

Timothy D. Sanders  
25075 Pine Hills Drive  
Carmel, CA 93923

May 9, 2017

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA	<u>PN140089 #1</u>
DATE RECEIVED:	<u>5/10/17</u>
SUBMITTED BY/VIA:	<u>Public @ Hearing</u>
DISTRIBUTION TO/DATE:	<u>PC / 5-10-17</u>
DATE OF HEARING:	<u>5-10-17</u>

**Replies to County FEIR responses to CVA comments (Letter 8) on the Carmel Rio Road Subdivision:**

GENERAL:

VIOLATIONS OF CEQA AND OF COUNTY PLANS

The County's responses in the FEIR to CVA comments on traffic analysis in the DEIR are incomplete and inadequate, and they do not satisfy the CEQA requirement that the County "must use its efforts to find out and disclose all that it reasonably can" concerning the environmental effects of traffic existing in the area or generated by the project. (See, e.g., CEQA Guidelines 15144) Comparison of the County responses in the FEIR, themselves, with the CVA comments, the DEIR, and CEQA Guidelines, constitutes substantial evidence of this assertion. The discussion below provides further evidence.

CEQA Guidelines state that in response to public comments, "major environmental issues raised when the Lead Agency's position [expressed in the DEIR] is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual evidence will not suffice." (CEQA Guidelines 15088.5(c))

Our replies below to the County's responses in the FEIR demonstrate, with sufficient and substantial evidence to require revision and recirculation of the DEIR, and consequently substantial revision of relevant portions of the FEIR, that responses by the County systematically fail to meet this CEQA requirement. As indicated above, the responses are not complete, are not adequate under CEQA; also the reasons, evidence and factual support for the Lead Agency's

positions quite clearly are not disclosed in good faith. They do not respond as CEQA requires "in detail, giving reasons" (see above) why our comments, which include substantial "scientific and factual data" (Guidelines 15064) and "enough relevant information and reasonable inference from this data that a fair argument can be made to support" the conclusions, as required by CEQA (Guidelines 15384). Our comments meet CEQA Guidelines, whereas the County replies do not.

According to CEQA, the EIR "shall include ... relevant information sufficient to permit full assessment ... by members of the public." (CEQA Guidelines 15147) "An EIR is an informational document which will inform ... the public generally." (CEQA Guidelines 15125) Therefore the responses to comments from the public must be written and directed to the public with full understanding that many (and probably most) commenters are not professionals in the relevant disciplines of environmental analysis, but generally are highly intelligent, and will justifiably expect reasoned, intelligent responses that draw discernibly reasonable inferences from the comments. County responders should anticipate, as they prepare their statements, that the participating public will sensibly connect the import and evidence contained in EIR statements with actual environmental conditions and impacts to which the statements refer, whether or not they possess professional expertise or certification.

Evasions or obfuscation or obscuring of the evident significance and meaning in statements either in the EIR (i.e., DEIR, FEIR, etc.) or in public comments, or of the evidence supporting them, is not warranted by CEQA in any way.

Yet such evasion, obfuscation and obscuring are central parts of the County's responses to CVA's numerous well-supported comments on traffic.

Failure by the County to meet CEQA standards leads also to significant violations of the County General Plan and of CVMP.

Thus the **County's FEIR responses** to CVA comments on the traffic conditions in the project's vicinity **violate CEQA**, and because many of CVA's comments refer directly to violations of CVMP and General Plan provisions, certain of the **County FEIR responses effectively promote or advocate violation also of the County's own plans and ordinances.**

As a result, this **FEIR in its present form must not** be certified: CEQA Guidelines require that (emphases ours) "**Prior to approving** a project the lead agency **shall certify** that: (1) The final EIR has been **completed in compliance with CEQA**; (2) ... the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and (3) the final EIR reflects the lead agency's **independent judgment and analysis.**" (CEQA 15090) An EIR that is **not complete, not adequate**, and which demonstrates **lack of good faith effort at full disclosure** (all of which are shown in the comments to be present in this FEIR) is not "completed in compliance with CEQA" and cannot be certified under CEQA. According to

CEQA Guidelines' discussion of certification, "the decision body itself must consider the information in the EIR."

