day during earthmoving efforts (grading and excavation) and 8.1 acres per day with minimal earthmoving (finish grading). The number of acres may be increased if direct emissions of PM10 do not exceed MBUAPCD's threshold of significance based on MBUAPCD approved dispersion modeling.

- EVIDENCE:**
- (a) The EIR analyzes consistency with the 2000 Air Quality Management Plan. The EIR determined that the project would be consistent with the Air Quality Plan. The Monterey Bay Unified Air Pollution Control District establishes rules to regulate air emissions. The mitigation measures are consistent with these rules and are fully enforceable by the County as conditions of project approval.
 - (b) Mitigation Measure 31 requires practices during construction to reduce dust that are drawn from the recommendations of the Air District. Therefore, implementation of the measure will ensure consistency with Air District rules.
 - (c) Monterey County requires approval of demolition permits and grading permits prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these permits.
 - (d) The Staff Proposed Reduced Density Alternative further reduces impacts from construction dust, by reducing the total number of homes and amount of grading.

- 5v. **FINDING: IMPACT FROM CONSTRUCTION EQUIPMENT EMISSIONS WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 32 will reduce significant air quality impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.**

Construction Vehicle and Equipment Emissions (DEIR Chapter 2.6). Use of construction vehicles and heavy equipment would result in ROG emission levels exceeding standards established by the MBUAPCD. This would be a potentially significant impact. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 32. In order to reduce air pollutant emissions from construction equipment, the project proponent shall, to the extent feasible, use equipment powered by other than standard diesel fuel (CNG, biodiesel, ultra low sulfur diesel, water emulsion fuel, electric). If diesel-fueled equipment is used, the project proponent shall employ diesel oxidation catalyst or particulate filters or other equivalent devices to effectively reduce emissions. All equipment shall be maintained in a well-tuned condition, and idling time minimized. Prior to commencement of grading activities, the project proponent shall submit a written roster of equipment anticipated to be used on the project site, listing fuel type used, and for diesel-fueled equipment, listing measures employed to reduce emissions. Only those pieces of equipment using non-standard diesel fuels or employing emission reduction equipment shall be permitted to operate. If equipment not meeting the emission requirements is found to be operating on the project site, work shall be stopped until that equipment is removed or made to meet emission requirements.

- EVIDENCE:** (a) The EIR analyzes consistency with the 2000 Air Quality Management Plan. The EIR determined that the project would be consistent with the Air Quality Plan. The Monterey Bay Unified Air Pollution Control District establishes rules to regulate air emissions. The mitigation measures are consistent with these rules and are fully enforceable by the County as conditions of project approval.
- (b) Mitigation Measure 31 requires use of non-diesel or cleaner diesel equipment for construction of the project. The measure is drawn from recommendation of the Air District. Therefore, implementation of the measure will ensure consistency with Air District rules.
- (c) Monterey County requires approval of demolition permits and grading permits prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these permits.

5w. FINDING: IMPACT FROM CARBON MONOXIDE WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 27 will reduce significant air quality impacts to a less than significant level. The mitigation measure is feasible to implement and is fully enforceable through permit conditions.

Localized Emissions of Carbon Monoxide (DEIR Chapter 2.6). The intersection of Sill Road and Hall Road currently operates at LOS E and would degrade to LOS F with the proposed project. Therefore, CO emissions adjacent to Hall District School may exceed acceptable levels. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

- EVIDENCE:** (a) Concentrations of carbon monoxide that are considered dangerous to human health typically result from severely congested traffic conditions, characterized as LOS E or LOS F, at locations where people are exposed. The project would increase traffic congestion at the intersection of Hall Road and Sill Road adjacent to Hall District School, thus potentially exposing students and others to high concentrations of carbon monoxide.
- (b) Mitigation Measure 27 would add lanes and signalize the intersection, providing non-congested conditions, and avoiding high concentrations of carbon monoxide. The improvements would be required prior to the first occupancy permit, so essentially no new emissions would be added to the intersection prior to the improvements. Therefore, the mitigation measure would prevent dangerous health effects from carbon monoxide.
- (c) Monterey County requires approval of final maps, site plans, and improvement plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5x. FINDING: IMPACT FROM INADEQUATE FIRE FLOW WILL BE MITIGATED TO LESS THAN SIGNIFICANT – Mitigation Measure 24 and 33 will reduce significant utilities impacts to a less than significant level. The mitigation measures are feasible to implement and are fully enforceable through permit conditions.

Potential Lack of Fire Flow Capacity (DEIR Chapter 2.7). CWSC has issued a will-serve letter for the proposed project, and is expected to be able to deliver the required quantity and quality of water from its wells and/or a new well proposed to serve the project. Some of the existing off-site CWSC infrastructure may require upgrading to allow adequate fire flows to the proposed project. This would be a potentially significant impact due to the potential for inadequate control of fires. Construction of upgraded infrastructure could disrupt traffic on Hall Road. To reduce the impacts to a level of insignificance, the following mitigations are included as conditions of approval:

Mitigation Measure 33. In order to assure adequate fire flow capacity, prior to approval of final improvement plans, the project proponent shall submit to the Monterey County Public Works Department and the North County Fire Protection District, a fire protection infrastructure plan to include the following elements:

- a. location and size of wells, water supply pipes, and storage tanks, or upgrades to existing infrastructure necessary for the provision of adequate fire flow water to the project site;
- b. location of fire hydrants and necessary distribution pipes to the hydrants within or adjacent to the project site;
- c. Calculations by a qualified engineer providing fire flow rates at each junction and hydrant along the water supply network necessary for the provision of fire flow to the project site;

The fire protection infrastructure plan shall be reviewed by the Monterey County Public Works Department and North County Fire Protection District to ensure that the plan meets the established fire flow requirements of those agencies.

- EVIDENCE:**
- (a) The EIR analyzes availability of utilities for the project.
 - (b) Mitigation Measure 33 requires the applicant to submit a plan for fire suppression at the project, including evidence that adequate fire flow is available. Therefore, implementation of the measure will ensure consistency with County environmentally sensitive habitat polices.
 - (c) Mitigation Measure 24 requiring a Traffic Mitigation Plan will address the potential for construction of utility improvements to delay traffic on Hall Road.
 - (d) Monterey County requires approval of final maps, site plans, and building plans prior to development of subdivisions. The County will enforce the conditions of approval during the review and approval of these plans.

5y. FINDING: IMPACT FROM PROJECT-LEVEL GROUNDWATER WITHDRAWALS WILL BE LESS THAN SIGNIFICANT – The project will result in less than significant impacts to groundwater withdrawals because it will lower both total withdrawals and the differential between withdrawals and recharge, based on the 20-year historic use on the project site (See Finding #16).

(Revised DEIR Section 2-1) With the proposed project, withdrawals would drop from the averaged historic rate of 86.09 acre feet year to 41.61 acre feet per year and the net groundwater balance would improve from the averaged historic rate of minus 64.76 acre feet per year to minus 31.46 acre feet per year. The California Water Service Company has provided a “Can and Will Serve” letter for the Project. In addition, the California Water Service Company prepared a water supply assessment report and determined that it would be able to adequately supply the proposed project with water. The proposed project will pay a fee required under Monterey County Code Section 18.51 to mitigate hydrologic impacts and therefore is consistent with water supply requirements for assuring that there is a long term sustainable supply of water to serve the project.

- EVIDENCE:**
- (a) “Draft Rancho Los Robles Project Specific Water Balance Study” prepared by Ifland Engineers, Ind., October 21, 2005.
 - (b) “Technical Memorandum, Hydrological Assessment, Rancho Los Robles EIR” prepared by Todd Engineers, September, 2002
 - (c) “Technical Memorandum, Peer Review Hydrologic Assessment Rancho Los Robles (Oak tree Ranch) DEIR Monterey California” prepared by Todd Engineers, October 12, 2006.
 - (d) “Water Supply Assessment Report for Rancho Los Robles, Monterey County, California” (LIB070525) prepared by California Water service Company, June 22, 2006.

- (e) "Can and Will Serve Letter", from the California Water Services Company, dated January 25, 1996.
- (f) Rancho Los Robles RDEIR Hydrology and Water Quality section.
- (g) Rancho Los Robles FEIR Master Response Regarding Water.
- (h) The Staff Proposed Reduced Density Alternative further reduces water use on the project site by approximately 20% compared to the project.

5z. FINDING: IMPACT ON GLOBAL WARMING WILL BE LESS THAN SIGNIFICANT – The project will result in less than significant impacts on global warming because although it will result in new greenhouse gas emissions, the project design, and various mitigation measures will reduce greenhouse gas emissions to a level that is lower than a typical development of its size.

(Revised DEIR Section 2-2) The proposed project will result in emission of greenhouse gasses from a variety of sources including construction emissions, automobile emissions, on-site combustion of natural gas, and increased demand for off-site electrical generation. The design of the proposed project and various mitigation measures would reduce greenhouse gas emissions to a level that would be lower than a typical subdivision of similar size. Mitigation measures presented in several sections of the Draft EIR will further lower the proposed project's greenhouse gas emissions (Mitigation measures 3, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, and 32). The proposed project, as mitigated, is consistent with several state greenhouse gas emission reduction strategies that are applicable to residential development projects. Many of the mitigation measures presented go beyond the state greenhouse gas emission reduction strategies. In addition, the County is requiring additional measures as conditions of approval, including requiring automated heating and cooling controls, installing cool roofs, installing alternative energy systems, installing superior insulation, installing low-e windows, expanding the use of energy efficient lighting and controls, requiring Energy Star appliances, providing electric vehicle charging stations, requiring alignment of buildings for maximum solar advantage, and requiring tree canopy coverage at the parking lot.

- EVIDENCE:**
- (a) Rancho Los Robles RDEIR Global Warming section.
 - (b) Rancho Los Robles DEIR.
 - (c) "Climate Action Team Report to Governor Schwarzenegger and the California Legislature" prepared by the California Environmental Protection Agency.
 - (d) California Global Warming Solutions Act of 2006 (AB 32).
 - (e) California Energy Efficiency Standards for Residential and Non-residential Buildings (California Code of Regulations Title 24, Part 6).
 - (f) "Early Actions to Mitigate Climate Change in California" prepared by California Air Resources Board.
 - (g) The Staff Proposed Reduced Density Alternative further reduces water use on the project site by approximately 20% compared to the project.
 - (h) The Staff Proposed Reduced Density Alternative further reduces greenhouse gas emissions by approximately 20% compared to the project.

6. **FINDING: ENVIRONMENTAL IMPACTS NOT MITIGATED TO LESS THAN SIGNIFICANT** – The project would result in significant and unavoidable impacts that would not be mitigated to a less than significant level even with incorporation of mitigation measures from the EIR into the conditions of project approval, as further described in this finding. (Also see Findings #7 & 8)
- 6a. **FINDING: ADVERSE PROJECT AND CUMULATIVE ENVIRONMENTAL IMPACTS ON STATE ROUTE 1 WOULD REMAIN SIGNIFICANT AFTER CONSIDERING MITIGATING FACTORS AND MITIGATION MEASURES** - The project would result in significant and unavoidable project and cumulative traffic impacts on State Route 1 that would not be mitigated to a less than significant level even with incorporation of mitigation measures from the EIR into the conditions of project approval.

Project and Cumulative Traffic on State Route 1. The proposed project would add trips to State Route 1 south of Salinas Road and north of Castroville, which is already operating at LOS F. This would be a significant impact. Improvements to this section of highway are not anticipated within the 2005-2030 timeframe, and the improvements are not within the jurisdiction of the County of Monterey. Implementation of the following mitigation measure would cover the project share of the costs for the improvements, but would not reduce this impact to a less than significant level.

Mitigation Measure 26. In order to mitigate for impacts to State Route 1 south of Salinas Road and north of Castroville, prior to filing the Final Subdivision Map the project proponent shall pay a pro-rata share of widening the highway to four lanes. These pro-rata share costs shall be based on the project's contribution as a share of General Plan build-out traffic volumes as indicated in Fair-Share Percentage Calculations Table in the Rancho Los Robles Supplemental Traffic Report (Pinnacle Traffic Engineering, May 2, 2006). In the event the Board of Supervisors adopts or agrees to participate in a regional traffic impact fee program that includes this highway segment, the associated ad hoc fee shall be adjusted to match the regional impact fee and counted towards and transferred to the regional traffic fee account when paid.

Statement of Overriding Considerations – The County has determined that the benefits of the Staff Proposed Reduced Density Alternative, as conditioned, outweigh the significant and unavoidable impacts of the project on State Route 1 south of Salinas Road. The Reduced Development Alternative will result in development that is consistent with the adopted land use map and will provide the following benefits to the surrounding community and the County as a whole:

- (a) provide affordable housing (seven units on-site plus 15% equivalent as in-lieu fees);
- (b) provide convenience commercial or public or quasi-public uses within the commercially-designated parcel that serve the subdivision and the local area;
- (c) provide open space to preserve the oak trees on the site;

- (d) provide parkland for all age groups that is usable by residents and other members of the community;
- (e) construct local circulation improvements including intersection improvements at the intersection of Hall Road and Sill Road and pedestrian/bicycle improvements between the site and the Hall District Elementary School.
- (f) project conditions require a fee payment for roads including the segment of State Route 1 south of Salinas Road, and will reduce traffic generation by requiring the facilitation of alternative modes of transportation and telecommuting;
- (g) reduce water use compared to the 20-year average baseline;
- (h) reduce groundwater nitrate loading;
- (i) capture storm water run-off from the upstream Kingdom Hall developments and detain and filter that storm water prior to release to Carneros Creek and Elkhorn Slough, thus reducing sedimentation in downstream waters;
- (j) Remove pasture uses from beneath the oak trees on the project site.
- (k) Provide higher density housing and mixed use commercial/residential development consistent with what the LUP envisioned for this area.

When compared to the project, the Staff Proposed Reduced Density Alternative will:

- (a) Eliminate ridgeline development;
- (b) Provide open space to preserve the Coastal Act wetland;
- (c) Reduce traffic by about 20%;
- (d) Reduce off-site storm water run-off;
- (e) Reduce water use by about 20%;
- (f) Reduce site grading;
- (g) Improve on-site circulation and access to the commercial parcel;
- (h) Reduce development infringement on the oak woodland.

Refer to Findings #5p through 5t.

- EVIDENCE:** (a) The Rancho Los Robles Subdivision DEIR considered the effects of the project on traffic in the project vicinity and the north Monterey County region, including along the segment of State Route 1 south of Salinas Road and north of Castroville. The DEIR utilized the information in two traffic reports that were prepared for the project.
- (b) State Route 1 south of Salinas Road and north of Castroville is a two-lane highway about seven miles in length that experiences considerable congestion (LOS F) during morning and afternoon periods. State Route 1 south of Salinas Road and north of Castroville is the only segment of State Route 1 between Santa Cruz and Monterey that has not been developed as a four or six-lane freeway. The California Department of Transportation is responsible for improvements to State Route 1. Other than planned improvements to the Salinas Road intersection, including additional lanes for about one mile south of Salinas Road, the California Department of Transportation does not have any plans to expand this segment of State Route 1.

- 6b. **FINDING: ADVERSE CUMULATIVE ENVIRONMENTAL IMPACTS ON REGIONAL GROUNDWATER WOULD REMAIN POTENTIALLY SIGNIFICANT AFTER CONSIDERING MITIGATING FACTORS AND MITIGATION MEASURES** – The project would result in significant and unavoidable cumulative regional groundwater impacts that would not be mitigated to a less than significant level even with incorporation of mitigation measures from the EIR into the conditions of project approval (*See Finding #16*).

Cumulative Regional Groundwater Supply. The north Monterey County hydrogeologic area is currently in overdraft, and reductions in groundwater pumping are necessary to restore balance and halt the advance of seawater intrusion. The project site water balance would remain in deficit (as with virtually all water demanding uses). The proposed project as designed and conditioned would lower both total withdrawals and the differential between withdrawals and recharge, based on the 20-year historic water use on the project site. With the proposed project, withdrawals would drop from the averaged historic rate of 86.09 acre-feet per year to 41.61 acre-feet per year, and the net groundwater balance would improve from the averaged historic rate of minus 64.76 acre-feet per year to minus 31.46 acre-feet per year. The North Monterey County Hydrogeologic Area is in significant overdraft, and would remain so with the proposed project.

A significant portion of the funding source for implementation of the Pajaro Valley Water Management Agency's (PVWMA) *Revised Basin Plan* was recently eliminated through court action. Because of the condition of the aquifer, uncertainty in regard to the PVWMA's major water projects, and out of an abundance of caution, the County has determined that the proposed project would contribute to a potentially significant and unavoidable cumulative hydrologic impact to the regional water supply and seawater intrusion, owing to the existing condition of the aquifer. Continuing water use, albeit below the environmental baseline, contributes to this cumulative situation. The following conditions and mitigation measures will help reduce the potentially cumulative significant impacts, but not to a level that is less than significant.

Mitigation Measure 20. In order to reduce regional groundwater overdraft, prior to issuance of the last 40 percent of residential building permits for the project, the project proponent shall have a qualified engineer prepare a water use audit of houses already constructed within the project. The study shall determine the annual amount of water used by the first 50 percent of houses for which occupancy permits were issued, based on a 12 month period following issuance of occupancy permits, and adjusted for months when the houses were not actually occupied. The report shall compare actual water use to the projected 305.2 gallons per household per day. If actual water use exceeds the amount projected, an attainment plan shall be prepared to demonstrate how total project water usage will be maintained within projected quantities. No additional residential building permits shall be issued unless the project proponent first demonstrates that water use for that house along with others built or permitted to date will remain within the water use projected in the revised water budget (July 2007). This measure shall be deemed satisfied if the Revised Basin Management Plan or substitute measures are adequately implemented by the Pajaro Valley Water Management Agency or Monterey County, and/or the Water Resources Agency determines that a sustainable water supply is available for the

hydrogeological area. The developer shall enter into an agreement with the County to contractually set the terms of this measure.

Mitigation Measure 21. In order to reduce regional groundwater overdraft, following three years of operations, the commercial and recreational water use shall be audited to determine if water use is consistent with projections in the revised water budget (July 2007). If actual water use exceeds the amount projected, the commercial operators and the homeowners' association (for the recreational area) shall prepare an attainment plan to demonstrate how total project water usage will be maintained within projected quantities. If water use cannot be reduced below projections, irrigation with CWSC-supplied water shall be limited to achieve compliance. The developer shall enter into an agreement with the County to contractually set the terms of this measure.

Mitigation Measure 22. In order to further reduce landscape and open space water consumption, and/or increase groundwater infiltration, the proposed project shall include a landscape water use reduction plan. The plan shall include the following components:

- a. Turf shall be planted only in areas of active recreational use, with minimal turf areas beyond play field boundaries.
- b. Open space turf areas shall utilize a low water use turf variety, and irrigation systems shall be equipped with timing devices that incorporate moisture-sensing valves.
- c. No permanent sprinkler systems shall be installed for open space, park, or commercial landscape areas (excluding turf areas). Temporary irrigation shall be used only until plantings are established and able to survive without artificial irrigation. Plantings shall be selected based on their ability to grow without artificial irrigation during the dry months. Hand watering of specific plantings or containers shall not be prohibited by this measure.
- d. Front yards and streetscape areas shall be landscaped with low water use plantings or non-plant landscape materials. No turf shall be used in front yard landscaping. CC&Rs shall prohibit front yard lawns. Landscaping shall be in place prior to issuance of occupancy permit.