## EVALUATION OF RESPONSES IN LIGHT OF CEQA GUIDELINES 15088.

Time constraints on citizen participation, imposed largely by the short period provided for public review of the FEIR, have made it impossible for CVA to compose the full written response to highly flawed County formal responses in the FEIR that. Having carefully read the FEIR, however, we offer the following sample replies in outline form, to confirm the validity of the remarks above; *all* the County responses are inadequate and the sampling is merely a way of abbreviating our reply and does not represent priorities in selection:

### Reply to Response 8.7

Principle points expressed in comment: Existing (baseline) traffic on local roadways already is excessive, partly at LOS F; traffic from project will worsen already overly congested situation with mitigations not feasible; new traffic will impede movement of emergency services.

Response: Unresponsive. Trivially repeats portion of comment. Uselessly states that comment is noted. Uselessly refers commenter back to portion of DEIR that was the basis for making the comment. Does not respond at all to substance of comment, to its substantive validity in relation to the project, or to the condition of baseline traffic (except dismissively that the commenter characterizes it as "degraded"), or emergency access issues. *No substantive response supported by any substantial evidence. Incomplete, inadequate and hardly good faith response under CEQA. Not a legitimate response.*

### Reply to Response 8.

Principle points expressed in comment: Refers to cumulative effect and specific number of daily trips that would be added to existing traffic; specifies magnitude of contemporary nearby very much larger project (recently approved but under litigation) and commercial project; refers to consequent delays, business risks and other adverse results; notes that construction traffic is not analyzed.

Response: Unresponsive. Trivially partially summarizes the comment; vaguely and unnecessarily states the meaning of cumulative, with no quantitative or substantive content; trivially states that DEIR identifies project's significant and unavoidable impacts, with no specific information about the character or quality of those identifications; refers readers to County response to a different comment letter from a different source, with information in that response that was not contained in the DEIR and the commenter could not possibly have seen (is not a part of the DEIR so response is not a response to DEIR comment), with no indication of the quality or character of the referenced information, stating the conclusory proposition that it implied no significant impact. *No substantive response supported by any substantial evidence. Incomplete, inadequate and hardly good faith response under CEQA. Not a legitimate response.*

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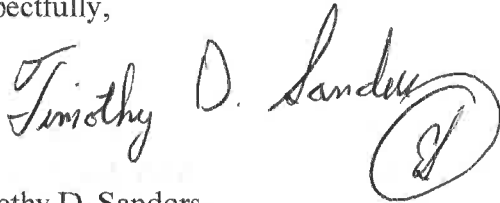
Reply to Responses 12, 13.

Principle points expressed in comment: Refers to substitution of flawed Rancho Canada Village Highway 1 traffic study and its seriously flawed associated LOS values for Carmel Rio Road Highway 1 analysis (in particular, critically important 3-lane segment 2); notes that the substitution replaces known LOS F on Highway 1 with an entirely not-credible LOS C; notes that the study (also known as the CCTC study) produces fundamentally wrong results that should not be used or quoted; requests analysis of CCTC study and acknowledgement of its deficiencies for this application; requests justification for use of results of MMLOS, LOS+ and explanation in terms of traffic counts; describes principal data demands for MMLOS; provides references to NCHRP documents not referred to in DEIR.

Response: Nonresponsive. Summarizes and repeats briefly some general and minor issues raised in comments; attempts to shift responsibility for use of the flawed method to County Public Works staff (both Response 8.12 and 8.13); refers commenter to Rancho Canada Village FEIR; supplies not substantive information or argument whatsoever on the issues raised; utterly fails to meet CEQA requirements for responses to comments (CEQA Guidelines 15088). *No substantive response supported by any substantial evidence. Incomplete, inadequate and hardly good faith response under CEQA. Not a legitimate response.*

Again, these samples are representative, not exhaustive or prioritized. **All of the County responses are incomplete, inadequate and are provided without evident good-faith full disclosure.**

Respectfully,

A handwritten signature in cursive script that reads "Timothy D. Sanders". The signature is written in dark ink and includes a large, stylized circular flourish at the end.

Timothy D. Sanders  
25075 Pine Hills Dr.  
Carmel, CA 93923

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## **DENY THE VAL VERDE SUBDIVISION**

**PROPOSED BY**

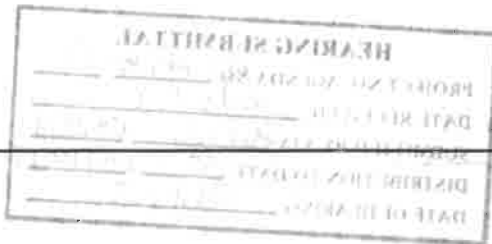
**CARMEL RIO ROAD LLC**

### **Recommendation:**

- 1. Deny application.**
- 2. Do not certify EIR.**

### **NO SUPPORT.**

- Nobody supports or wants this project ... except applicant, who wants to sell 24 units for \$1.4 - \$1.6 million each.
- **No support** from businesses, residents, LUAC.
- **43 letters in opposition** to Planning Commission.



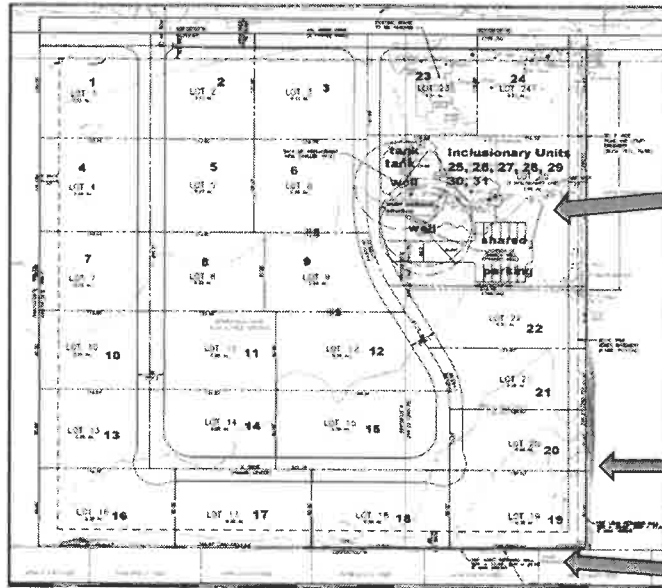
## STRETCHES COUNTY PLANS AND CODES PAST THE BREAKING POINT

- Does not comply with Carmel Valley Master Plan.
- Does not comply with General Plan.
- Does not comply with Zoning Code.
- Does not comply with Inclusionary Housing requirements.
- Spot zoning -- not in the public interest, public would not benefit.

## TOO MUCH SPECIAL TREATMENT

- Zoning Ordinance Amendments of Sections 21.14.050.A, 21.14.060.A and 21.14.060.B by ... adding **EXCEPTIONS** to **EXCEED** 4 units/acre on a lot, create lots **UNDER THE MINIMUM** one acre building site size, and **EXCEED** the maximum development density...; (= SPOT ZONING)
- Combined Development Permit ...subdivision to allow...**31** units... **24 single-family lots and one parcel with seven inclusionary units**;
- Use Permit pursuant to Section 21.12.050.A to allow seven units on Lot 25;
- an Administrative Permit and Design Approval for development in the "S" (Site Control) and "D" (Design Control) zoning districts.

Lots 1 to 24:  
24 spread-out  
non-clustered  
market rate  
houses of 1800  
s.f. each



Lot 25:  
7 inclusionary units of 860 s.f.  
*plus*  
Two water tanks  
Two wells  
Water treatment structure  
Shared parking lot

150' LONG RETAINING WALL  
6' MAX HEIGHT

300' LONG RETAINING WALL  
4' MAX HEIGHT

## INCONSISTENT WITH CARMEL VALLEY MASTER PLAN SITE-SPECIFIC POLICY CV-1.10

"The Val Verde Drive area is planned for residential use at a basic density of one (1) unit per acre. With suitable clustering, up to two (2) units per acre may be allowed. However, a density of up to four (4) units per acre **may** be allowed **provided** that at least 25% of the units are developed for individuals of low and moderate income or for workforce housing. . . .

**COUNTY GENERAL PLAN GLOSSARY DEFINES  
“CLUSTERING”:**

**CLUSTER DEVELOPMENT/SUBDIVISION** means a development/subdivision **design** where the structures or lots or structures and lots are located on a portion of the land to be developed rather than spread throughout the land.

**AFFORDABLE UNITS ARE TO BE PERCENTAGE  
“OF THE TOTAL NUMBER OF UNITS APPROVED”**

- “To satisfy its inclusionary requirement on-site, a residential development must construct inclusionary units in an amount equal to or greater than the specified “percent of the total number of units approved for the residential development”

(County Code, § 18.40.070.A – “On-site units.”)

- “Residential development, means any project requiring any subdivision of land . . .” (County Code, § 18.40.050.A)



## GENERAL PLAN POLICY LU-1.19 APPLICABLE TO THIS SITE

“Residential development shall incorporate the following minimum requirements . . . :

- 1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units . . .”