Statement of Overriding Considerations – The County has determined that the benefits of the project, as conditioned, outweigh the significant and unavoidable impacts of the project on the regional groundwater and seawater intrusion. The project will result in development that is consistent with the adopted land use map and will provide the following benefits to the surrounding community and the County as a whole:

- (a) provide affordable housing (seven units on-site plus 15% equivalent as in-lieu fees);
- (b) provide convenience commercial or public or quasi-public uses within the commercially-designated parcel that serve the subdivision and the local area;
- (c) provide open space to preserve the oak trees on the site;
- (d) provide parkland for all age groups that is usable by residents and other members of the community;
- (e) construct local circulation improvements including intersection improvements at the intersection of Hall Road and Sill Road and pedestrian/bicycle improvements between the site and the Hall District Elementary School.

- (f) project conditions require a fee payment for roads including the segment of State Route 1 south of Salinas Road, and will reduce traffic generation by requiring the facilitation of alternative modes of transportation and telecommuting;
- (g) reduce water use compared to the 20-year average baseline;
- (h) reduce groundwater nitrate loading;
- (i) capture storm water run-off from the upstream Kingdom Hall developments and detain and filter that storm water prior to release to Carneros Creek and Elkhorn Slough, thus reducing sedimentation in downstream waters;
- (j) Remove pasture uses from beneath the oak trees on the project site;
- (h) Provide higher density housing and mixed use commercial/residential development consistent with what the LUP envisioned for this area.

When compared to the project, the Staff Proposed Reduced Density Alternative will:

- (a) Eliminate ridgeline development;
- (b) Provide open space to preserve the Coastal Act wetland;
- (c) Reduce traffic by about 20%;
- (d) Reduce off-site storm water run-off;
- (e) Reduce water use by about 20%;
- (f) Reduce site grading;
- (g) Improve on-site circulation and access to the commercial parcel;
- (h) Reduce development infringement on the oak woodland.

- EVIDENCE:** (a) The Rancho Los Robles Subdivision RDEIR revised the information in the DEIR, including updated information on the reduced funding available for the implementation of the Revised Basin Management Plan, and a revised finding that the project would result in significant and unavoidable cumulative impacts to the regional groundwater aquifer and seawater intrusion.
- (b) North County LUP/LCP Water Resources 2.5.2 General Policy 3 requires phased build-out of the North County area, until such time as adequate water supplies are secured for the region. North County LUP/LCP Water Resources 2.5.3 Specific Policy A2 limits water use to the safe-yield level, which is equated to one-half of build-out within the north County area. North County LUP/LCP Water Resources 4.5.5 General Policy 7 requires that new subdivision and development be phased over time until an adequate supply of water to meet long-term needs can be assured. The project was deemed complete on September 21, 2000, and is considered to be within the first half of north Monterey County's build-out.
- (c) North County LUP/LCP Water Resources 2.5.3 Specific Policy A4 requires new development to incorporate conservation methods into their design, and on-site retention of water for infiltration to groundwater. The project is subject to County ordinances that require low water use landscaping, and State and federal requirements for low-flow plumbing fixtures. Mitigation Measures 20 and 21 require water audits to ensure that the development does not exceed the usage

- projected in the RDEIR. Mitigation Measure 23 requires additional landscape conservation approaches. The site is underlain by a dense clay layer that prevents infiltration of water, and therefore, infiltration approaches are not considered feasible at this site.
- (d) Numerous studies of the groundwater conditions have been prepared for north Monterey County, including reports prepared by Fugro West Inc. and the Monterey County Water Resources Agency, and these reports detail the current groundwater deficit and adverse effects on the groundwater basin from historic and current groundwater pumping.
 - (e) The following mitigating factors were considered in the RDEIR analysis, and serve to lessen the severity of the impact:
 - a. County requirements for water conserving landscaping, and local, state and federal low water use fixture requirements are incorporated into the assumptions for project water balance;
 - b. Recycling of wastewater for agricultural irrigation at the Watsonville wastewater treatment plant has been incorporated into the assumptions for the project water balance (see Table 12);
 - c. The Monterey County Water Resources Agency's north Monterey County hydrological impact fee (Monterey County code 18.51) applies to the proposed project and funds the study and resolution of groundwater issues in north Monterey County. Under the ordinances in effect at the time the proposed project's application was deemed complete, payment of the fee is required and is intended to off-set potential water supply impacts.
 - d. The proposed water purveyor is the California Water Service Company (CWSC), which serves many areas throughout the State, in addition to their service area in Las Lomas. CWSC operates three wells in the area, and their monitoring indicates that the water meets water quality standards, and that their wells and other wells in the area have sustained water levels in recent years. CWSC prepared a WSA that states they are able to provide adequate water supplies to the proposed project from their existing wells and storage facilities. Because CWSC is a large water purveyor with significant resources, it should deliver long term water quality and quantity.
 - e. Due to the connectivity of the Salinas Valley Groundwater Basin and the north Monterey County hydrogeological area, implementation of the Salinas Valley Water Project could have positive effects on the groundwater basin underlying the project site.
 - (f) Factors that could further reduce the deficit in the groundwater balance or otherwise off-set adverse effects on groundwater are either not feasible, are not fully feasible, or are not under the control of Monterey County.
 - a. Percolation of water on-site is severely limited by the project site geology. Infiltration of water at the base of the slope at the center

of the project site raises concerns with land sliding and liquefaction, and is not considered feasible. Storm water run-off would flow offsite to Carneros Creek and Elkhorn Slough.

- b. Implementation of the Revised Basin Management Plan, which would mitigate the proposed project's effects on groundwater, is the responsibility of the Pajaro Valley Water Agency (PVWMA), and is not expected in the near future. The PVWMA oversees management of groundwater resources within the north Monterey County area, including the groundwater basin from which the project would withdraw its water. The PVWMA adopted the Revised Basin Management Plan in March 2002. Implementation of the Revised Basin Management Plan would alleviate groundwater problems through a combination of conservation, imported water, cessation of coastal pumping, and use of recycled water for agricultural irrigation in coastal regions. Although some components of the Revised Basin Management Plan have been implemented or are currently under construction, other key components, especially the imported water component, have not been realized. The Revised Basin Management Plan proposes the import of water from the Central Valley Project, but the PVWMA has not been successful in negotiating for an allocation, CVP water deliveries are often less than full allocation, and a pipeline would need to be constructed between Santa Clara County and north Monterey County. Although the PVWMA is studying alternatives to this supply of water, the outcome of that study is not known at this time, and it appears that alternatives may only partially off-set the previously planned imported water. A key funding component for implementation of the Revised Basin Management Plan was recently ruled invalid by the Court, and funding for the remainder of the Revised Basin Management Plan components is uncertain. Management of the regional groundwater resources, including import of additional water supplies, is an issue that is beyond the jurisdiction of the County of Monterey. The PVWMA is responsible for the programs necessary to provide adequate water resources for the area. In accordance with CEQA Guidelines section 15091(a)(2), the County has determined that implementation of the Revised Basin Management Plan, which would relieve region-wide impacts on the groundwater basin, is the responsibility of another agency.

- (g) The Staff Proposed Reduced Density Alternative further reduces water use on the project site by approximately 20% compared to the project.

7. FINDING: CEQA ALTERNATIVES TO THE PROPOSED PROJECT - The EIR considered several alternatives to the proposed project in compliance with CEQA Guidelines section 15126.6. The EIR

considered the following alternatives as more fully described in the DEIR.

- EVIDENCE:** (a) No Project Alternative. The No Project Alternative is required by CEQA Guidelines section 15126.6(e). The No Project Alternative provides a comparison to the effects of not proceeding with the project and retaining the current land uses indefinitely, but does not serve to attain any of the project objectives. Maintaining the current use would continue current grazing and water uses that can be harmful to water quantity and quality. This alternative does not meet the objectives of the North County Land Use Plan that designated this site as a location that is appropriate for developing housing and commercial space.
- (b) No Project – Future Development. The No Project Future Development Alternative provides a comparison to the effects of not proceeding with the project and developing a project that is consistent with the policies that were proposed in the Monterey County 2006 General Plan update that was ultimately not approved by the Board of Supervisors. This alternative illustrates a development scenario for the site that allows up to 130 houses, but foresees a development of only 75 to 85 units due to resource constraints on the site. This alternative does not meet the objectives of the property owner that anticipates some reasonable use in accordance as designated in the North County and Use Plan.
- (c) Mixed Density Clustered Development Alternative. The Mixed Density Clustered Development Alternative included the same number of units within a smaller geographic area of the site. The alternative incorporated a 40-unit apartment/condominium building on 2.5 acres along Sill Road in addition to duplexes, and detached single family houses. Historically, the community opposed higher density along Sill Road, so this would not meet the project objectives developed through the public process.
- (d) Reduced Water Use Alternative. In this alternative the project is developed as proposed with additional on-site and off-site water reduction strategies introduced. Due to concerns of soil instability, this alternative was determined to not be feasible; however, aspects of this alternative have been incorporated into the Staff Proposed Reduced Density Alternative (e.g. retention pond along Hall Road).
- (e) Staff Proposed Reduced Single Family Development Alternative (SRDSFDA). This Alternative is substantially similar to the Reduced Development Alternative studied in the EIR, but varies to reconfigure the design to reduce impacts identified in the EIR. It consist of residential development with the same number of residential units (68 SFR, 4 Duplex, 4 Apartment units) but consolidates the commercial and multi-family uses. The recreational park would be located at the edge of the upper terrace. This is the preferred alternative to provide reasonable use of the property and meet objectives of the North County Land Use Plan.

- (f) Alternative Location. No alternative project location was analyzed. Any alternate location within the north Monterey County area would involve similar significant impacts in the areas of groundwater supply and traffic, and would not achieve the goal of reducing these significant impacts.
- (g) Environmentally Superior Alternative. CEQA Guidelines section 15126.6(e) requires the selection of an environmentally superior alternative. If the "no project" alternative is not the environmentally superior alternative, then the environmentally superior alternatives among the remaining alternatives must be identified.
- (h) Recommended Project. The Staff Proposed Reduced Development Project recommended by staff for approval incorporates some characteristics of the Reduced Single Family Development and Mixed Density Clustered Development Alternative. The alternative includes 80 units, including four apartment units and four duplex units, and re-locates the park to the edge of the upper terrace. On December 9, 2008 the board of Supervisors approve the Staff Proposed Reduced Density Alternative and directed staff to adjust the findings and conditions of approval/mitigation measures accordingly.
- (i) No New or More Severe Environmental Effects. The alternatives analysis in the DEIR concluded that neither the Reduced Single Family Development nor the Mixed Density Clustered Development Alternative would result in new or more severe environmental effects than the project studied in the EIR. These alternatives are essentially scaled-back variants of the project, and the EIR would provide adequate CEQA documentation for approval of either of these alternatives or the alternate recommended by staff.

8. FINDING: STATEMENT OF OVERRIDING CONSIDERATIONS: In accordance with Section 15093 of the CEQA Guidelines, the County has evaluated the economic, legal, social, technological, or other benefits of the Staff Proposed Reduced Density Alternative against its unavoidable significant environmental impacts in determining whether to approve the project, and has determined that the benefits of the Reduced Density Alternative outweigh its unavoidable, adverse environmental impacts so that they may be considered acceptable.

EVIDENCE: (a) Substantial evidence in the record demonstrates the following benefits that the County would derive from the Rancho Los Robles project.

1. Fiscal and Economic Considerations. The Rancho Los Robles project best supports the local economy by designating the greatest feasible amount of land for development, while balancing the protection of open space lands. The project would promote a strong, community-centered economy by focusing growth and development in Community Areas where public water and sewer are available and would result in the removal of individual wells

- and septic systems. The project includes convenience commercial or public or quasi-public uses within the commercially-designated parcel that serve the subdivision and the local area to meet the planned diversity of needs and lifestyles in the community.
2. Legal and Regulatory Considerations. The County has been working on a project for this site since mid-1980. The Rancho Los Robles project acknowledges landowner and resident expectations arising from historic County land use planning including the development and certification of the North County Land Use Plan. The Staff Proposed Reduced Density Alternative represents the best compromise in terms of a property owner's ability to fully use and enjoy its land. Project conditions require a fee payment for roads including the segment of State Route 1 south of Salinas Road, and will reduce traffic generation by requiring the facilitation of alternative modes of transportation and telecommuting. As mitigation, the applicant would be required to construct local circulation improvements including intersection improvements at the intersection of Hall Road and Sill Road and pedestrian/bicycle improvements between the site and the Hall District Elementary School.
 3. Housing Considerations. The State of California has made the early attainment of decent housing and a suitable living environment for every Californian a statewide priority. The North County Land Use Plan acknowledges this principle and provides a limited number of locations where affordable housing is planned to be located. Rancho Los Robles provides higher density housing and mixed use commercial/residential development consistent with what the LUP envisioned for this area. The Rancho Los Robles project provides affordable housing (~~seven units on site plus 15% equivalent as in-lieu fees~~) in an area where infrastructure exists or can reasonably and feasibly be provided (*See Finding 16*).
 4. Environmental Considerations. The Rancho Los Robles project ensures community-centered growth by directing growth towards an existing Community Area where adequate infrastructure does or can exist. Encouraging development in existing areas results in fewer impacts from the construction of new infrastructure, maximizes use of existing impervious surfaces, reduces miles traveled which translates into air quality benefits, and reduces pressures on the conversion of farmland and open space. Rancho Los Robles would remove pasture uses from beneath the oak trees on the project site and provide open space to preserve the oak trees on the site. Removing septic systems and developing proper drainage improvements would reduce groundwater nitrate loading. The project will capture storm water run-off from the upstream Kingdom Hall developments and detain and filter that storm water prior to release to Carneros Creek and Elkhorn Slough, thus

reducing sedimentation in downstream waters. The project would reduce water use compared to the 20-year average baseline creating a net benefit to the over-drafted Highlands North sub-basin.

5. Social Considerations. The Rancho Los Robles project best reflects the planned use under the North County Coastal Land Use Plan, which was designed to reflect the community's expressions of quality of life and community values and guide the County's future growth in this area. The project provides parkland and playing fields for all age groups that is usable by residents and other members of the community. Currently the closest park with active uses is located approximately three miles away. The amount of park area exceeds the minimum required.

9. **FINDING: NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement costs, if any, have been paid.**

EVIDENCE: (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department Monterey County records and is not aware of any violations existing on subject property.
 (b) Staff conducted numerous site visits including a site visit on July 10, 2007 to verify that the project on the subject parcel conforms to the plans submitted under PLN970159.
 (c) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project Files PLN970159.

10. **FINDING: HEALTH AND SAFETY - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.**

EVIDENCE: Preceding findings and supporting evidence.

11. **FINDING: TREE REMOVAL - The project includes a Tree Removal Permit for the removal of 25 Oak trees and relocation of about 0.1 acre of willow trees in accordance with the applicable policies of the North County Area Plan and the Monterey County Zoning Ordinance (Title 20). The subject project minimizes tree removal in accordance with the**

applicable goals and policies of the North County Coastal Land Use Plan and Coastal Implementation Plan (Part 2).

- EVIDENCE:** (a) North County Area Plan Policy 8.2.1 states "A permit shall be required for the removal of any of these native oak trees with a trunk diameter in excess of six inches, measured two feet above ground level."
- (b) Measures for tree protection during construction have been incorporated as conditions and include tree protection zones, trunk protection, hand excavation, bridging roots and transplanting. Road development has also been adjusted to preserve trees by changing the location of road widening and the elimination of curbs.
- (c) Forest Management Plan and supplemental reports were prepared by James P. Allen (July 28, 2006).
- (d) Site visits by planning staff and EIR consultant.
- (e) DEIR Sections 2.2 and Appendices D-H.
- (f) Mitigation Measure 10b provides for an updated Forest Management Plan. Mitigation Measure 11 provides protection for trees and habitat on the project site. Mitigation Measure 12 provides for transplanting or replacement of protected oak trees. Mitigation measures are incorporated as conditions of approval.

12. FINDING: RECREATIONAL REQUIREMENTS – The Monterey County Department of Parks and Recreation has established requirements for parkland and open space according to requirements in Title 19 Monterey County Subdivision Ordinance. The Required Findings to meet requirements for parkland have been met with conditions.

- EVIDENCE:** (a) The proposed subdivision will create 101 housing units that will require 0.9 acres of parkland according to Section 19.12.010 Recreation Requirements of the County Subdivision Ordinance, Title 19. The Reduced Density Alternative will create 80 housing units that will require 0.72 acres of parkland.
- (b) Monterey County Parks and Recreation Department requires that the subdivision dedicate reasonably level land that can be used for active recreation with no environmental constraints.
- (c) The applicant's project proposes a 1.9-acre public use recreation parcel along Hall Road adjacent to the commercial parcel. The park would have an active recreation field in combination with a detention pond. The central section of the site would be open space. The project parkland proposal is not considered adequate by the Department of Parks and Recreation.
- (d) The applicant's project includes a proposed recreation field within the wetland area to be used seasonally. County Parks has determined that this area is not suitable for active recreational uses and as such does not meet Section 19.12.010 Recreation Requirements of the County Subdivision Ordinance, Title 19 for a subdivision of 101 units. The

proposed plan would have to create an alternative to the wetland and detention area to satisfy the Parks Department requirement for “no environmental constraints.”

- (e) The Staff Proposed Reduced Density Alternative will provide 2.5 acres of flat dry open space on top of the upper terrace and 0.5 acres of playground space. The Staff Proposed Reduced Density Alternative will satisfy the requirements of the Parks Department without mitigation.

- 13. FINDING: PUBLIC ACCESS - The project and the Staff Proposed Reduced Density Alternative, as conditioned, are in conformance with the public access and public recreation policies of the Coastal Act and LUP, and do not interfere with any form of historic public use or trust rights. A bicycle lane and equestrian path are part of the project..**

- EVIDENCE:**
- (a) Mitigation Measure 28 provides for pedestrian/bicycle connections along Hall Road connecting the Hall District School, project parkland, and commercial uses with the residential areas.
 - (b) Sidewalks are required under Mitigation Measure 28(b) connecting the commercial area to Sill Road with an access easement that will meet the Americans with Disabilities Act. A 4-foot wide sidewalk will be provided on the north side of Hall Road.
 - (c) Condition 40 requires compliance with the North County Trails Plan including a riding trail and bike route along Hall Road for the entire length of the property. Applicant will dedicate a public recreation trail easement over the subdivided property for the public riding and equestrian trail shown in North County Trails Plan.
 - (d) The applicant is required to provide the County with an Irrevocable Offer to Dedicate easement for a riding and equestrian trail.
 - (e) The Staff Proposed Reduced Density Alternative includes an internal street to provide access between the residential area and the commercial area.

- 14. FINDING: RIDGELINE DEVELOPMENT – Ridgeline development may only be approved if it will not create a substantially adverse visual impact when viewed from a common public viewing area, and there is no alternative location on the subject site which would allow a reasonable development without potential for ridgeline development.**

- EVIDENCE:**
- (a) The applicant’s proposed project includes a Coastal Development Permit to create 97 lots, 20 of which lots could create ridgeline development as defined in the North County LUP (Lots 1, 2, and 24-42). Original plans included significant grading (56,850 cubic yards cut and fill) to lower the natural grade levels and create a berm to reduce ridgeline development impacts of the new homes. Revised plans (dated May 12, 2006, submitted June 7, 2007) minimize grading and include vegetative screening along Hall Road to avoid visual impacts from a public viewing

- area (Section 20.144.030.B.6 CIP); however, vegetative screening will not be effective until trees reach maturity.
- (b) Due to the close proximity to Hall Road, proposed commercial and multi-family development would extend above ridges to the north of the site. This is not considered ridgeline development because these structures are located on a level area at about the same elevation as Hall Road and are not located at a "crest of a hill" as stated in the definition of ridgeline development (Section 20.144.020.BBBB CIP).
 - (c) North County LUP states to minimize grading for building sites and access roads (Visual Resources 2.2.2 General Policies 3 and 5 and CIP Sections 20.144.030.B.4 and 20.144.100.A.2.c). The proposal minimizes much of the development's visibility for public viewing areas by screening the proposed buildings with existing vegetation and topography (Policy 2.2.2.4 LUP). Most of the houses would be screened by the trees on site or beyond the hill top out of view. Proposed houses within the ridgeline view from Hall Road would be generally screened by grading and height restrictions.
 - (d) Mitigation includes creating small earth berms (1-4 feet tall) with plant material in a non-uniform pattern along and on top of the berm to achieve a variation in the appearance of the earth berm's height. The earth berm along Hall Road shall be limited to no greater than four feet in height and contoured to achieve a non-uniform appearance. About 10 of the 20 home ridgeline sites will be screened by the commercial and multi-family development once that portion of the project is developed. The site plan shall place buildings near the front of the site with parking to the rear to allow screening of proposed houses on the edge of the hill. This mitigation is not needed because the Board adopted the Staff Proposed Reduced Density Alternative
 - (e) The Staff Proposed Reduced Density Alternative provides an alternative approach that avoids ridgeline development and minimizes grading (Section 20.144.030.B.6 CIP) by moving structures away from the southern edge of the upper terrace and places parkland in that area instead. Although the proposed project, as mitigated is consistent with the visual resource policies of the North County LUP, the Reduced Density Alternative better meets the goals and objectives of the Land Use Plan to avoid ridgeline development by design of the subdivision rather than mitigation by grading, height limitations, and screening.
 - (f) The project as mitigated and the Reduced Density Alternative are in conformance with North County LUP Visual Resources Development Standards (CIP Section 20.144.030) for the North County Planning Area, pursuant to the directives of the North County LUP.

15. FINDING: DEVELOPMENT ON STEEP SLOPES GREATER THAN 25% - Development on slopes that excess 25% is prohibited unless there is no feasible alternative that would allow development to occur on slopes of less than 25%, or the proposed development better achieves the

goals, policies and objectives of the Monterey County General Plan and applicable area plan than other development alternatives.

- EVIDENCE:** (a) The North County CIP Section 20.144.100(A)(2)(c) requires development to be sited and designed to conform to site topography to minimize grading and site preparation activities. The proposed development has been designed to avoid development on slopes 25% or greater, but includes two lots which encompass slopes in excess of 25%; building envelopes on these lots would exclude construction on or near the 25% slopes.
- (b) The Staff Proposed Reduced Density Alternative locates all developable lots away from the edge of the upper terrace and away from 25% slopes.
- (c) The North County LUP requires all new development to be placed within non-critical erosion areas where possible (Policy 2.5.3.C.3.a). The North County LUP defines critical erosion areas as having a K factor exceeding 0.4 and or slopes exceeding 25%.

16. FINDING: HOUSING NEEDS – In recommending approval of the tentative map, the Board of Supervisors has balanced the housing needs of the County against the public service needs of its residents, available fiscal resources, and protection of environmental resources.

- EVIDENCE:** (a) There are four existing residential units located on the subject property. The medium density residential designation requires developing residential units with a range of prices (LUP, Policy 4.3.6.D.2). The ~~proposed project~~ Staff Proposed Reduced Density Alternative consists of dividing two existing lots of record into ~~97~~ 76 lots that could be developed with one market rate unit on each new lot plus, one high density residential lot that would allow a 4-unit complex, and one commercial lot.
- (b) Monterey County requires ~~affordable housing~~ Inclusionary contribution as a percentage of newly constructed housing. The proposed project is subject to the Inclusionary Ordinance (Ordinance 3419) in effect when the application was deemed complete (September 21, 2000). As such, the applicant is responsible for providing an Inclusionary Housing contribution equal to 15% of the proposed new residential units being created ~~units as affordable housing~~. ~~The project has proposed 101 units but is responsible for 97 due to the four high density units proposed for affordable housing. This equates to an obligation equivalent to 14.55 affordable houses. This obligation is reduced to 11.85 units (15% of 79 units) with the Reduced Density Alternative. The reduced alternative project will result in 80 residential units but the obligation is reduced to 76 due to the four existing residential units being demolished. This equates to an obligation 11.4 Inclusionary Units (15% of 76).~~
- (c) Although the regulations in effect when the project was deemed complete allow the applicant to pay an in-lieu fee rather than build

affordable units on site (Chapter 18.40 of the Monterey County Code), affordable housing is a priority of the highest order both at the state and local level (Government Code Section 65580(a)). ~~The applicant has proposed 22 units of affordable housing for on-site and off-site (in payment of in-lieu fees). The applicant proposes four rental apartments for low income households and three "workforce housing" units for households with incomes between 120 and 180% of median income. Conditions 38 and 39 provide for the inclusionary housing to equal four apartment units and the "workforce housing" to equal three of the single family lots and require an agreement which will address pricing of homes, selection of buyers, and resale restrictions. The applicant has proposed 4 units of Inclusionary rental housing for on-site and will comply with the remaining obligation of 7.4 Inclusionary Units by paying an in-lieu fee. The applicant proposes four Inclusionary rental apartments for low income households. The applicant is also voluntarily providing three "workforce housing" units for households with incomes between 120 and 180% of median income. Conditions 38 and 39 provide for the Inclusionary and the "workforce housing" requirements both requiring agreements to be recorded on the project site which will address, but not be limited to the location of the units, pricing of homes, pricing of rents, selection of buyers and tenants, and resale restrictions.~~

- (d) Chapter 18.40 of the Monterey County Code (Inclusionary Housing Ordinance #3419)
- (e) The Staff Proposed Reduced Density Alternative proposed inclusionary housing that is consistent with the Inclusionary Housing Ordinance #3419.

17. FINDING: WATER IMPACT/NORTH COUNTY: There presently exists in the North Monterey County area a serious overdraft in the aquifers, together with seawater intrusion problems in the North County Coastal Zone and nitrate pollution problems throughout the area. The North County LUP and CIP recognize the existence of these problems and direct that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures and projects thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption (*See Finding #5y and Finding #6b*).

EVIDENCE: (a) The project site is currently served by an on-site well located within the Highlands North sub-basin that is part of the larger Pajaro basin managed by the Pajaro Valley Water Management Agency. Highlands North is a sub-basin that is experiencing overdraft conditions. This project would remove two existing wells from Highlands North that provide water to four housing units, a horse ranch, and strawberry fields, and obtain water from a public utility (California Water Service

Company) that draws water from community wells also in the Highlands North sub-basin, to provide water to 101 housing units (project) or 80 housing units (Reduced Development Alternative).

- (b) The project is consistent with the LUP standard for long term water supply under the standards in effect at the time the application was deemed complete. The North Monterey County Comprehensive Water Resources Management Plan (January 2002) identifies that there is 912,247 acre feet of water in storage in the Highlands North sub-basin. State laws (SB610 and SB221) that apply to larger residential development projects require proof of an available supply of water for at least 20 years. This established a State standard for long term water supply. California Water Service Company prepared a "Water Supply Assessment Report for Rancho Los Robles, Monterey County, California (LIB070525) dated June 22, 2006, pursuant to SB610 indicating that there was an available supply of water. With a current demand of 5,612 acre feet of water per year, there would be an available supply for 162.3 years. If the worst-case scenario of total buildout under the LUP were reached, there would be a supply available for 119 years. Using this basis as a standard to define long-term supply, the County finds that there is a long-term supply of water available for this project.
- (c) Chapter 2.5 of the North County LUP establishes policies to address water availability, water quality, erosion and sediment in order to protect water quality and to preserve a sustainable water supply (LUP, Key Policy 2.5.1). Since the property is currently designated for residential use under the certified LUP and the project and the Reduced Density Alternative would not increase water use compared to the 20-year historic baseline, there would be no impact to agricultural land/uses (LUP, Policies 2.5.3.A.1 and 4.3.5.4). Each residential unit except the four multi-family units will have one metered water connection. California Water Service Company has issued a can and will serve letter stating that they would be able to service this development.
- (d) A hydrologic report was prepared by Todd Engineers in order to evaluate the project impacts on the North County water supply (Section 20.144.070.D CIP). A CEQA baseline was established using an average of water use for a 20 year period (1982-2001). This baseline includes well data from 1998-2001, average water use figures from the Department of Water Resources, and domestic use estimates by Todd Engineers. During this 20-year period, the average groundwater pumping is estimated at 86.09 acre feet and infiltration is estimated at 21.33 acre feet per year. This results in a net water loss of 64.76 acre feet per year to the sub-basin.
- (e) Although the proposed project would still create a negative net recharge (water loss), the 2002 Todd Engineers study concludes that there would be an overall reduction of groundwater withdrawal. The project would decrease withdrawal from 64.76 acre feet per year to 34.49 acre feet per year, which is a net benefit to the sub basin of 30.27 acre feet per year

(46.7%). When recycling of wastewater at the Watsonville Wastewater Treatment Plant (for agricultural irrigation) is considered, an additional 3.03 acre-feet per year is saved.

- (f) The North County LUP acknowledges an overdraft condition of the groundwater basin. As a result, Policy 2.5.3.A.2 LUP establishes a safe-yield limit of 50% of the potential buildout remaining at the time the LUP was adopted/certified (2,043 unit/lots). As of August 2007, County records accounted for a total of about 680 units/lots remaining that could potentially be developed in the North County area. All of the pending projects known at this time account for about 300 additional units (including pending "pipeline" projects such as Pajaro Valley Golf Course and the subject project), leaving a maximum of 380 units before reaching the buildout limit. Although Policy 2.5.3.A.2 allows for reducing this limit based on new information (defined in the LUP as "definitive water studies"), a LUP amendment would be required in order to adjust this limit.
- (g) Estimates on water use have been made based on product size that may vary at the time it is developed depending on the housing market. Therefore, the EIR prepared for this project establishes a 60% limit at which point the project must be in conformance with the water use projections of the EIR (Policy 4.3.3 LUP). Once 50% of the units are occupied, an audit shall be required to assess the water demand and accuracy with water use projections of 305.2 gallons per household per day made in the project EIR. The final 40% of permits (up to 10% of permits may be active during the audit) will be issued until the project proponent demonstrates that the project will meet the overall demand estimated in the project EIR (Condition 95).
- (h) CEQA guidelines Section 15130(a) (3) allow for an applicant to pay a fair share fee towards projects that will address the potential project impacts (Policy 2.5.4.1 LUP). In accordance with Section 18.51.070, fees collected may be used for studies, investigations, plans and programs. The fee has been used to date for the development of comprehensive plans and subsequently for implementation of project identified in the Plan. Fees collected from the subdivision will contribute to funding these types of projects. Although the Pajaro Valley Water Management District also has plans for projects to improve the water supply, they have not secured all the necessary approvals to be considered a viable project under CEQA. Therefore, the County is implementing a phasing strategy that limits initial development to 60% to ensure water use meets the EIR projections (Policies 2.5.3.B.6 and 2.5.4.2 LUP, Section 20.144.070.E.11 CIP). In addition, studies have shown that affordable units use less water than market rate units. A water audit required following completion of Phase I will evaluate these conditions (Condition 95). The Staff Proposed Reduced Density Alternative would reduce the amount of water used by about 20% and as such better meets the goals and policies of the North County LUP.

- (i) The Monterey County Codes ("MCC") includes a North Monterey County Water Impact Fee (Chapter 18.51 MCC) that would apply to the proposed project. Under the ordinances in effect at the time the proposed project application was deemed complete, a fee is required based on the total number of new lots/units created in order to off-set potential water supply impacts. Credit may be allowed for costs associated with completing a hydrologic study. This fee cannot be utilized in the coastal zone to address long-term sustainable supply since this requirement was not included in the LCP (as amended). However, such a fee can be required separately by the County, as applicable, and is consistent with CEQA.
- (j) This project would remove multiple septic systems and operate using connections to a sanitary sewer discharging to the Watsonville Wastewater Treatment Plant (Policies 2.5.2.5, 2.5.3.B.3 and 2.5.3.B.5 LUP). The detention pond design reduces storm water pollutants and sediment from the project site as well as agricultural uses north of the site that drain to Elkhorn Slough (Policies 2.5.2.1, 2.5.2.2, and 2.5.3.B.2 LUP). Table 1 in the North County LUP indicates that Sub-watershed 20 where the site is located is not a critical erosion area (Policy 2.5.3.C LUP).
- (k) Conditions 27-34 have been incorporated to meet Ordinance 3932 of Monterey County Water Resource Agency's Mandatory Water Conservation Regulations.
- (l) Materials in project file PLN970159.

18. **FINDING: SUBDIVISION.** Section 66474 of the California Government Code (Subdivision Map Act) and Section 19.03.025 (Title 19-Subdivision Ordinance, Coastal Zone) of the Monterey County Codes requires that a request for subdivision be denied if any of the following findings are made:
1. That the proposed map is not consistent with the applicable general plan, area plan, coastal land use plan or specific plan.
 2. That the design or improvement of the proposed subdivision is not consistent with general plan, area plan, coastal land use plan or specific plan.
 3. That the site is not physically suitable for the type of development.
 4. That the site is not physically suitable for the proposed density of development.
 5. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

- EVIDENCE:**
- (a) Planning staff has analyzed the project against the findings for denial outlined in this section.
 - (b) The map and its design and improvements are consistent with the North County LUP and CIP. No specific plan has been prepared for this area.
 - (c) The site has been determined to be physically suitable for the type and density of development (*See Finding #2*). The property provides for adequate building sites as evidenced by the application materials submitted for the site. The maximum number of lots is limited to 101 taking into account the entire 33.58 acre site and depending on a water use audit for any development (Condition 90). Open space and common area totaling 9.73 acres would have no further development potential. The Reduced Density Alternative includes 80 residential units.
 - (d) The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the EIR certified and adopted for this project. An EIR was prepared for Monterey County Planning and Building Inspection Department by EMC Planning Group, Inc. dated August 28, 2007, with a RDEIR dated March 19, 2008. To the extent that the project has significant unavoidable impacts, the County's choice of the Reduced Density Alternative lessens those impacts, and, as described further in the statement of overriding considerations, the County finds that the benefits of the project outweigh the residual significant unavoidable impacts of the Reduced Density Alternative.
 - (e) Conditions have been incorporated to meet Section 20.144.030.B.9 (underground utilities) of the CIP to ensure that the public health, safety, and welfare is preserved and protected. The project is in a very high fire hazard zone as found in the resource maps of the North County Land Use Plan. The North Monterey County Fire Protection District has recommended conditions, which have been incorporated, for development in the very high fire hazard area, which will reduce potential fire risks associated with development of the project. The project will connect to a sanitary sewer system and conditions have been incorporated to meet Environmental Health Division's requirements for sanitary sewer. The Monterey County CIP designates this site as a "critical" erosion area. Conditions 31-34 have been incorporated to address drainage facilities, subject to the approval of the Water Resources Agency.
 - (f) The design and improvements will not conflict with easements for access through or use of the property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements. Also see *Findings #2 and #11*.

- (g) Conditions have been incorporated to meet Section 19.12.010 (Recreation Ordinance) of the Monterey County Code to meet recreation requirements. Also see *Finding #10*.
- (h) The application, plans, and supporting materials submitted by the project applicant to the Monterey County RMA - Planning Department or generated by or for the Monterey County RMA – Planning Department for the proposed development, found in the project file.

19. **FINDING: CONDITIONS OF PROJECT APPROVAL – ~~The project is subject to the conditions of approval presented in Exhibit A. The Staff Proposed Reduced Density Alternative is subject to the conditions of approval presented in Exhibit A insofar as applicable. Per the Board of Supervisors' December 9, 2008 motion approving the Staff Proposed Reduced Density Alternative and directing staff to adjust the findings and conditions of approval/mitigation accordingly, the conditions of approval and mitigation measures have been revised to correspond to the Staff Proposed Reduced Density Alternative.~~**

- EVIDENCE:**
- (a) Exhibit A, Conditions of Project Approval for the Rancho Los Robles project PLN970159.
 - (b) Rancho Los Robles Subdivision EIR and Mitigation Monitoring Program.
 - (c) The project was reviewed by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Parks and Recreation, Public Works, Environmental Health Division, and Water Resources Agency. Conditions recommended by these departments/agencies have been incorporated.

20. **FINDING: APPEALABILITY - The decision on this project is appealable to the California Coastal Commission.**

- EVIDENCE:**
- (a) This project is appealable to the California Coastal Commission under Section 20.86.080 (A) Monterey County Zoning Ordinance (Title 20). as described in paragraph 2.
 - (b) Section 20.86.030 Monterey County Zoning Ordinance (Title 20).

DECISION

NOW, THEREFORE, based on the above findings and evidence and statement of overriding considerations, the Board of Supervisors does hereby:

A. Certify the Rancho Los Robles Subdivision Environmental Impact Report (consisting of the Draft EIR, Revised Draft EIR, and Final EIR);

B. Approve the Reduced Density Alternative consisting of a Combined Development Permit (PLN0970159) including: 1) Coastal Development Permit and Standard Subdivision to allow for the division of two parcels of 16.96 and 16.62 acres (33.58 acre total) into 76 lots consisting of: 68 single family residential parcels with lot sizes ranging from 4,200 sq. ft. to

18,000 sq. ft.; four duplex lots; one 1.76-acre mixed use parcel; and 9.7 acres of common area parcel including 2.5-acre community recreation area with a small parking lot and two 0.5-acre mini-parks, all in general conformance with the Staff recommended Reduced Density Alternative; 2) Coastal Development Permit to allow the removal of up to 25 coastal oak trees and on-site relocation of 0.1-acre of willow trees; 3) General Development Plan and Coastal Development Permit to allow for commercial or quasi-public development of the commercial parcel and the construction of a four unit apartment building above the commercial space; 4) a Coastal Development Permit to allow for the demolition of two single family dwellings, two barns, a garage and the removal of two mobile homes, 5) Coastal Development Permit to allow development on slopes greater than 25%, in general conformance with the attached sketch **(Exhibit B)** and subject to the conditions **(Exhibit A)**, both exhibits being attached hereto and incorporated herein by reference.

C. Adopt the Mitigation Monitoring and Reporting Program **(Exhibit A)**

PASSED AND ADOPTED on this 9th day of December, 2008, upon motion of Supervisor Salinas, seconded by Supervisor Mettee-McCutchon, by the following vote, to-wit:

AYES: Supervisors Armenta, Salinas, Mettee-McCutchon

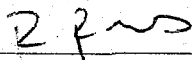
NOES: Supervisor Calcagno, Potter

ABSENT: None

I, Denise Pennell, Interim Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on December 9, 2008.

Dated: January 6, 2009

Denise Pennell, Interim Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

Board Resolution - EXHIBIT B Reduced Density (76 Lots)

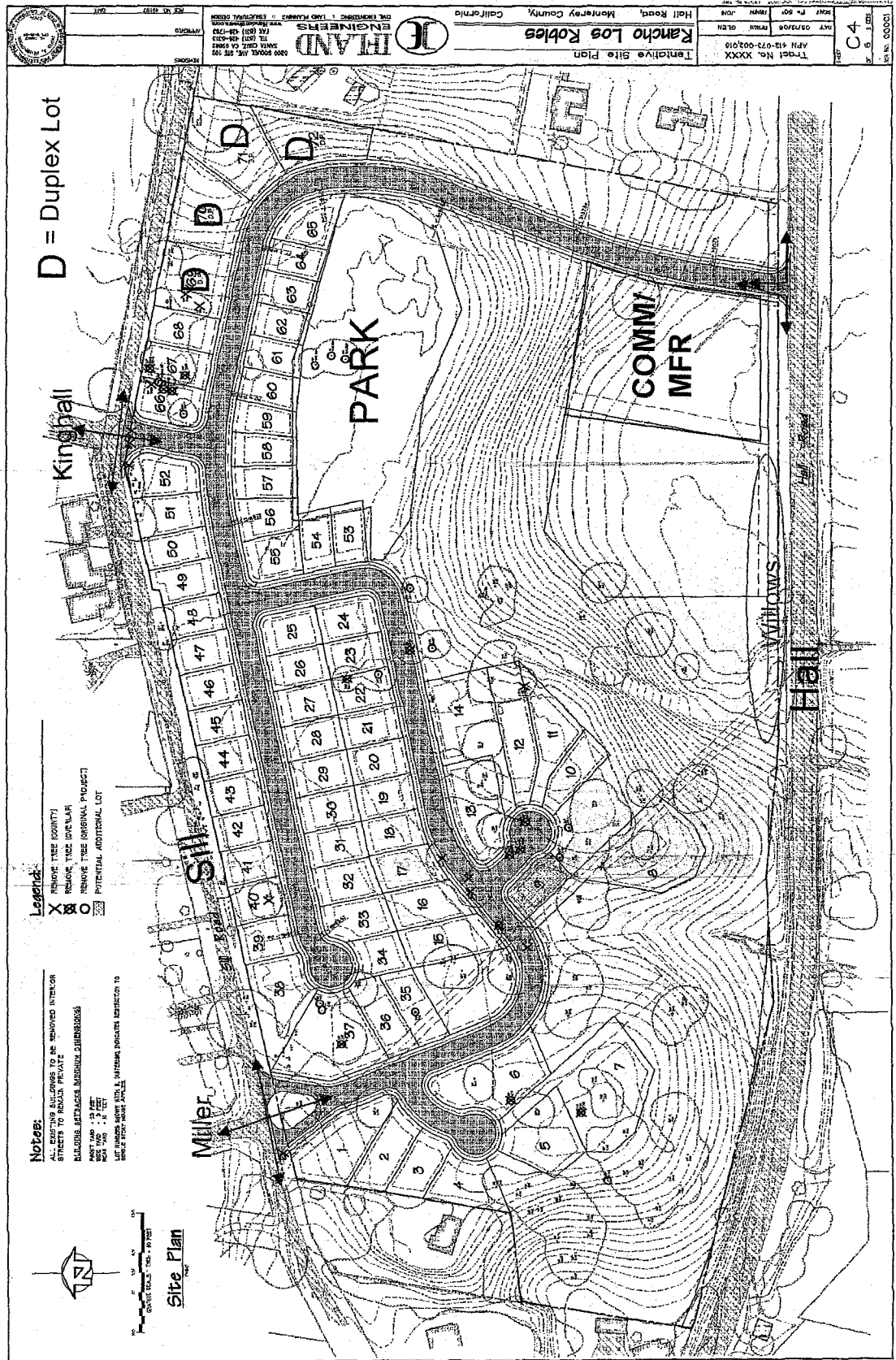


EXHIBIT D

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

**ADOPTED****Th14a**

CDP Approved: 11/8/2017

Staff: Kevin Kahn - SC

Staff Report Date: 8/31/2018

Hearing Date: 9/13/2018

REVISED FINDINGS

- Application Number:** A-3-MCO-09-009 (Rancho Los Robles Subdivision)
- Applicant:** Heritage Western Communities, Ltd.
- Project Location:** 100 Sill Road, Las Lomas, North Monterey County (APNs 412-073-002 and 412-073-015)
- Project Description:** Subdivision of two parcels totaling 33.58 acres (one 16.96 acres and one 16.62 acres) into 52 residential lots; demolition of one single-family residence, two barns, and removal of two mobile home units; construction of 54 residences, comprised of 50 single-family residences and four residences in duplexes; dedication of 3.5 acres of land to Monterey County for future parks and recreational facilities; dedication of 17 acres of land and one existing single-family residence to a future to-be-formed Community Services District for future parks and recreational facilities; construction of roads and related improvements.
- Commission Action:** Approved without Conditions (November 8, 2017)
- Staff Recommendation:** Adopt Revised Findings
-

STAFF NOTE

On November 8, 2017, following a public hearing in Bodega Bay, the Coastal Commission approved a coastal development permit (CDP) without conditions for the above-referenced proposed project. Because the Commission approved the proposed project when staff was recommending denial, this report contains revisions to the prior staff report that reflect the

000001

Commission's action (i.e., "revised findings"). Commissioners who are eligible to vote on the revised findings are those from the prevailing side who were present at the November 8, 2017 hearing (i.e., Commissioners Howell, Luevano, Padilla, Sundberg, Uranga, Vargas, and Vice-Chair Turnbull-Sanders). The motion to adopt the revised findings is found on page 6 below.

SUMMARY OF COMMISSION ACTION

On November 8, 2017, the Commission approved the Applicant's proposed subdivision of two parcels totaling 33.58 acres into 52 residential lots; demolition of one single-family residence, two barns, and removal of two mobile home units; construction of 54 residences, comprised of 50 single-family residences and four units in duplexes; dedication of 3.5 acres of land to Monterey County for future parks and recreational facilities, as well as dedication of 17 acres of land and one existing single-family residence to a future to-be-formed Community Services District (CSD) for future parks and recreational facilities; and construction of roads and related improvements. Specifically, of the proposed 54 residential units, two of the single-family residences would be designated as Workforce Housing for households earning no more than 180% of median income, the four duplex units would be designated as affordable rental units pursuant to the County's affordable housing guidelines, and an affordable housing in-lieu fee would be paid to the County in lieu of developing additional affordable units on-site. With respect to the proposed park land dedication, 3.5 acres of land would be dedicated to Monterey County for future public park and recreation improvements. Specific facility types would be identified in conjunction with Monterey County Parks Department and constructed by the Applicant within two years of Final Map approval. In addition, roughly 17 acres of land would be dedicated to a to-be-formed CSD or other appropriate public entity for additional active recreation and for habitat preservation for the remaining undeveloped oak woodland, wetland, and willow habitat areas. The Applicant would undertake the restoration of these habitat areas and then dedicate the land pursuant to this CDP, but the additional specific community facilities would be identified and built subject to the CSD securing funding and separate CDP approval in the future. Thus, the Commission approved the Applicant's proposal to dedicate over 20 acres of land to the County and to a to-be-created CSD for future parks, recreation, community facilities, and open space.

The project site is located in the unincorporated community of Las Lomas in North Monterey County. Las Lomas is a small, rural, mostly residential community surrounded by North Monterey County's characteristic rolling hills consisting of open space, agriculture, and very-low-density residential development. The project site consists of sloping hills containing 16.5 acres of oak woodland habitat and 11 acres of strawberry row-crop agricultural production.

North Monterey County has had severe groundwater overdraft problems for decades. Virtually all of the agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells. The LCP requires development in North County to be served by an identifiable, adequate, long-term water supply, and generally only allows new development when the groundwater basin is in its safe yield extraction state (i.e., when the groundwater basin is not overdrafted). The project approved by the Commission authorizes a subdivision allowing for 54 residences and other development that would use water from groundwater aquifers that are already being pumped beyond their safe yield level. As such, but for certain LCP-identified projects, such as here where the project will not generate a water

demand exceeding or adversely impacting the safe, long-term yield of the local aquifer, the LCP does not allow certain development in order to both protect groundwater resources and to ensure that scarce water supply remains available for priority uses. The LCP also includes policies identifying the need for affordable housing and other community goods in Las Lomas, specifically identifying Las Lomas as one of only three areas in the entire North County area appropriate for such growth given natural resource and public service capacity constraints. In addition, the County also has argued that the LCP's water supply and groundwater resources policies should not be read as prohibiting all development in all cases when an overdraft condition exists, but rather that certain limited projects that provide needed (and LCP envisioned) community goods that are undertaken in a manner that will not adversely impact the underlying groundwater basin (i.e., will not generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer) can be found consistent with the LCP's overall framework. The Commission in this case agreed based on the specific facts presented. Specifically, because this project included on-site low and moderate income housing (as well as an in-lieu fee for additional off-site affordable housing), parks, and infrastructure improvements within the Las Lomas urban services line called out by the LCP for allowable growth, and because the Applicant's project-specific water balance study found the project to have a net positive effect on the groundwater basin, the Commission found that the project meets these LCP goals and requirements. Relying on the Applicant's study's groundwater recharge conclusions, the Commission found the project to be supplied by a long-term adequate water supply that would not negatively impact the underlying aquifer. These factors—the project's proposed community investments (affordable housing, parks, open space, and infrastructure improvements), within a community the LCP explicitly identifies as appropriate for such investment, and positive groundwater recharge are what differentiate it with other proposed North County residential subdivision projects the Commission has denied. Those projects were located outside of Las Lomas, did not provide the type of community goods proposed here (i.e., they were strictly residential subdivisions), and did not demonstrate positive (or even neutral) groundwater recharge. As such, the project's factset here is unique and specific due to what is being proposed and where, and the Commission approved this project as consistent with the relevant LCP policies considering these specific facts and circumstances. So while the Commission has found that other prior residential subdivisions in North County are simply not approvable at this time due to groundwater resources and water supply constraints, the Commission found that this project meets specific LCP goals and criteria and is consistent with same on a fact-specific basis, thereby approving the project.

With respect to other primary issues, the project would be constructed within oak woodland habitat and within prime/productive farmland (i.e., the western part of the site contains 16.5 acres of mature oak woodland habitat, while the eastern part currently supports 11 acres of strawberry row crops). Thus, the project is located on a site containing nearly 28 acres that consist of either oak woodland or agricultural row crops to a 54-unit residential subdivision and related development, including associated grading, the construction of retaining walls, tree removal, and the installation of utilities. The Commission approved portions of the project in oak woodland because the project minimized disruption and habitat loss, and also included both oak woodland restoration and preservation via dedication.

With respect to agriculture, while the LCP seeks to retain the maximum amount of land in agricultural production, and strictly limits the conversion of prime and productive soils, the

primary focus is to protect such soils on lands designated by the LCP for agricultural use. While other areas can still be protected, in this case, including because of the site's location within the urban services line of Las Lomas where the LCP designates concentrated development, the site's Medium-Density Residential zoning, and the lack of Agricultural LCP designations, the Commission found that such conversion of the site's soils to be LCP consistent, and approved the project. The Commission also found the proposed project consistent with other LCP requirements, including with respect to water quality, visual resources, and traffic.

In sum, the Commission found the project consistent with the LCP, and approved the CDP.

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APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contacts with Agencies and Groups

EXHIBITS

Exhibit 1 – Location Maps

Exhibit 2 – Site Photos

Exhibit 3 – Applicant’s Proposed Site Plan and Project Description

Exhibit 4 – North Monterey County Groundwater Sub-basins and Overdraft Amounts

Exhibit 5 – Former Commission Staff Geologist Dr. Mark Johnsson Water Usage Comments

Exhibit 6 – Post-Appeal Correspondence

Exhibit 7 – Monterey County LCP Amendment No. 1-85 Staff Report

Exhibit 8 – Department of Water Resources’ Critically Overdrafted Groundwater Basins

Exhibit 9 – Comment Letters from Commission Staff to Monterey County

Exhibit 10 – EIR Oak Woodland Habitat Map

Exhibit 11 – NRCS Land Capability Classification Soils Map

CORRESPONDENCE FOR DE NOVO HEARING

Correspondence 1 – Applicant’s September 2017 Correspondence

Correspondence 2 – Applicant’s July 2017 Correspondence

Correspondence 3 – Petition in Support of Rancho Los Robles

Correspondence 4 – Applicant’s November 2017 Correspondence

Correspondence 5 – Other Correspondence Received

CORRESPONDENCE FOR REVISED FINDINGS HEARING

EX PARTE COMMUNICATION

Ex Parte Correspondence

I. MOTION AND RESOLUTION

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in adoption of revised findings as set forth in this report. The motion requires a majority vote of the members of the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are Commissioners Howell, Luevano, Padilla, Sundberg, Uranga, Vargas, and Vice-Chair Turnbull-Sanders.

***Motion:** I move that the Commission adopt the revised findings in support of the Commission's action on November 8, 2017 approving Coastal Development Permit Number A-3-MCO-09-009, and I recommend a yes vote.*

***Resolution:** The Commission hereby adopts the revised findings set forth below for Coastal Development Permit Number A-3-MCO-09-009 on the grounds that the findings support the Commission's decision made on November 8, 2017, and accurately reflect the reasons for it.*

II. DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The proposed project is located on two parcels (totaling 33.58 acres) at 100 Sill Road on the eastern edge of the unincorporated community of Las Lomas in North Monterey County. Las Lomas is a small, rural, predominantly residential community surrounded by North Monterey County's characteristic rolling hills consisting of open space covered by grasslands, maritime chaparral, and oak forest habitat; agricultural uses, including for both grazing and row crops; and very-low-density residential development. The project site generally is located along the eastern border of the urbanized portion of this rural community, and is surrounded to the northwest and southwest by low-density residential development, and to the northeast and southeast by open space and agricultural row crops. The western side of the project site is undeveloped, consisting of 16.5 acres of oak woodland, while roughly 11 acres along the eastern side of the site consists of strawberry row crops and other agricultural development. Hall Road forms the project site's southern boundary, while Sill Road forms the northern boundary. The northern portion along Sill Road is mostly flat at an elevation of roughly 72 feet above sea level, and then slopes down some 60 feet in elevation to an elevation of roughly 12 feet above sea level along Hall Road. The project site contains two single-family residences and two mobile homes. The property is mostly zoned Medium Density Residential (MDR), which allows for a potential maximum residential density of up to four units per acre if constraints are not present that dictate a lower density. A portion of the southeast corner of the project site is zoned Coastal General Commercial (CGC), which allows for a broad range of commercial uses.

See **Exhibit 1** for project location maps and **Exhibit 2** for aerial photos of the project site.

B. PROJECT DESCRIPTION

The approved project consists of the subdivision of two parcels totaling 33.58 acres into 52 residential lots, the construction of 54 residences and community park and recreation facilities, and a series of other related improvements, as described below. Specifically, the approved project consists of the following components:

- Subdivision of two parcels into 57 lots, including 52 residential lots.
- Demolition of one single-family residence and two barns, and removal of two mobile home units.
- Construction of 54 residences, comprised of 50 single-family residences and four residences in duplexes. Two of the single-family residences will be designated as Workforce Housing (i.e., affordable to households earning no more than 180% of County median income) and the four duplex units will be designated as affordable rental units pursuant to Monterey County affordable housing guidelines.
- Payment of fees for six inclusionary housing units to Monterey County's affordable housing in-lieu fee program prior to recordation of the Final Map.
- Dedication of 3.48 acres of land (i.e., the three lots shown as "Park Sites" and the lot shown as "Community Recreational Field Parcel" in the Site Plan in Exhibit 3) to the Monterey County Parks Department for public park and recreational facilities. The specific park and recreational facilities to be developed will be identified via a Park and Recreation Facilities Plan (Plan), which will be prepared by the Permittee in conjunction with the Monterey County Parks Department. The Plan will also identify provisions for ongoing operations and maintenance of the park facilities, including in terms of funding, so as to ensure that all park and recreation facilities are kept in a state of good repair and available and open for public use and enjoyment. If the development is phased, the Plan will also indicate the phasing and construction schedule for each park site. All identified park and recreation facilities will be free and open to the general public in perpetuity. The Permittee will construct the park and recreation facilities identified in the Plan and they will be ready and available for public use and enjoyment within two years of Final Map recordation for each phase that incorporates a park.
- Dedication of 11.1 acres of land (i.e., the area designated as "Community Open Space Recreation Area" as shown in the Site Plan in Exhibit 3) to a future to-be-formed community service district or other appropriate public entity for oak woodland and habitat restoration and passive recreation (e.g., trails), and preparation and implementation of an Oak Woodland Restoration Plan for this area with the goal of enhancing and restoring oak woodland habitat to a self-sustaining natural habitat state. Limited passive recreation, such as trails, is also allowed in this area, and any such passive recreation improvements will be sited and designed in a manner to not impair habitat resources. The Permittee will dedicate the land when the receiving entity has been formed and/or identified. The Permittee will undertake the oak woodland restoration pursuant to the Plan within two years of Final Map recordation.
- Dedication of 2.7 acres of land (i.e., the area designated as "Conservation Easement for Wetland Preserve" as shown in the Site Plan in Exhibit 3) to a future to-be-formed

community service district or other appropriate public entity for wetland habitat preservation. No development will occur in this area except for wetland habitat restoration and preservation activities. The Permittee will dedicate the land when the receiving entity has been formed and/or identified.

- Dedication of 0.2 acres for willow riparian habitat preservation (i.e., the area designated as “Conservation Easement for Willow Riparian Habitat” as shown in the Site Plan in Exhibit 3) to a future to-be-formed community service district or other appropriate public entity for willow riparian habitat preservation. No development will occur in this area except for willow riparian habitat restoration activities. The Permittee will dedicate the land when the receiving entity has been formed and/or identified.
- Dedication of 3.05 acres of land (i.e., the area designated as “Area Designated CGC (CZ)” as shown in the Site Plan in Exhibit 3) and dedication of 0.6 acres of land and an existing single-family residential building (i.e., the area designated as “Community Facilities Parcel” in the Site Plan in Exhibit 3) to a future to-be-formed community service district or other appropriate public entity for future use as a community facility. The Permittee will dedicate the land when the receiving entity has been formed and/or identified.
- Construction of Hall Road/Sill Road improvements as follows:
 - Add a second southbound lane on Sill Road (with striping for left and right turns) approaching Hall Road.
 - Add a traffic signal at the Hall Road/Sill Road intersection.
 - Move the Hall Road crosswalk to the west side of the Hall Road/Sill Road intersection
 - Expand travel lanes (to a minimum of nine-foot wide travel lanes) from the site to Harrington Road.
 - Add a pedestrian connection from Sill Road to the area designated as “Community Open Space Recreation Area” as shown in the Site Plan in Exhibit 3, and from Sill Road to the Hall District Elementary School parcel boundary.
 - Add a pedestrian sidewalk connecting the residential area to the active recreational area.
 - Add bicycle racks at the Community Facilities Parcel and bus stop improvements at the entrance to the Community Recreational Field Parcel.
 - Dedicate 5 parking spaces at the entrance to the Community Recreational Field Parcel for Park and Ride.

The Permittee will undertake the transportation improvements prior to issuance of the first occupancy permit.

- Residential siting and design to ensure that residential development does not silhouette over the ridge when viewed by pedestrians, bicyclists, and/or occupants in vehicles on Hall Road. In addition, vegetative screening will be employed to ensure that all residential structures and

related development are mostly screened from these same Hall Road views through planting native trees and other vegetation, where such plantings are sited in such a way as to help screen the residences from Hall Road view at maturity. All such screening vegetation will be kept in good growing condition and will be replaced as necessary to maintain the approved vegetation and its screening capacity over the life of the project. Regular monitoring and provisions for remedial action (such as replanting as necessary) will be identified to ensure screening success. All plant materials will be native and non-invasive species, and all plantings will be consistent with the Oak Woodland Restoration Plan.

- A post-construction drainage and erosion control system that is sited and designed to the maximum extent feasible: to collect, filter, treat, and direct all site drainage and runoff in a manner designed to protect and enhance coastal resources; to prevent pollutants, including sediments, from entering coastal waters or wetlands; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite; to use low impact development BMPs; and to include maintenance and management procedures applicable for the life of the project (including with respect to any homeowners association agreements as appropriate).
- Net water usage for all of the above uses and development shall maintain a net positive water balance. The Permittee will prepare a water use audit prior to the issuance of the last 40 percent of residential building permits for the project, and annually thereafter until the final audit in the year after the last residential occupancy permit has been issued, demonstrating that net water use is positive, and if not, identifying provisions to reduce net project water use to achieve a positive balance. Such provisions may include offsets of project water use, either onsite or at other locations in the basin, including without limitation, greywater re-use, stormwater capture and re-use/infiltration, retrofitting, and recycling of wastewater. The limitations of this measure will be deemed satisfied and removed if the Revised Basin Management Plan or substitute measures are adequately implemented by the Pajaro Valley Water Management Agency or Monterey County, and/or if the Water Resources Agency determines that a sustainable water supply is available for the hydrogeological area. The developer shall enter into an agreement with Monterey County to contractually set the terms of this measure.
- Abandonment of all existing wells and septic systems pursuant to all applicable Monterey County Department of Environmental Health requirements and parameters.
- Implementation of conditions of approval for County approval PLN970159 (see Exhibit 3), as adjusted where necessary to harmonize the conditions with the above-defined approved project parameters, where such conditions will only be implemented in a manner consistent with the approved project parameters.

See project plans dated October 26, 2017 and dated received in the Commission's Central Coast District office on October 27, 2017 for additional detail on the approved project. The Permittee will undertake development and related steps as identified in the above project description, and any questions regarding the approved project will be resolved by the Executive Director or, in the case of a dispute between the Executive Director and the Permittee, by the Commission.

C. PROJECT HISTORY

The project site was the subject of an LCP amendment approved by the Commission in 1986. LUP Policy 4.3.6.D.6 formerly designated the project site High Density Residential and as a Special Treatment Area specifically programmed for residential development, as follows:

An area of high density residential development is planned at Las Lomas between Hall and Sill roads in order to encourage the provision of low and moderate income housing consistent with the Las Lomas Development Incentive Zone of the Monterey County Housing Element. The area designated for High Density Residential development contains approximately 44 acres and may, consistent with the availability of public services and other resource considerations, be developed at a gross density of 7 to 7.5 dwellings per acre, or a total of about 320 units. The Special Treatment Area designation is applied in order to encourage planned development that will ensure retention of the site's natural amenities, particularly its mature oaks and also to provide for community needs such as a meeting hall or recreation area, and convenience shopping.

However, this entire policy was deleted from the LCP in 1986 in LCP Amendment No. 1-85.¹ This LCP amendment also changed the land use designation from High Density Residential to Medium Density Residential and deleted the Special Treatment Area designation, all due to public service capacity constraints that limited the intense residential development previously envisioned (see the Commission-adopted staff report for this LCP amendment in **Exhibit 7**).

On October 29, 2008, the Monterey County Planning Commission *denied* the proposed project based on LCP inconsistencies with respect to lack of water and traffic congestion, including finding that the project's benefits did not outweigh its environmental effects. The Planning Commission's decision was appealed to the Board of Supervisors, who reversed the Planning Commission denial and approved a CDP for the project on December 9, 2008. On February 25, 2009, the project was appealed to the Coastal Commission, and on July 14, 2017, the Commission found that the County's action raised a substantial issue of conformance with the Monterey County LCP's water supply and groundwater resources policies, as well as policies protecting agriculture, visual resources, ESHA, and traffic. Specifically, the Commission found that a subdivision that would necessitate an additional permanent demand of water for future residential development from an already overdrafted groundwater source raises substantial conformance issues with LCP policies that only authorize a level of development that can be served by the groundwater basin's safe yield amount, and with LCP policies that dictate residential subdivision to be the lowest priority land use to receive water when supplies are scarce (coastal-dependent uses being the highest priority). Furthermore, the Commission found substantial issue with respect to the project's conformance with the LCP's ESHA and agricultural protection policies, including because it included subdivision and residential development of LCP-protected oak woodland ESHA and prime/productive soils. And lastly, the Commission found that the project raised LCP conformance issues with respect to visual resources and traffic, including that it would introduce a large, suburban-style subdivision into a rural, agricultural area with limited transportation infrastructure.

At the time the appeal was filed, the County was processing other similar North County residential subdivision projects. Thus, Commission staff concluded it would be prudent to work

¹ Approved by the Commission on March 26, 1986.

with the County on the subdivision projects moving through the local process, with the goal of coming to resolution with County staff on how the LCP's provisions relate to the residential development potential in North County given common factual circumstances (in order to reach an understanding as to interpretation of core LCP policies so as to avoid unnecessary appeals, if possible). Commission staff reviewed and commented on all of these projects, including the current project on appeal as it went through the local process (see Commission staff comments to the County and Applicant in **Exhibit 9**, where Commission staff identified, in their view, numerous concerns with the County's interpretations on various LCP policies and the assumptions being made with respect to available water supplies, as well as the LCP inconsistencies this project engendered with respect to agricultural, visual, and biological resources and traffic). Additionally, at that time numerous water supply projects and programs were either being proposed or were under construction that could have potentially affected North Monterey County's water resources and groundwater supply. Therefore, Commission staff felt it necessary to understand the viability and efficacy of the various water supply projects as they would relate to the project currently on appeal, and whether those projects would abate the area's ongoing and long-term groundwater overdraft.

While undertaking this outreach with the County and monitoring North Monterey County's water situation, and after informing the Applicant of the staff-identified LCP inconsistencies the County-approved project engendered, staff did not hear from the Applicant about whether it still intended to move forward with the project following the appeals in 2009 (see 2011 staff letter to the Applicant in **Exhibit 6**, where staff also identified that, if the Applicant still wanted to pursue the project, staff would be recommending that a substantial issue with the County's approval exists and that the Commission deny a CDP for the project on de novo review based on staff-identified LCP inconsistencies with respect to water supply, groundwater resources, agricultural resources, visual resources, ESHA, and traffic). In 2015, the Applicant indicated that it was still interested in pursuing the project and that, in an attempt to address the project's potential coastal resource impacts, had revised the project from the one approved by the County. Since then, staff subsequently met with the Applicant and its representatives on several occasions to discuss project issues. While all parties had agreed that the Commission's July 2017 hearing in the Central Coast would be an appropriate time and venue to hear the project before the Commission, on the day of the hearing, the Applicant postponed the de novo review portion of that hearing. Staff subsequently informed the Applicant that the project would be heard on de novo review in November 2017.

D. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the Monterey County certified LCP.

North Monterey County Background

North Monterey County is a predominantly rural area with significant coastal resources, including open space occupied by grasslands, maritime chaparral, and oak woodland habitats, and significant agricultural operations, including for both grazing and row crops, all surrounding the Elkhorn Slough estuarine complex, a federal reserve and one of the largest and most important coastal wetlands and estuaries remaining in California. Because of the area's rich coastal resources, longstanding public policy, including as codified in the LCP, has been to retain North Monterey County as a rural, open space and agricultural buffer along the mid-Monterey

Bay area, in between the more urban areas of Santa Cruz County to the north and the Monterey Peninsula to the south. In other words, one of the region's land use planning goals has historically been to direct more urban development to existing urban centers along the north and south ends of the Monterey Bay, and not to sprawl within the ecologically and agriculturally productive North County area. This broad goal was articulated in the findings of the 1975 California Coastal Plan (Coastal Plan), prepared for the Governor and Legislature by the California Coastal Zone Conservation Commission per the requirements of the 1972 Proposition 20, which helped inform and shape the Coastal Act. Specifically, the Coastal Plan found that the area contained incredibly rich coastal resources, including at Elkhorn Slough and the adjacent agricultural lands, but that these resources were at risk from numerous sources, including urban growth and sprawl, water quality impairment, and groundwater overdraft and seawater intrusion. Specifically, the Coastal Plan found:

*The Pajaro Valley, covering 120 square miles, is one of the richest agricultural regions in California...but **increasing drafts of groundwater, for urban and agricultural use, have had adverse effects**; the water supply for 50 square miles of agricultural land between the Pajaro Valley and Marina is **currently threatened by saltwater intrusion**. The urban center of the valley, Watsonville (population 17,000), has grown rapidly, sprawling into surrounding farmlands. The healthy economy of the area, based on food production and processing, encourages expansion of Watsonville and its suburbs, Freedom and Pajaro. **Substantial growth of these communities would involve the loss of valuable agricultural lands** designated for protection under county plans and the Coastal Plan, and would necessitate expensive solutions to the water supply problem. **Plan policies call for concentrating development in existing urban areas, such as Watsonville, Pajaro, Castroville, and Moss Landing, rather than allowing continued conversion of agricultural land...[Elkhorn Slough] is threatened by locally planned expansion of existing industrial and harbor developments, and by residential development of the critical watershed....Although the major part of Elkhorn Slough is in public ownership, neither the critical watershed nor the wetland resource itself is adequately protected.**² (emphasis added)*

Thus, the Coastal Plan found that strong growth control protections were needed to protect coastal resources in North County, including policies addressing water quality, groundwater overdraft and resultant seawater intrusion, and agricultural protections, all with the overarching goal of preserving the area's rural nature. These recommendations were largely ultimately adopted in both the Coastal Act (including as evidenced by the inland extent of the coastal zone boundary that encompasses the entire Elkhorn Slough area, extending inland a distance of over seven miles, so as to comprehensively plan for and protect it) and in the North County LCP's policies and standards, as described below.

1. Water Supply and Groundwater Resources

Applicable Policies and Standards

² California Coastal Plan Central Coast Subregion 5: Pajaro-Elkhorn (Part IV: Plan Maps and Regional Summaries, page 230).

The Monterey County LCP includes an extensive policy framework meant to protect the area's rich coastal resources, including through policies that: protect groundwater and the related basins' safe yield; require an adequate and long-term water supply to serve new development; and protect and prioritize agriculture and other coastal-dependent development. Specifically, the North County LCP contains numerous policies and standards that protect North County's groundwater resources, including (where text in **bold** format means emphasis added):

*North County Land Use Plan (LUP) Policy 2.5.1 - Key Policy. The water quality of the North County groundwater aquifers shall be protected, and **new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies.** The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed areas.*

*North County LUP Policy 2.5.2.3. New development shall be phased so that the **existing water supplies are not committed beyond their safe long-term yields.** Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured.*

North County IP Section 20.144.020.VVVV. Safe Yield/Sustained Yield or Long-Term Sustained Yield is the yield that a renewable resource can produce continuously over the long-term at a given intensity of management without impairment of the resource and other associated resources.

*North County LUP Policy 2.5.3.A.1. The County's policy shall be to protect **groundwater supplies for coastal priority agricultural uses** with emphasis on agricultural lands located in areas designated in the plan for exclusive agricultural use.*

*North County LUP Policy 2.5.3.A.2. The County's long-term policy shall be to **limit ground water use to the safe-yield level.** The first phase of new development shall be limited to a level not exceeding 50% of the remaining build-out as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies. Additional development beyond the first phase shall be permitted only after safe-yields have been established or other water supplies are determined to be available by an approved LCP amendment. Any amendment request shall be based upon definitive water studies, and shall include appropriate water management programs.*

*North County Implementation Plan (IP) Section 20.144.140.B.3.a... That remaining **build-out figure is 1,351 new lots or units.** This figure shall include senior citizen units, caretaker units, multiple family dwellings, employee housing, and lots created through subdivision approved after County assumption of permitting authority, but shall exclude development of a single-family dwelling on a vacant lot of record.*

*North County IP Section 20.144.070.E.11. Development shall not be permitted if it has been determined, through preparation of a hydrologic report, or other resource information, that: **a) the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer; and, b.) there are no***

project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.

North County LUP Policy 4.3.5.4. *Where there is limited land, water, or public facilities to support development, coastal-dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses.*

North County IP Section 20.144.140.A.1. *Development of non-coastal dependent uses shall require availability of adequate sewer, water, and transportation services. Prior to the application being determined complete, the applicant shall demonstrate adequacy of water, sewer, and transportation services.... **Where services are determined not to be adequate for the proposed non-coastal dependent use, only coastal dependent uses shall be permitted.***

North County LUP Policy 4.3.5.7. *New subdivision and development dependent upon groundwater shall be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. In order to minimize the additional overdraft of groundwater accompanying new development, water conservation and on-site recharge methods shall be incorporated into site and structure design.*

North County LUP Policy 4.3.6.D.1. *Land divisions for residential purposes shall be approved at a density determined by evaluation of site and cumulative impact criteria set forth in this plan. These include geologic, flood, and fire hazard, slope, vegetation, environmentally sensitive habitat, water quality, water availability, erosion, septic tank suitability, adjacent land use compatibility, public service and facility, and where appropriate, coastal access and visual resource opportunities and constraints.*

IP Section 20.64.180.D. *Density of Development Standards. The maximum density established under this Section shall be utilized as the basis to begin consideration of the density appropriate for development of a specific parcel. Such established maximum density is not a guarantee of possible development potential of any given property. Density of development shall ultimately be determined through the permit process, consideration of site conditions on the specific property and of the details of the specific development proposal without imposing undue restrictions on private property. Such considerations may include but are not limited to: ... 2. Available supply and priorities for water....*

North County LUP Policy 4.3.6.D.5. *Where public facilities or water supply necessary to support residential development are limited, residential growth should be phased to allow sufficient time for these essential elements to be provided.*

North County LUP Policy 7.3.1. *A growth management program phasing residential and, where appropriate, commercial and industrial development may be instituted in the North County coastal zone (and in other parts of the County) based upon natural resource protection, water availability, and public facility capacities and constraints. A*

phased residential allocation system may be developed. Development and subdivision proposals could be processed at set periods during the year. If there are large numbers of applications, those not accepted in a particular process could be considered the following period. During evaluation of applications, priority should be given to coastal-dependent or related uses and development of existing parcels.

While describing the various coastal resources that warrant protection and the groundwater/water supply and other public services constraints that limit the amount of new development, the LCP also recognizes the need for additional affordable housing in North County in a manner that respects and responds to the area's resources and infrastructure limitations. LUP Section 4.2, when describing land use planning issues affecting North County, states:

The limited capacities of roads, highways, schools, and public wastewater treatment systems is an issue affecting potential growth in the area. The need for additional affordable housing is becoming an increasing concern. A related issue is the need to determine appropriate areas to concentrate development to offer the potential for provision of affordable housing while retaining the overall rural character of North County.

And LUP Policy 4.3.6.2 specifically encourages housing affordable to low and moderate income households:

***North County LUP Policy 4.3.6.2:** The County shall encourage the expansion of housing opportunities for low and moderate income households.*

Recognizing the limited areas in North County that can potentially accommodate such needed affordable housing opportunities given the area's constraints, the LCP identifies three existing community nodes as potentially appropriate for medium density housing and commensurate urban infrastructure (e.g., roads, parks, schools, etc.). Las Lomas is one of the identified communities:

***North County LUP Policy 4.3.5.2:** Residential development at medium to high densities shall be concentrated in areas with adequate sewer, water, and transportation services. The **Las Lomas/Fruitland area**, Oak Hills, and Moss Landing areas are appropriate for concentrated development. These areas shall be developed within established urban/rural boundaries before additional land is designated for concentrated development.*

To summarize, the LCP includes policies and standards that require all new development be limited to a level that can be served by an identifiable, available, and long-term water supply (LUP Policy 2.5.1), including by only authorizing an amount of development that can be served by the safe yield groundwater extraction level (LUP Policies 2.5.2.3 and 2.5.3.A.2). The LCP defines "safe yield" as the amount of extraction that the resource can produce over the long term without impairment of the resource and other associated resources (North County IP Section 20.144.020.VVVV). The LCP does not contain a specific numeric safe yield amount for each groundwater basin, but instead requires definitive water studies, hydrologic reports, and the most updated resource information to determine appropriate safe yields and the amount of new development such a yield can support (LUP Policy 2.5.3.A.2 and IP Section 20.144.070.E.11).

The LCP also prioritizes additional affordable housing and community investment, and identifies that such residential growth is to be accommodated within areas appropriate for concentrated development, including explicitly Las Lomas. In other words, due to the known limits on where and how much urban growth North County can accommodate, the LCP identifies three areas designated for such growth, and specifically identifies that areas outside of such communities are not to be developed until development has occurred within these designated areas, one of which is Las Lomas.

Consistent with the above-discussed policies and standards, the LCP also requires development to be phased so that water supplies are not committed beyond their safe yield and, if the safe yield is already exceeded, development that generates demand exceeding the safe yield shall only be allowed once additional water supplies are secured that will bring the basin back into the LCP's required safe yield state (LUP Policy 2.5.2.3). On this point, the LUP further requires that where there is limited water supply to support development, certain uses, such as coastal-dependent uses (such as coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP Policy 4.3.5.4). Finally, LUP Policy 4.3.5.7 requires new subdivisions and development dependent upon groundwater to be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. Should studies suggest that the underlying groundwater basin is being extracted in a manner exceeding its safe, long-term yield, then the LCP affirmatively requires denial of certain types of development, including that which generates water demand that exceeds or adversely impacts the safe, long-term yield unless and until additional water supplies are secured and the safe yield level is reached (IP Sections 20.144.070.E.11, 20.144.140.A.1, and Policy 2.5.2.3).

In sum, these policies and standards only authorize a level of development that can be supported by the safe yield extraction level of the underlying groundwater basin, and do not allow most development, including if it generates demand that exceeds the safe yield level.

Overall, these policies are meant to implement applicable Coastal Act policies that require new development to be located within existing developed areas served by adequate public services (Section 30250), in a manner that does not significantly and adversely impact groundwater and other coastal resources (Sections 30231 and 30250), and by prioritizing certain land uses, such as agriculture, over others as a matter of policy, such as rural residential subdivisions (Section 30222).

Analysis

Groundwater Overdraft and Safe Yield Calculations

The subject site is located in North Monterey County, which has severe groundwater overdraft and resultant seawater intrusion problems. Virtually all of the agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells, with agriculture accounting for approximately 85 percent of the water demand. When the North County LUP was adopted in 1988, it acknowledged that the area had been experiencing overdraft problems for some time, but was not able to quantify the amount of overdraft or determine what the safe yield was at the time. Rather, the LUP noted that:

*A study for the State Department of Water Resources in 1977 indicated a general groundwater overdraft of about 15,500 acre-feet annually in the North County area. A more detailed study by the U.S. Geological Survey in 1980 confirmed the overdraft of the Aromas Sand Aquifer. The report estimated a study area annual overdraft in the North County area of about 1,500 to 8,000 acre-feet. However, due to the depth of the water-bearing Aromas Sands, its high storage capacity, and the overall complexity of geologic and hydrologic considerations, **the long-term safe yield of the aquifer is difficult to estimate...***

*It is evident that continued overdraft in the North County will lead to increasing saltwater intrusion and lower water tables. In some areas, water shortages may occur. Managing the demand for water generated by agricultural use and residential and commercial development within the limits of attainable long-term water supply sources will be a major challenge for the area in the coming years. **Additional information is urgently needed to help determine the long-term safe yield of North County aquifers.** The opportunities for obtaining a surface water supply should also be investigated.*
(emphasis added)

In this context, the certified LCP included a policy framework that allowed for some development, but only in a cautious, phased manner commensurate with the area's safe yield and subject to a buildout cap that could only be exceeded once definitive water studies were developed and the safe yield was established. In other words, while there was no consensus on the precise quantification of the problem or on how to quantify the safe yield at the time the LUP was certified, the LUP was developed to manage the demand for water by establishing policies that phased development relative to safe yield, to be later quantified and understood using the best available science.

The LUP also limited the total amount of residential development in North County (beyond one home per legal parcel) by placing a maximum threshold on residential buildout until that safe yield level could be determined. Because the overdraft situation was not precisely known at the time of LUP adoption, to be cautious, LUP Policy 2.5.3.A.2 establishes that no more than 50% of the maximum³ residential buildout based on parcel size and subdivision potential (i.e., 1,351 units or lots) for the entire North County area may be allowed while the County pursued efforts to quantify the overdraft problem and arrive at a solution. The policy establishes this maximum as a cap until a new water supply is secured or once a safe yield is achieved, at which time this cap could be increased via LCP amendment.⁴ However, that is a maximum possible threshold, and LUP Policy 2.5.3.A.2 includes a caveat that allows this cap to be reduced to limit groundwater use to the safe-yield level once it was determined, or if required in order to protect

³ The 50% buildout cap was derived from multiplying plan densities by area acreage. These buildout numbers do not account for potential resource constraints that might be identified when additional units or subdivision are proposed, and that might dictate a lower density (e.g., significant wetland areas and/or water resource constraints that preclude development). The LUP is clear that actual development potential is contingent on natural resource constraints and the availability of public services (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).

⁴ This policy applies to new subdivided lots and second units on existing lots. One home per vacant parcel (existing at the time of enactment of the LCP policy) is allowed independent of the 50% buildout number. However, second units are no longer allowable in the North County coastal zone (due to water supply inadequacies) per LCP amendment number LCP-3-MCO-15-0022-1, approved by the Commission in October 2015.

agricultural water supplies. Thus, the 50% build-out level is not determinative of the amount of development that the area's resource can actually support or is permitted when taking into account coastal resource considerations, but rather is an upper range that could be further reduced in order to protect groundwater resources once more was known about their status. Other LCP provisions similarly state that development and density allowances are theoretic maximums, not entitlements, with new development limited by resource constraints and LCP requirements (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).⁵

Since the time that the LUP was certified, the County has sponsored more definitive studies to determine the safe yield. The first study commissioned by the County, conducted in 1995 by Fugro West, calculated the groundwater overdraft for the area's five groundwater sub-basins on the order of 11,700 acre-feet per year (AFY), based off a defined safe groundwater withdrawal yield of 14,410 AFY and an actual extraction of 26,110 AFY. Subsequently, the 2002 *North Monterey County Comprehensive Water Resources Management Plan (CWRMP)*, prepared by the Monterey County Water Resources Agency and EDAW, updated the 1995 analysis and calculated the overdraft to be as much as 16,340 AFY due to an increase in estimated water usage (while finding the safe groundwater withdrawal yield to be the same at 14,410 AFY) (see **Exhibit 4** for the North Monterey County groundwater aquifer geography).

Thus, these studies not only quantified the estimated safe yield for the collective groundwater basins, but the 2002 study also showed that the overdraft was more than what was first estimated (due to increased water usage) and that as a result of continued overdraft, the extent and severity of the resultant problems (e.g., extent of seawater intrusion, increased water contamination problems, increase in the number of abandoned wells, adverse effects on coastal agriculture, etc.) have increased over time. For example, in the Highlands North sub-basin, which would provide water to the proposed project, the 1995 Fugro West study calculated a sustainable yield of 2,920 AFY and historical groundwater demand of 4,780 AFY, resulting in a deficit of 1,860 AFY. Updated values provided in the 2002 CWRMP identified the same sustainable yield of 2,920 AFY, but updated the water demand estimates for the sub-area to be 5,621 AFY, for a total overdraft of 2,701 AFY. This represents an over 45% increase in the overdraft for the Highlands North sub-basin over the span of seven years.

The 2002 CWRMP also showed that long-term over-commitment of the aquifer threatens water supplies and other existing users due to the risk of lowered groundwater levels and seawater intrusion. The Fugro West study identified a general long-term trend of declining water levels in the area over the preceding 20 years, with 1994 water levels in some portions of North County being more than 40 feet below mean sea level (near Prunedale). Seawater intrusion results when wells pumped near the coast cause the water table elevation (or groundwater level) to drop below sea level. Once the water table elevation drops below sea level, seawater can migrate into the aquifer (from the ocean as well as from the tidally-influenced Elkhorn Slough system) and mix with freshwater, which increases the chloride concentrations in the groundwater pumped from these wells. The CWRMP maps entitled "Seawater Intrusion in North Monterey County" show

⁵ The Commission has found that North County's buildout and density numbers are hypothetical maximums, whereby actual allowable buildout and density must be understood based on actual resource constraints and LCP requirements (e.g., see CDP applications A-3-MCO-04-054, A-3-MCO-05-027, A-3-MCO-06-044, LCP amendment MCO-MAJ-1-06, and CDP extension A-3-MCO-04-054-E3).

that the 500-mg/l-chloride contour⁶ has moved landward over time, from between 1,650 feet inland of the coast to 3,300 feet inland of the coast over the period between 1979 and 1993. Seawater intrusion threatens both agricultural and residential water uses. According to the CWRMP, the Springfield Terrace area (in the northwestern portion of North Monterey County) and other areas near Elkhorn Slough have been the most impacted by elevated chloride ion concentrations as a result of seawater intrusion, and many agricultural producers have had to abandon their water supply wells, mix salty well water with fresher water to reduce the chloride concentrations, or purchase reclaimed water for irrigating agricultural lands. Other agricultural and residential wells have had to be abandoned or drilled to deeper depths to reach unaffected portions of the aquifer.

In 2014, the Pajaro Valley Water Management Agency (Agency) updated its *Basin Management Plan* (Basin Plan).⁷ The purpose of the Basin Plan is to serve as the principal document guiding all of the Agency's major projects and programs, with the goals of reducing overdraft, halting seawater intrusion, and improving and protecting water quality within the entire Pajaro Valley Groundwater Basin. The 2014 Basin Plan updated the previously adopted version from 2002. The 2002 Basin Plan found that sustainable yield⁸ was roughly 48,000 AFY and, with a then-current demand of 69,000 AFY, the basin's groundwater supply was being overdrafted by roughly 21,000 AFY. The 2002 Basin Plan then described various programs intended to address this overdraft, including projects that reduced water demand as well as projects that increased water supply. One such identified water supply project was 13,400 AFY of new imported water from the United States Bureau of Reclamation-controlled Central Valley Project. However, due to funding issues and other project constraints, in early 2010 the Agency took formal action to remove this import pipeline from project consideration.

The updated 2014 Basin Plan calculated the entire Basin's 2013 total water usage to be roughly 61,000 AFY, and calculated its overdraft at 12,100 AFY (assuming a sustainable yield of roughly 48,000 AFY). Although the 2014 Basin Plan calculated a reduced overdraft as compared to the 2002 Plan (21,000 AFY v. 12,000 AFY), the Basin Plan still concluded:

The Pajaro Valley groundwater basin is in severe overdraft, causing groundwater elevations to drop below sea level as shown in Figure ES-1 and leading to seawater intrusion. Seawater intrusion has caused chloride contamination of groundwater wells up to three miles inland, as shown in Figure ES-2. Seawater intrusion is an immediate and direct threat to the Pajaro Valley economy. The elevated chloride concentrations

⁶ A concentration of 500-mg/l of chloride is the "Secondary Drinking Water Standard" upper limit and is used as a measure of impairment of water, and is therefore also the basis for determining seawater intrusion in wells.

⁷ The *Basin Management Plan* quantified the overdraft condition of the entire Pajaro Valley Groundwater Basin, which extends into Santa Cruz County. The *North Monterey County Hydrogeologic Study* and the *North Monterey County Comprehensive Water Resources Management Plan*, the two previous studies on groundwater overdraft, quantified overdraft solely within the portions of the two groundwater basins (Salinas River and Pajaro Valley) located within the North County LCP area. Thus, the three reports share different geographic scopes resulting in larger absolute calculations for the 2014 Basin Management Plan as compared to the 1995 Fugro West Study and the 2002 CWRMP, but all quantify overdraft within the project area.

⁸ The 2002 Plan defined "sustainable yield" as "the maximum amount of groundwater that can be extracted from the aquifer without causing adverse effects...i.e. recharge = demand, and seawater intrusion [is] eliminated."

make the groundwater unusable for irrigating the high value, salt-sensitive crops in the coastal region of the Pajaro Valley.⁹ (emphasis added)

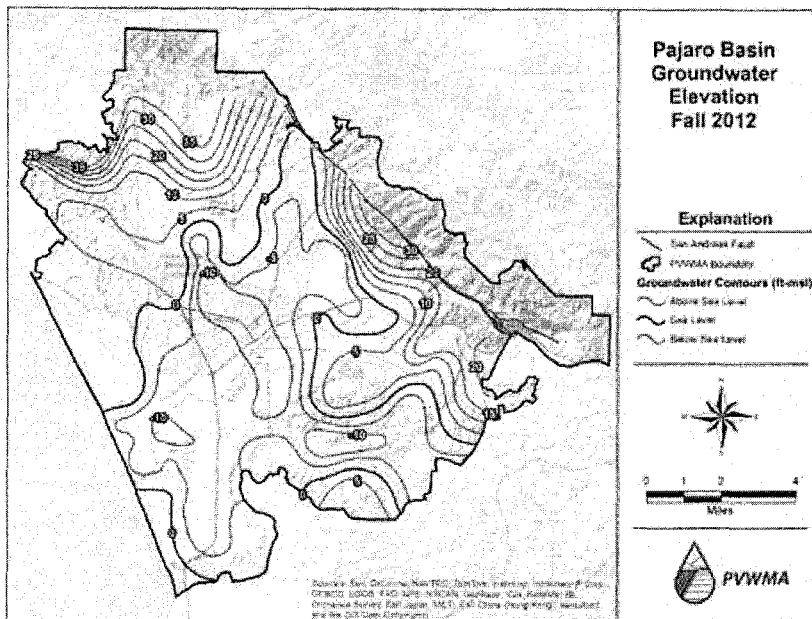


Figure ES-1. Groundwater levels in much of the basin are below sea level.

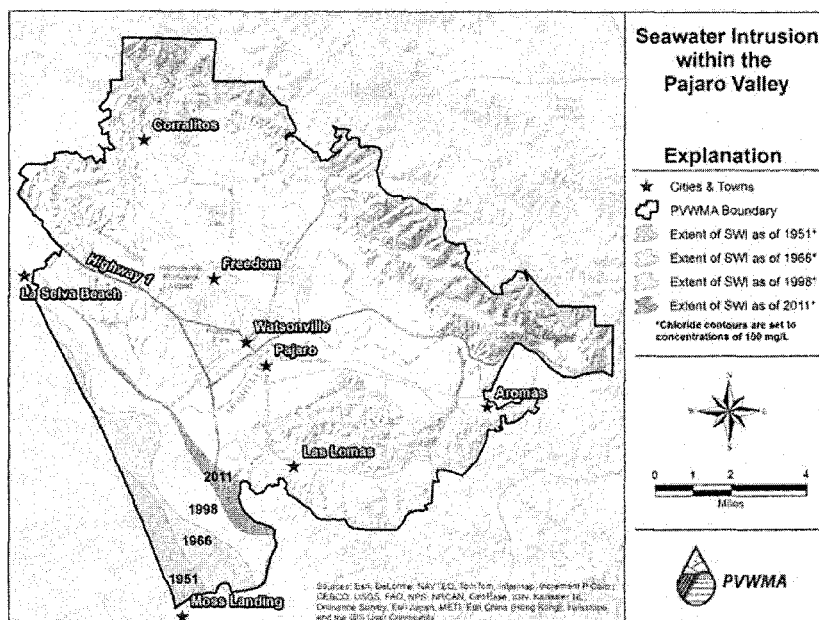


Figure ES-2. Seawater continues to degrade groundwater along the coast.

To erase the groundwater deficit (and to make up for the loss of imported water relied on in the 2002 Basin Plan), the 2014 Basin Plan listed a set of projects meant to either increase supply (including through increased water recycling), optimize existing supplies (including through upgrades at existing facilities), and reduce water consumption. Specifically, one of the primary

⁹ Pajaro Valley Water Management Agency Basin Management Plan Update Executive Summary Page ES-1.

differences in the 2014 Basin Plan update from the 2002 Basin Plan is its reliance on conservation programs to reduce water demand, eliminate basin overdraft, and halt seawater intrusion. The 2014 Basin Plan relies on conservation programs, which are intended to result in 5,000 AFY of reduced water consumption, or over 40% of the total water consumption reduction necessary to stop basin overdraft. These conservation programs include agricultural irrigation efficiency projects, pricing strategies, and residential groundwater usage metering. In essence, the new Basin Plan provides an updated quantification of the basin's overdraft and serves as the blueprint for identifying measures meant to address and solve the Pajaro Valley Groundwater Basin's overdraft and seawater intrusion problems. Unlike the previous 2002 Plan, which relied heavily on new water supplies emanating from imported water from the Federal government, the updated Basin Plan eliminates the imported water allowance and instead relies heavily on reducing water demand through conservation strategies. The 2014 Basin Plan, however, acknowledges that it will take decades for these strategies to meet its overdraft reduction objectives.

Furthermore, although not a groundwater study commissioned by the County, implementation to date of the State's Sustainable Groundwater Management Act (SGMA) represents additional best available scientific information supporting the conclusion that groundwater in the Highlands North sub-basin (where the property at issue is located) is being over-extracted in exceedance of its safe yield. The SGMA was signed into law by the Governor on September 16, 2014. The 2014 SGMA establishes a new structure for groundwater management in California, requiring all overdrafted groundwater basins to be managed by local groundwater sustainability agencies (GSA) under the purview of a Department of Water Resources (DWR)-approved Groundwater Sustainability Plan (GSP). The legislation's intent is to provide for sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and feasible assistance necessary to manage groundwater. SGMA defines "sustainable groundwater management" as the "management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results,"¹⁰ and defines "undesirable results"¹¹ as any of the following effects caused by groundwater conditions occurring throughout the basin:

- Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply
- Significant and unreasonable reduction of groundwater storage
- Significant and unreasonable seawater intrusion
- Significant and unreasonable degraded water quality
- Significant and unreasonable land subsidence
- Surface water depletions that have significant and unreasonable adverse impacts on beneficial uses of the surface water

¹⁰ California Water Code Section 10721(v).

¹¹ California Water Code Section 10721(x)(1)-(6).

SGMA defines “sustainable yield” as “the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus that can be withdrawn annually from a groundwater supply without causing an undesirable result.”¹²

Under the law, DWR is required to identify groundwater basins in “critical conditions of overdraft,” defined as when “continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.” All groundwater basins currently designated as High or Medium Priority per DWR’s 2003 Bulletin 118¹³ and designated as “critically overdrafted” by DWR would be designated as basins in “critical conditions of overdraft” and would be required to be managed under a GSP by January 31, 2020. All other High or Medium Priority basins must have an approved GSP by January 31, 2022.¹⁴

In July 2015, DWR developed a draft list of 21 “critically overdrafted” basins and sub-basins. A groundwater basin was determined to be critically overdrafted if it is currently subject to one or more “undesirable results,” as that term is defined in the law (see bulleted list above). The draft list included the Pajaro Valley Groundwater Basin. As such, in September 2015, PVWMA elected itself to be the Groundwater Sustainability Agency (GSA) for the groundwater basin. As the official GSA, PVWMA will prepare, submit to DWR for adoption, and be the primary agency tasked with implementing the GSP. In January 2016, DWR officially designated the Pajaro Valley Groundwater Basin as “critically overdrafted” (see map of DWR-designated “critically overdrafted” groundwater basins in **Exhibit 8**). Since the Pajaro Valley Groundwater Basin has been deemed a “High Priority” basin in Bulletin 118 since 1980, the basin will be deemed in “critical conditions of overdraft” and be required to have an approved GSP by 2020.

Thus, all four comprehensive information sources (i.e., the 1995 Fugro West study, the 2002 CWRMP, the 2014 Basin Plan, and the SGMA) conclude that North County’s groundwater basins, including the Highlands North sub-basin from which the proposed project would receive its water supply, are overdrafted and supplying water to existing land uses at an amount exceeding the aquifers’ safe yield. Therefore, North County’s groundwater basins are not meeting the performance standards specified in LUP Policies 2.5.2.3 and 2.5.3.A.2, and IP Section 20.144.070.E.11, which require North County’s groundwater basins to be within their safe yield extraction level to allow for certain new development, including that which generates demand that exceeds the safe yield. These water supply policies indicate that the LCP evinces an intent to first bring groundwater basins into safe yield state as a primary LCP objective to be able to normally develop under the LCP in North County. The County further interprets these provisions to allow for some residential subdivision, albeit at fairly low densities (e.g., less than 55 units), when such projects are water neutral or water positive, where such projects have significant public benefit, and where such projects are located in one of the three LCP-identified

¹² California Water Code Section 10721(w).

¹³ Bulletin 118 is DWR’s primary inventory of the state of groundwater basins in California, including the names and boundaries of basins and sub-basins, yield data, water budgets, and water quality.

¹⁴ All other non-High and non-Medium priority groundwater basins are encouraged, but not required, to prepare a GSP.

development “concentration” areas, based on an overall assessment that these types of projects meet certain other LCP goals overall (including providing affordable housing and investment in these three existing communities) and do not exacerbate North Monterey County’s water supply problems. Thus, when groundwater basins are overdrafted, as is the case here, the LCP does not serve as a prohibition to effectively halt all development in all cases in North County. Rather, certain types of LCP-envisioned development may still be allowed when it is affirmatively demonstrated that the development will have no adverse impact on groundwater aquifers and water resources, including to ensure that it will be served by a long-term and adequate water supply.

In this case, the Commission found this project consistent with the above-described LCP analytic framework because it provides some affordable housing and other community goods within Las Lomas, in conformance with LCP Policies 4.2, 4.3.5.2 and 4.3.6.2, and because the project will have a positive effect on the groundwater basin, as described below.

Thus, in terms of LCP consistency, on the specific facts underlying the design and proposal of this project – namely, the site-specific representation made in the “Project Specific Water Balance Study, Rancho Los Robles”¹⁵ (Ifland Engineers, August 2017) (“Water Balance Report”) that the project will be water-positive relative to the project’s own water usage (i.e., recharge and infiltration will exceed deficits and usage) – the Commission concludes that regarding consistency with key LCP policies, this project is served by an “identifiable, available, long-term water supply” (North County LUP Policies 2.5.1 and 4.3.5.7; IP section 20.144.140.A.1) and will not “generate water demand exceeding safe yield” and thus will not contribute to “commitment of water supplies beyond their safe yield” (North County LUP Policy 2.5.2.3 and IP section 20.144.070.E.11) (emphasis added).

Long-Term, Adequate Water Supply

As described previously, the LCP requires all new development to be served by an identifiable, available, long-term, and adequate water supply (LUP Policy 2.5.1 and IP Section 20.144.140.A.1), and specifically requires new subdivisions dependent on groundwater to have an adequate, long-term water supply (LUP Policy 4.3.5.7). If water supplies are found not to be adequate, then IP Section 20.144.140.A.1 does not allow non-coastal dependent uses, thereby affirmatively requiring denial of certain types of low-LCP- (and low-Coastal Act-) priority residential subdivisions. In other words, the LCP addresses two co-equal goals: ensuring development is served by an adequate, long-term water supply from groundwater in its safe yield state, *and* doing so in a manner that protects priority land uses over other development types. The LCP is clear that meeting groundwater safe yield limits is not an at-all-costs endeavor, but rather must be dealt with in a manner that protects and respects existing and proposed priority land uses.

While the proposed project is a residential subdivision that would use water from groundwater aquifers that are already being pumped beyond their safe yield level, as described above, the Commission also determined that here the Applicant and County presented substantial evidence that the project would be water positive, citing to the Applicant’s Water Balance Report (see the

¹⁵ The Water Balance Report is located on page 42 of Correspondence 1 (the “Applicant’s September 2017 Correspondence”) as well as page 111 of Correspondence 4 (the “Applicant’s November 2017 Correspondence”).

report beginning on page 111 of Correspondence 4, the “Applicant’s November 2017 Correspondence”). The report estimated that, with proposed stormwater improvements, groundwater infiltration, and water recycling, the project would actually result in a positive groundwater recharge of 7.61 AFY (i.e., 7.61 AFY more water would infiltrate the groundwater basin than the development will consume from the basin, based on estimated water usage of 18.21 AFY and infiltration of 25.82 AFY (see pages 120 and 122 of Correspondence 4 for these proposed water use calculations). Thus, with respect to whether there is a long-term and adequate supply, the groundwater basin’s overdraft status and its resultant seawater intrusion impacts indicate that, in its current state, the basin cannot supply water over the long term in a manner that would not impair the basin and the resources that depend on it. Consequently, only projects with no net draw on the aquifer are consistent with the LCP safe yield policies. In this case, the Commission relies on the Applicant’s representations that the project is estimated to result in a net positive water balance. These representations are supported by evidence in the Water Balance Report and the Commission finds that the project will have a net positive effect on groundwater supplies. Because of this, and because any level of additional recharge associated with the project is expected to improve groundwater health, the Commission finds the project will have a long-term and adequate water supply, consistent with relevant LCP policies such as North County LUP Policies 2.5.1, 4.3.5.7 and IP section 20.144.140.A.1. The Applicant’s Water Balance Report estimates that the proposed project (including future to-be-built park facilities) will use an estimated 18.21 AFY of water from existing offsite wells located within the same Highlands North sub-basin), slightly less than the current estimated water usage of 23.7 AFY, and further indicates that the project would result in a net benefit to the aquifer even if the existing water use at the site is not taken into account¹⁶. Thus, based on the Water Balance Report’s findings that the project will improve groundwater aquifer health relative to the project’s water usage, the Commission found that the project can be served by a long term, adequate water supply.

Alternatives and Impact Mitigation

With respect to IP Section 20.144.070.E.11, this standard prohibits development when it will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer, and when there are no mitigation measures and/or project alternatives that will reduce the development’s water use to a level at which it will not lead to the aquifer’s long-term safe yield being exceeded or adversely impacted. In this case, while the groundwater basins are already severely overdrafted, as described above, the Commission relied upon the Applicant’s Water Balance Report to determine that the project will have a positive groundwater balance, and that it will thus not itself adversely affect the local aquifer. In other words, the Commission found in this case and for this specific set of facts (as indicated just above) that the project’s net positive effect on groundwater resources allowed the Commission to find the project to be consistent with applicable LCP policies such as IP section 20.144.070.E.11 on the basis that the project will not generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer. Again, the project achieves this due to the site-specific design of the project, bolstered by the conclusions of the Applicant’s Water Balance Report, and without reliance upon retrofits. Because the project as designed is otherwise consistent with applicable LCP policies such as 20.144.070.E.11 in that it will not generate a water demand exceeding or

¹⁶ The Commission has found that converting priority agricultural uses to a low-priority residential subdivision is not an LCP-permissible way to reduce water consumption (see A-3-MCO-04-054 Sunridge Views Subdivision).

adversely impacting the safe, long-term yield of the local aquifer, in approving this project the Commission is not requiring further mitigation measures or project alternatives to reduce the development's water use level. This is important because an offset/retrofit program is not realistically feasible in North Monterey County. While some past projects have proposed to mitigate their water demands by offsetting their anticipated water usage via retrofitting programs (i.e., requirements to offset a proposed development's water usage through reducing a commensurate amount of water use offsite), there are multiple concerns that have subsequently emerged with this approach, including because their efficacy and ability to provide bona fide, long-term water savings have not been borne out.¹⁷

County LCP Interpretations

While the County does not dispute the significant overdraft situation in North County, and agrees on its level of severity, the County has in the past construed the LCP's buildout numbers as mandatory entitlements given that the North County LCP was certified with many areas, including the subject property, zoned for residential use knowing that the area suffered from groundwater overdraft conditions. In other words, and notwithstanding evidence of County actions in other cases to the contrary,¹⁸ the County has argued in certain past cases that the LCP already contemplated a certain amount of residential subdivision and use in North County, despite this lack of water, when it was certified. However, this buildout "override" interpretation is not supported by the LCP or by any of the LCP's certification documents, and is inconsistent with past Commission actions and findings on this specific issue.¹⁹

First, the LCP is clear that maximum densities and maximum buildout numbers are only *theoretical maximums* that must be understood based on site constraints and other LCP requirements, including with respect to the availability of an adequate water supply (see, for

¹⁷ Indeed, in the Commission's 2006 approval of CDP A-3-MCO-04-054, a 10-lot subdivision in North Monterey County's Royal Oaks community, the Commission found the project largely inconsistent with numerous LCP requirements, but approved the project to settle a lawsuit and to test the efficacy of a water retrofit program in addressing North County groundwater issues. Thus, the Commission required the Applicant to completely offset the project's anticipated water usage via retrofitting existing development within North County. However, the Applicant was unable to meet this condition, including because the Pajaro-Sunny Mesa Community Services District (District), a water provider in the North County area, concluded that there are no significant retrofit candidates or opportunities remaining in North Monterey County. Therefore, the District and the Commission were unable to approve a retrofit program for that project, and the Commission ultimately denied an extension of the CDP in November 2016 (CDP extension request number A-3-MCO-04-054-E3). That denial was based in part on changed circumstances affecting the project's LCP consistency, including because of the inability to offset its water usage.

¹⁸ Indeed, the County has addressed North County's groundwater overdraft in numerous ways, including a building moratorium in North County between 2000-2002, adoption of a new General Plan in 2013 that prohibits subdivision in North County outside of the coastal zone until at least 2018 (where the prohibition may only be lifted if and when certain groundwater conditions are realized), and an accessory dwelling unit prohibition in the North County coastal zone (approved by the Commission in October 2015 in LCP-3-MCO-15-0022-1) due to a lack of available water supplies. Furthermore, the County has not approved a CDP for a residential subdivision in North County since this project's approval in 2008.

¹⁹ See, for example, Commission findings and actions on CDP application A-3-MCO-04-054 (2004), LCP amendment MCO-MAJ-1-06 (2008), CDP extension application A-3-MCO-04-054-E3 (2016), and CDP application A-3-MCO-05-027 (2017).

example, North County LUP Policy 4.3.6.D.1²⁰ and IP Section 20.64.180.D²¹). In other words, development maximums (whether construed as a function of allowable density under the site's LDR zoning or as a function of allowable buildout under specific North County LUP Policy 2.5.3.A.2) are *not* LCP entitlements. Interpreting the LCP provisions that identify maximum densities and buildout in order to support the proposed subdivision as the County asserts would suggest that all subdivisions are approvable as a matter of right, despite overwhelming evidence that the Highlands North sub-basin is in overdraft beyond its safe yield. Instead, any opportunity for residential subdivision that is *generally* supportable by certain LCP policies (e.g., North County LUP Policy 2.5.3.A.2) may be limited for a specific project proposal when, considering the actual facts on the ground, other LCP provisions are applied that regulate allowable development on the basis of coastal resource protection for the particular project (e.g., North County LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D). The LCP provisions are all read together, and the potential theoretical zoning maximums, or even increases in lot and residential density through subdivision at all, can only be understood in relation to resource and other constraints.

Second, the Commission has consistently found that when the LCP was certified, the extent and magnitude of the groundwater overdraft was not precisely known, and thus the LCP required definitive groundwater supply studies to quantify it (which were first prepared in 1995 and subsequently in 2002, both of which documented significant overdraft in North County).²² In other words, because the overdraft situation was not precisely known at time of LUP adoption, to be cautious, LUP Policy 2.5.3.A.2 established that no more than 50% of the maximum residential buildout based on parcel size and maximum subdivision potential (i.e., 1,351 units, again based on a straightforward mathematical application of maximum zoning to overall acreage without consideration of any site-specific resource constraints that may be applicable through other LCP policies) may be allowed while the County pursued efforts to quantify the overdraft problem and arrive at a solution. The policy establishes this maximum as a cap until a new water supply is secured or once safe yield is achieved, at which time this cap could be increased via LCP amendment. However, that is a maximum threshold, and LUP Policy 2.5.3.A.2 includes a caveat that allows this cap to be reduced to limit groundwater use to the safe-yield level once it is determined, or if required in order to protect agricultural water supplies otherwise.

The 50% build-out level is best understood as a then-approximation of what *might* be possible without consideration of any site-specific resource/site constraints, and it presumes that water would be available for same. To argue otherwise would suggest that the LCP explicitly provides for 1,351 additional units regardless of whether required future studies established that that level

²⁰ North County LUP Policy 4.3.D.1 states in relevant part: "Land divisions for residential purposes shall be approved at a *density determined by evaluation of site* and cumulative impact criteria set forth in this plan. *These include ... water availability...*" (emphasis added).

²¹ IP Section 20.64.180.D states in relevant part: "The maximum density established under this Section shall be utilized as the basis to *begin consideration* of the density appropriate for development of a specific parcel. Such established maximum density is *not a guarantee* of possible development potential of any given property. Density of development shall *ultimately be determined through the permit process*, consideration of site conditions *on the specific property* and of the details of the specific development proposal ... Such considerations may include but are not limited to... *Available supply and priorities for water...*" (emphasis added).

²² The North County LUP was certified in 1982, and the LCP was certified in 1988.

of development could not be accommodated by the North Monterey County water supply. We now know, and have known for some time, that there is scarce water supply available to support North County development, and all parties – including the County – are in agreement that a significant overdraft problem exists. While the County has done significant work to address the overdraft situation, the overdraft condition in the groundwater basin remains acute. In this case, however, the question regarding buildout numbers implicated by North County LUP Policy 2.5.3.A.2 and IP Section 20.144.140.B.3.a is not directly relevant or controlling here because the Commission has determined the development proposed here to be consistent with other applicable LCP policies (as required by LCP policies such as North County LUP Policy 4.3.6.D.1 and IP section 20.64.180.D), including with respect to water supply and other resources considerations (as further discussed below in this report).

“No-Net Increase” Water Usage

Finally, as discussed throughout this report, the LCP addresses two co-equal goals: ensuring development is served by an adequate, long-term water supply from groundwater in its safe yield state, *and* doing so in a manner that protects priority land uses over other development types. The LCP is clear that meeting groundwater safe yield limits is not an at-all-costs endeavor, but rather must be dealt with in a manner that protects and respects existing and proposed priority land uses. Thus, in many ways, the LCP’s policy framework is a proactive identification of the appropriate actions to take for evaluating development when the groundwater basin is overdrafted, as is the case here. As discussed earlier, the LCP states that the overarching objectives are to protect groundwater and water quality while also prioritizing coastal-dependent agriculture (and other coastal-dependent uses and recreation) over other types of development. The LCP then implements such objectives by development of additional water supplies to help bring the groundwater basins to their safe yield state, *and* by ensuring that approved development must also protect water supplies and be as water efficient as possible. In this case, the Applicant’s Water Balance Report indicates the project will result in a net increase in terms of input to the aquifer when calculating out net deficits (usage) with net recharge (infiltration), which should improve the aquifer’s health based on that analysis. The Commission here has relied on that analysis in finding this project approvable as resulting in “water positivity” regarding water usage. The “water positive” design of the approved project is another way of conceptualizing the project’s consistency with LCP requirements that the project be served by an “identifiable, available, long-term water supply” (North County LUP Policies 2.5.1 and 4.3.5.7; IP section 20.144.140.A.1) in this particular case given the other articulated reasons above (e.g., LCP provisions directing development in North County to discrete community areas, including Las Lomas) and will not “generate water demand exceeding safe yield” and thus will not contribute to “commitment of water supplies beyond their safe yield” (North County LUP Policy 2.5.2.3 and IP section 20.144.070.E.11) for similar reasons.

Conclusion

The proposed project is a residential subdivision that would use water from groundwater aquifers that are already being pumped beyond their safe yield level. As such, but for certain LCP-identified projects, such as coastal-dependent uses and agriculture, the LCP does not allow certain low-priority development in order to both protect groundwater resources and to ensure that remaining water remains available for priority uses. The LCP also includes numerous policies stressing the need for affordable housing and other community goods in Las Lomas, specifically identifying Las Lomas as one of only three areas in the entire North County area

appropriate for such growth. Thus, the LCP's water supply and groundwater resources policies do not prohibit all residential subdivision development in all cases when an overdraft condition exists. Rather, certain limited projects that provide needed (and LCP envisioned) community goods, *and* that are undertaken in a manner that will not adversely impact the underlying groundwater basin, can be found consistent with the LCP's overall framework. Since this project proposed on-site low and moderate income housing (as well as an in-lieu fee for additional off-site affordable housing), parks, and infrastructure improvements within the Las Lomas urban services line, and since the Applicant's Water Balance Report found the project to have a net positive effect on the groundwater basin relative to project water usage, the Commission found that the project meets these LCP goals and requirements, including policies specifically regarding water supply. Because the project would have a net positive effect on groundwater recharge according to the Report, the Commission found the project to have a long-term, adequate water supply. These factors—the project's proposed community investments (affordable housing, parks, open space, and infrastructure improvements), within a community the LCP explicitly identifies as appropriate for such investment, and positive groundwater recharge are what differentiate it from other proposed North County residential subdivision projects the Commission has denied. Those projects were located outside of Las Lomas, did not provide the type of community goods proposed here (i.e., they were strictly residential subdivisions), and did not demonstrate positive groundwater recharge. As such, the project's factset here is unique and specific due to what is being proposed and how it is designed to ensure water positivity with respect to the project's water usage. So while the Commission has found that most other residential subdivisions in North County are simply not approvable at this time due to groundwater resources and water supply constraints, the Commission found that this project meets specific LCP goals and criteria and can be found consistent with same, thereby approving the project.

2. Habitat Resources

The LCP requires protection of many types of habitat. It defines environmentally sensitive habitat areas (ESHA), both broadly and specifically, and with the exception of resource dependent uses, prohibits development within them. The LCP also requires protection of areas adjacent to ESHA, requiring allowable development in this area to prevent habitat impacts. Applicable policies and standards include:

North County LUP Policy 2.3.1. The environmentally sensitive habitats of North County are unique, limited, and fragile resources of statewide significance, important to the enrichment of present and future generations of county residents and visitors; accordingly, they shall be protected, maintained, and, where possible, enhanced and restored.

North County LUP Policy 2.3.2.1. With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare or endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research, hunting, fishing and

aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.

North County LUP Policy 2.3.2.2. *Land use adjacent to location of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*

North County LUP Policy 2.3.2.3. *New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New subdivisions shall be approved only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur.*

North County LUP Policy 2.3.2.4. *To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided....*

North County LUP Section 4.2. *The preservation of coastal resources including agricultural soils; environmentally sensitive habitat areas of estuaries and other wetlands, dunes, riparian areas, and oak woodland/maritime chaparral areas; water quality as impacted by point and non-point pollution, circulation and sedimentation from erosion; recreation and access opportunities; and the visual resources characteristic of the coast are prime issues of importance.*

North County LUP Policy 2.3.3.A.4. *Oak woodland on land exceeding 25% slope should be left in its native state to protect this plant community and animal habitat from the impacts of development and erosion. Development within oak woodland on 25% slope or less shall be sited to minimize disruption of vegetation and habitat loss.*

North County IP Section 20.144.040.B.3. *New land uses and new subdivisions on parcels within 100 feet of environmentally sensitive habitats, as identified on the current North County Environmentally Sensitive Habitat resource map, other resource information, or planner's on-site investigation, shall not be permitted where they will adversely impact the habitat's long-term maintenance, either on a project or cumulative basis. As such, a project shall only be approved where sufficient conditions of approval are available, such as for siting, location, design, setbacks, and size, which will mitigate adverse impacts to and allow for the long-term maintenance of the habitat, as determined through the biological survey. Also, a project shall only be approved where the decision-making body is able to make a determination that the project will not set a precedent for continued land development which, on a cumulative basis, could degrade the habitat.*

North County IP Section 20.144.040.B.4. *Subdivisions which are completely within an environmentally sensitive habitat shall not be permitted.*

North County IP Section 20.144.040(c)(1)(e). Development on a parcel within oak woodland habitat shall minimize the amount of oak tree removal to that required for construction of structures and access road. Where the parcel is within an approved subdivision for which a biological report has been required and a building envelope accordingly designated on the final map, the development shall be restricted to the building envelope area. Where no envelope has been established, the development shall be restricted to an area on less than 25% slopes and to an area which will allow for the least amount of oak tree removal necessary, as determined through the biological report and forest management plan required for the project. Where the proposed project includes a subdivision or a lot line adjustment, the proposed lots shall be configured so as to result in a building site requiring a minimized amount of oak tree removal. In all cases, proposals shall be modified for size, location, siting, design, bulk, grading and proposed lot boundaries where such modifications will result in reduced oak tree removal while also maintaining the resource protection standards of the North County Land Use Plan and this ordinance. (Ref. Policy 2.3.3.A.4)

Thus, the LCP includes strong protections for habitat, including ESHA. The LCP allows new subdivisions to be approved only where significant impacts to sensitive habitats will not occur (LUP Policy 2.3.2.3); prohibits subdivisions when they will adversely impact ESHA and/or when they are completely within ESHA (IP Sections 20.144.040(B)(3) and 20.144.040(B)(4), respectively); and requires development adjacent to the habitat to be compatible with its long term maintenance, including through buffers (LUP Policy 2.3.2.2). The LCP requires the maintenance of large areas of continuous and undisturbed ESHA, and only allows low intensity recreation, education, or resource conservation uses within such areas (LUP Policy 2.3.2.4). And finally, the LCP requires development within oak woodland to maximize protection of these habitats, to be sited to minimize disruption of vegetation and habitat loss and to minimize oak tree removal (LUP Policy 2.3.3.A.4 and IP Section 20.144.040(c)(1)(e)).

Analysis

The western portion of the project site, or roughly 16.5 acres, is comprised of oak woodland habitat on slopes of 25% or less (see **Exhibit 10** for the EIR's oak woodland habitat map). LUP Section 2.3 defines Environmentally Sensitive Habitats as "areas in which plant or animal life or their habitats are rare or especially valuable and which could easily be disturbed or degraded by human activities and development." LUP Section 2.3.2.1 is more specific, listing specific environmentally sensitive habitat types within which non-resource dependent development is precluded, including "sites of known environmentally sensitive plants and animals." Oak woodlands are not specifically identified as ESHA in either Section 2.3 or Section 2.3.2.1. Additionally, the project EIR determined, based on field reconnaissance, that the oak woodlands are not a "site of known environmentally sensitive plants and animals." (LUP Section 2.3.2.1). Thus, the oak woodlands on-site are not ESHA. The eastern portion of the site, or roughly 11 acres, is agricultural development comprised of strawberry row crops. The proposed project would subdivide the oak woodland habitat into residential lots and commit those lots for single-family residences (including removing 17 oak trees). In addition, the project also proposes to dedicate 11.1 acres of land (i.e., the area designated as "Community Open Space Recreation Area" as shown in the Site Plan in Exhibit 3) to a future to-be-formed community service district or other appropriate public entity for oak woodland and habitat restoration and passive recreation

(e.g., trails), and preparation and implementation of an Oak Woodland Restoration Plan for this area. The Plan's goal is to enhance and restore oak woodland habitat to a self-sustaining natural habitat state. Limited passive recreation, such as trails, would also be allowed in this area, and any such passive recreation improvements must be sited and designed in a manner to not impair oak woodland habitat resources.²³

Furthermore, as stated in the Applicant's attorney's letter dated November 3, 2017 (Correspondence 4), the project will minimize oak tree removal consistent with LCP policies by virtue of following the recommendations set forth in the Forester's Assessment and incorporating the County-approved conditions regarding oak woodland mitigation for the proposed project (including the requirement for the Oak Woodland Restoration Plan). Specifically, the lots have been modified for size, location, siting, design, bulk, and proposed boundaries and further conditioned in order to reduce oak tree removal, of which ten of seventeen oak trees are recommended for removal due to what the Forester's Assessment indicates is poor condition. All removed trees will be relocated within the project site or be replaced at a 3:1 ratio. In short, based on the Forester's Assessment, the Applicant asserts "that the proposed removal of trees is limited to only that which is necessary for the development of the structure and access roads and/or necessary for the improvement of an unhealthy forest condition and for the forest's long-term maintenance" (see page 20 of Correspondence 4 (the "Applicant's November 2017 Correspondence"), as well as page 357 of Correspondence 4 for the Forester's Assessment). As such, the Commission found that the project sufficiently minimized the amount of oak tree removal, and included measures to ensure its long-term maintenance and enhancement per the LCP.

Conclusion

The project proposes to subdivide 16.5 acres of oak woodland into residential lots, along with the removal of 17 oak trees – ten of which are to be removed due to poor condition, according to the Forester's Assessment. The project also proposes a significant oak woodland restoration component of the remaining oak woodland habitat to mitigate for oak woodland impacts, as well as dedicating such restored habitat to a future entity for its continued protection in perpetuity. The Commission determined that the project minimized oak tree removal as directed by the LCP, and, along with the restoration component, found the project consistent with the LCP on these points.

3. Water Quality

The North County LUP includes strong protections for water quality, including to protect Elkhorn Slough. The LUP policies are intended to ensure that new development does not adversely affect marine resources and other waterways, that construction minimizes sedimentation and runoff, and that drainage does not cause increased erosion. Some of the relevant LCP water quality policies include:

North County LUP Policy 2.5.2.1. The County shall limit the kinds, locations, and intensities of new developments, including agriculture to minimize further erosion in the watersheds of Elkhorn Slough and Moro Cojo Sloughs and sedimentation of the Sloughs.

²³ The Permittee will dedicate the land when the receiving entity has been formed and/or identified. The Permittee will undertake the oak woodland restoration pursuant to the Plan within two years of Final Map recordation.

All development shall incorporate all available mitigation measures to meet these goals, including at a minimum, the measures identified in Policy 2.5.3.C.6.

North County LUP Policy 2.5.2.5. Point and non-point sources of pollution of coastal waters shall be controlled and minimized. Restoration of the quality of degraded surface waters shall be encouraged.

North County LUP Policy 2.5.3.C.6. [in relevant part]

a. Existing sources of erosion shall be reduced through diligent enforcement of the County's most current Erosion Control Ordinance. The County shall institute a system of fines sufficiently large or shall take other actions to compel compliance by landowners or farm operators in violation of the ordinance.

...

c. Erosion control plans shall be required for all new development as set forth in the Erosion Control Ordinance. These plans shall incorporate measures for on-site reduction of bare ground and maximum retention of storm water runoff resulting from impervious surfaces. The plans shall be reviewed by the Soil Conservation Service, and shall be approved by the Director of Building Inspection or by the Planning or Public Works Director prior to issuance of any permits. In reviewing plans in the Coastal Zone, certification will be made for the following, in addition to other requirements of the Erosion Control Ordinance:

- That the amount of bare ground in the proposed development, is zero, or when combined with the bare ground from existing and committed land use, shall not exceed the Land Disturbance Targets shown on Table 1.*
- That measures incorporated in the site plan to retain storm water runoff shall be designed to contain runoff resulting from a 20 year recurrence interval storm.*
- That measures designed to reduce the amount of bare ground shall maintain a continuous vegetation cover throughout the year. Other types of ground cover may be used where it can be shown that vegetation is not suitable.*

...

d. All land clearing shall be consistent with the provisions of the County's Erosion Control Ordinance. No land clearing or grading shall take place between October 15 and April 15 in Watershed Restoration Areas or Critical Erosion Areas or other high erosion hazard areas unless specifically authorized by the Director of Building Inspection. Such authorizations shall generally be confined to agricultural operations in areas designated in this plan for Agricultural Preservation or Agricultural Conservation uses.

e. Maximum retention of vegetation cover shall be required for all new development. In particular, natural vegetation should be retained to the fullest extent possible through careful siting and construction of new development.

- f. *Property owners are encouraged to cooperate with the County in establishing Conservation Easements over areas of natural vegetation and on Critical Erosion Areas.*

Analysis

The proposed project would result in 54 new residences, along with commensurate urban infrastructure including roads, driveways, and other utilities, that will lead to the conversion of portions of the undeveloped land on the project site into new impervious surfaces. Such development could potentially result in increased sedimentation, increased oil and heavy metals from vehicles, and an overall decrease in water quality, including for nearby Elkhorn Slough. Furthermore, the project proposes to remove 17 coast live oak trees to facilitate the development

The Commission found these water quality concerns to be addressed by the project's proposed water quality protection measures both during construction (e.g., construction best management practices, etc.) as well as post-construction (e.g., low-impact development strategies, bioswales, infiltration requirements, and erosion control plans consistent with LUP Policy 2.5.3.C.6). Specifically, as proposed, the project will include new stormwater infrastructure, including a post-construction drainage and erosion control system/detention pond designed to capture and infiltrate stormwater. The stormwater control measures will be sited and designed to the maximum extent feasible: to collect, filter, treat, and direct all site drainage and runoff in a manner designed to protect and enhance coastal resources; to prevent pollutants, including sediments, from entering coastal waters or wetlands; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite; to use low impact development BMPs; and to include maintenance and management procedures applicable for the life of the project (including with respect to any homeowners association agreements as appropriate).

As proposed, the Commission thus found the project consistent with applicable LCP requirements governing water quality.

4. Visual Resources and Community Character

The North Monterey County LUP includes numerous policies aimed at protecting visual resources in North County, as well as policies that seek to retain North County's rural, agricultural character. Applicable policies include:

North County LUP Policy 2.2.1. In order to protect the visual resources of North County, development should be prohibited to the fullest extent possible in beach, dune, estuary, and wetland areas. Only low intensity development that can be sited, screened, or designed to minimize visual impacts, shall be allowed on scenic hills, slopes, and ridgelines.

North County LUP Policy 2.2.2.3. Property containing land on scenic slopes, hills, and ridgelines when proposed for subdivision, should be subdivided so that the lots are situated to allow the highest potential for screening development and access roads from view. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development....

North County LUP Policy 2.2.2.6. Agricultural uses on flat or rolling land should be preserved as a productive and visual resource

North County LUP Policy 2.2.3.4. New roads providing residential, recreational, or agricultural access should be considered only where it has been demonstrated that common use of neighboring roads is not feasible. Access roads should not be allowed to intrude upon public views of open frontal slopes or ridgelines visible from scenic routes or viewpoints. Roadways shall be designed to conform to the natural topography in order to minimize grading, erosion, and the scarring of hillsides.

North County LUP Policy 2.5.3.C.6.e. Maximum retention of vegetation cover shall be required for all new development. In particular, natural vegetation should be retained to the fullest extent possible through careful siting and construction of new development.

Thus, the LCP seeks to protect the rural, pastoral nature of North County, including by only allowing low-intensity development that minimizes visual impacts on scenic hills, slopes, and ridgelines (LUP Policy 2.2.1), limiting new road and subdivision development to ensure screening and minimizing tree removal (LUP Policy 2.2.2.3), ensuring that grading and landform alteration are minimized and development respects natural topography (LUP Policy 2.2.3.4), and maximizing retention of existing vegetation cover (LUP Policy 2.5.3.C.6(e)).

Analysis

The proposed project includes measures to ensure protection of the area's visual resources, character, and landforms. As proposed, residences will be sited and designed to ensure that residential development does not silhouette over the ridge when viewed by pedestrians, bicyclists, and/or occupants in vehicles on Hall Road. In addition, vegetative screening will be employed to ensure that all residential structures and related development are mostly screened from these same Hall Road views through planting native trees and other vegetation, where such plantings are sited in such a way as to help screen the residences from Hall Road view at maturity. All such screening vegetation will be kept in good growing condition and will be replaced as necessary to maintain the approved vegetation and its screening capacity over the life of the project. Regular monitoring and provisions for remedial action (such as replanting as necessary) will be identified to ensure screening success. All plant materials will be native and non-invasive species, and all plantings will be consistent with the Oak Woodland Restoration Plan. And in addition, as described above, the project includes oak woodland habitat restoration and preservation, as well as preservation of on-site wetlands and willow habitat, to ensure that remaining open spaces remain undeveloped in perpetuity. As such, the Commission found the project consistent with applicable visual resources and community character protection policies.

Conclusion

While the project will introduce a large residential subdivision and associated infrastructure into a highly visible area, it is located within Las Lomas where such growth is envisioned under the LCP, and it includes measures to ensure that ridgelines are protected and residences screened with landscaping. As such, the Commission approved the project as being consistent with the applicable visual resource policies.

5. Agriculture

The North County LUP includes numerous policies aimed at protecting agricultural resources in North County, as well as policies that seek to retain North County's rural, agricultural character. Applicable policies include:

North County LUP Policy 2.2.2.6. Agricultural uses on flat or rolling land should be preserved as a productive and visual resource....

North County LUP Policy 2.6.1. The County shall support the permanent preservation of prime agricultural soils exclusively for agricultural use. The County shall also protect productive farmland not on prime soils if it meets State productivity criteria and does not contribute to degradation of water quality....

North County LUP Policy 2.6.2.1. Prime and productive farmland designated for Agricultural Preservation and Agricultural Conservation land use shall be preserved for agricultural use to the fullest extent possible as consistent with the protection of environmentally sensitive habitats and the concentration of development.

North County LUP Policy 4.3.5.1: The rural character of the coastal area of North County with its predominant agricultural, low-density residential and open space land uses shall be retained. Prime and productive agricultural soils shall be protected for agricultural use.

North County LUP Appendix B, Glossary of Terms:

Prime Agricultural Land/Soils: *Those lands defined in Section 51201 of the Government Code as follows:*

- a) *All land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classifications.*
- b) *Land which qualifies for rating 80 through 100 in the Storie Index Rating.*
- c) *Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.*
- d) *Land planted with fruit-or-not-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars per acre.*

Productive Agricultural Land/Soils: *Those lands that qualify as Class III or IV in the Soil Conservation Service land use capability classification scheme (Soil Conservation Service). In North County, lands qualifying as prime under (c) and (d), of Section 51201 of the Government Code are included as productive agricultural lands.*

Thus, the LCP seeks to protect the rural, agricultural nature of North County, including through protection of agricultural uses and agricultural soils, particularly for prime and productive areas the LCP specifically designates for agricultural land uses through Agricultural Preservation and Agricultural Conservation land use designations (LUP Policy 2.6.2.1). Specifically, the LCP protects agricultural uses as a character-defining visual resource (LUP Policy 2.2.2.6), and, notably requires prime and productive agricultural soils to be “protected for agricultural use” (LUP Policy 4.3.5.1). The LCP defines “prime” and “productive” soils in a number of ways, including through the Soil Conservation Service’s (now known as the Natural Resource Conservation Service (NRCS), an agency of the United States Department of Agriculture) land use capability classifications. The land use classification system shows the suitability of soils for most kinds of field crops, ranging from a Class 1 designation as having the best soils for crop production to a Class 8 designation having the most restrictive soils. According to the LCP, Class 1 and 2 soils are “prime”, and Class 3 and 4 soils are “productive.” Though the LCP contains many policies regarding protection of prime and productive soils, North County LUP Policy 2.6.2.1 indicates that such protection is primarily achieved via designation of prime and productive farmland to be protected as Agricultural Preservation and Agricultural Conservation land.

Analysis

As previously described, roughly 11 acres along the eastern portion of the project site is currently used for irrigated strawberry row crops. According to the NRCS’s land capability classification, all 11 acres are either Class 2 or 3 soils (see the site’s soil classifications in **Exhibit 11**). As such, some of the soils are designated prime (generally the flat area near Hall Road, classified as Class 2 Elkhorn fine sandy loam, 2 to 5 percent slopes) and the remainder are designated productive (Class 3 Elkhorn fine sandy loam, 5 to 15 percent slopes and Santa Ynez fine sandy loam, 2 to 9 percent slopes) under the LCP. The project proposes to convert this entire agricultural operation to residential and future park uses. The LCP generally requires protection of prime agricultural soils, but does so primarily by designating and zoning agricultural lands as Agricultural Preservation and Agricultural Conservation land (LUP Policy 2.6.2.1.). In other words, while the LCP seeks to protect prime and productive soils generally, the focus is on lands *designated* for such use in the LCP (i.e., having an Agricultural Preservation and/or Agricultural Conservation land use designation). While other lands not so designated can still warrant protection, in this case since the project is located within the Las Lomas urban services line, which the LCP explicitly designates for concentrated development, and further considering the Medium Density Residential designation of the project site, the Commission determined that approval of the proposed project be consistent with the LCP’s agricultural protection policies.

Conclusion

While the LCP generally seeks to retain the maximum amount of land in agricultural production, and limits the conversion of prime and productive soils, the primary focus is to protect such soils on lands designated by the LCP for agricultural use (i.e., Agricultural Preservation and Agricultural Conservation land per LUP Policy 2.6.2.1). While other areas can still be protected, in this case, including because of the site’s location within the urban services line of Las Lomas where the LCP designates concentrated development and the Site’s Medium Density Residential designation, the Commission found that approval of the proposed project would be consistent with the LCP’s agricultural protection policies.

6. Traffic

The North Monterey County LUP includes numerous policies addressing transportation and road capacity. Applicable policies include:

North County LUP Policy 3.1.2.6. New development in rural areas should be located in areas with sufficient road capacity to accommodate additional transportation demand. Where necessary, the capacities of roads and public transit systems should be expanded to serve the transportation demand of areas specifically planned for concentrated development. In areas with highly congested traffic conditions, coastal-dependent development generating low volumes of traffic shall be preferred.

North County LUP Policy 3.1.3.1. Due to the limited capacity of Highway 1 until the time it is expanded, development of coastal dependent industrial, agricultural, commercial, and recreational uses shall be given priority over non-coastal dependent development in areas where Highway 1 provides the major transportation access.

North County LUP Policy 3.1.3.2. Salinas Road, San Miguel Canyon Road, Hall Road, and San Juan Road should be designated as major arterial roads serving the North County coastal area. These should be upgraded as necessary to maintain Level of Service C traffic conditions. Wherever feasible, through traffic on these roads should be routed to State highways.

North County LUP Policy 4.3.5.9. Development and use of the land, whether public or private, must conform to the policies of the plan, must be consistent with the availability of public services and with established urban service lines, and must meet resource protection standards set forth in the plan.

Specifically, the LCP requires new development to be located in areas with sufficient road capacity (LUP Policy 3.1.2.6), specifies non-coastal dependent development, such as residential subdivision, to be a low priority for use of existing road capacity (LUP Policy 3.1.3.1), and specifies a Level of Service (LOS) "C" as the identified traffic capacity for Hall Road (LUP Policy 3.1.3.2). The project would introduce 54 new residences (and future park and other development) and their associated traffic to an area served by two-lane rural roads. The EIR concluded for a significantly larger project that "the proposed project would result in significant and unavoidable traffic impacts at intersections and highways for which no foreseeable or adequate improvements are foreseen,"²⁴ including because intersections along Hall Road in the immediate project vicinity already operate at LOS F.²⁵ Specifically, the EIR determined that the addition of even one vehicle trip on Highway 1 south of Salinas Road would result in a significant and unavoidable impact. However, the impacts on the affected roadway network have

²⁴ Rancho Los Robles Subdivision Final Environmental Impact Report, State Clearinghouse Number 2002091010 (the "Rancho Los Robles Subdivision EIR"), pages 3-12.

²⁵ Note that the EIR evaluated the impacts of a larger subdivision project consisting of 97 residences and commercial development. However, even though the project as now proposed is reduced as compared to the project evaluated in the EIR, the proposed project would still likely have significant impacts on traffic given the existing LOS situation and the fact that the project also includes park and other development, which would also contribute to traffic.

already been evaluated under CEQA at the programmatic level for the adopted transportation plans, and reevaluation of this impact is not required each time a coastal development permit for a project is issued within the North County planning area. With the exception of widening of Highway 1 between Salinas Road and Castroville, the road improvements cited as mitigation measures in the EIR are already part of adopted transportation plans. Any residual traffic impact on Highway 1 not already evaluated under CEQA at the programmatic level is consistent with North County LUP/LCP Policy 3.1.2 (General Policies 1, 5, and 6) and LUP/LCP Specific Policy 3.1.3.2, all of which direct that the transportation infrastructure, including Highway 1, should be expanded to accommodate planned growth, a category which includes the concentrated residential subdivision within the urban line of Las Lomas that this project provides. The project is located in an area proposed for concentrated development—medium density residential—within the established Las Lomas town area (see North County LUP/LCP 4.3.5 General Policy 2) and is consistent with the land uses and densities of the North County LUP/LCP land use map. The project is infill development that would fill a gap in the existing built environment between the concentrated development of central Las Lomas and Hall District School.

Although the project is consistent with the LCP for the reasons stated above, the project also includes transportation improvements designed to mitigate for project traffic impacts, including some new bike lanes (in one of two sets of alternative improvements in County Condition No. 95) and sidewalks at the project site and immediately surrounding area, a new traffic signal at the Hall Road/Sill Road intersection, new crosswalks, pedestrian connections, and other new amenities in the project area. These mitigations will be sufficient to offset potential project traffic impacts, and will enhance connectivity and circulation safety in the immediate project area. Thus, the Commission found the project's traffic mitigations sufficient to offset its impacts consistent with the LCP, and approved the project.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Monterey County, as the lead CEQA agency, certified an EIR (Rancho Los Robles Subdivision Final Environmental Impact Report, State Clearinghouse Number 2002091010, the “Rancho Los Robles Subdivision EIR”). The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).) The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has concluded that the project as proposed appropriately addresses any potential adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

The Commission finds that the proposed project avoids significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. The proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*. Prepared for Monterey County Water Resources Agency, October 1995.
- Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.
- Pajaro Valley Water Management Agency and Carollo Engineers, 2014. *Basin Management Plan Update*, February 2014.
- Rancho Los Robles Subdivision Final Environmental Impact Report, State Clearinghouse Number 2002091010 (the “Rancho Los Robles Subdivision EIR”).

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- Applicant and Applicant’s Representatives
- Friends, Artists, and Neighbors of Elkhorn Slough
- Pajaro-Sunny Mesa Community Services District
- Pajaro Valley Water Management Agency
- Monterey County Resource Management Agency
- California Department of Water Resources
- Office of Monterey County Supervisor John Phillips

EXHIBIT E

CALIFORNIA COASTAL COMMISSION

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May 6, 2019

Mark Blum
Horran Lloyd
26385 Carmel Rancho Blvd., #200
Carmel, CA 93923

Re: A-3-MCO-09-009 (Rancho Los Robles Subdivision)

Dear Mr. Blum:

You sent a letter on February 26, 2019, addressed to me and to Kevin Kahn in which you requested confirmation from the Coastal Commission of several issues. We discussed some of the issues raised in your letter with you by phone on March 11, 2019, but I initially neglected to follow-up with a letter specifically answering the questions that you posed. Your letter requests confirmation that: "California Government Code section 66452.24 automatically extends both the Rancho Los Robles subdivision map and coastal development permit A-3-MCO-09-009 for twenty-four months, until November 8, 2021."

The Coastal Commission does not have a position on the applicability of California Government Code section 66452.24(a) to the tentative map for the proposed development, as Commission staff is unaware of the validity and/or expiration date of the vesting tentative map (VTM) approved by Monterey County. The Coastal Commission action did not authorize a VTM; the Coastal Commission does not implement the Subdivision Map Act and does not have the authority to approve a VTM. The Coastal Commission provides the authorization required under the Coastal Act for proposed "development," which is defined to include subdivisions, but this authorization under the Coastal Act is in addition to that required under the Subdivision Map Act, not a substitute for it.

We do not believe that Government Code section 66452.24(d) would apply to extend the expiration date of coastal development permit A-3-MCO-09-009, as this permit had not yet been approved by the Coastal Commission on the effective date of that section of the Government Code.

If you have any follow-up questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Louise Warren".

Louise Warren
Acting Chief Counsel

CC: Susan Austin, Deputy Attorney General
Dan Carl, District Director, California Coastal Commission
Kevin Kahn, District Supervisor, California Coastal Commission