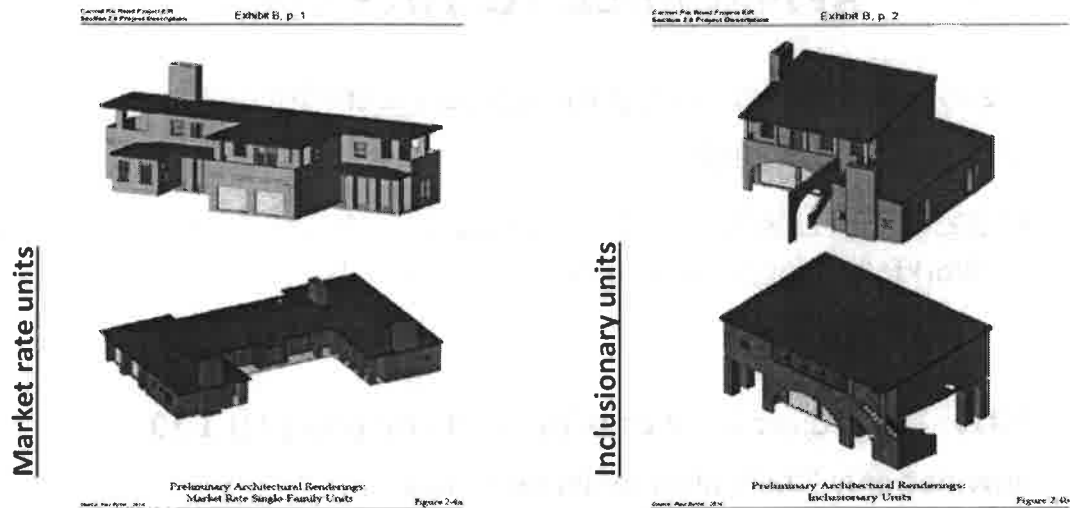


**No.** This project is ***not consistent*** with GP policy LU-1.19.  
Provides only 22.6% affordable/workforce.

## INCONSISTENT WITH SITE-SPECIFIC POLICY CV-1.10

- Can build: 7 units.     **No.** *Wants: 31 units.*
- Allowed density up to 4 units/acres.     **No.** *Wants 7.7 units/acre.*
- Required to cluster development.     **No.** *Refuses.*
- 35% means 10.8 inclusionary units.     **No.** *Proposes only 7 units.*

## DENSITY AND DESIGN NOT CONSISTENT WITH RURAL CHARACTER (CVMP POLICY CV-1.1)



Applicant's proposed designs in "subtle color palette of red roofs and grey exterior walls" (FEIR pp. 2-34, 2-376)

## INSUFFICIENT INFORMATION TO GIVE SITE AND DESIGN APPROVAL FOR DEVELOPMENT IN "S" (SITE CONTROL) AND "D" (DESIGN CONTROL) ZONES.

- "D" DISTRICT "those areas ... in which the visual impacts of structures can be adequately mitigated by regulation of the location, size, configuration, materials and colors, only."
  - Requires: Drawings showing front, side and rear elevations; color samples of proposed color scheme; structure location, topography, ... parking layout, landscaping (Zoning Code ch. 21.44)
- "S" DISTRICT -- site constraints require review of location of development
  - Requires: drawings showing in reasonable detail "proposed structure location, topography, ... proposed landscaping, ... parking layout, ... grading, ... any identified hazards" (Zoning Code ch. 21.45)

**APPLICANT WANTS  
“USE PERMIT PURSUANT TO SECTION 21.12.050.A  
TO ALLOW SEVEN UNITS ON LOT 25.”**

- Project in LDR zone, chapter 21.14.
- LDR zone does not authorize use permit for lot density greater than 4 units/acre.
- Applicant seeking to use MDR zoning – County Code chapter 21.12 is for **Medium Density Residential** zone.
- But: use permit not authorized because MDR zone does not apply to this site.
- Medium Density Residential (MDR) zoning requires design features *not included in this project*:
  - E.g., trash enclosures and recreational area for residents on lots of 5 units or more (§21.12.070)
  - On 0.91-acre lot with 7 units, 1200-s.f. recreational area required.

**DOES NOT CONFORM TO MASTER PLAN,  
THEREFORE MAXIMUM DENSITY OF 4  
UNITS/ACRE IS PROHIBITED.**

- Policy CV-1.5: “In the residential areas, . . . attainment of maximum density is dependent upon conformity of the proposed project to plan goals and policies.”
- General Plan policy LU-1.11: “Development proposals must be consistent with the General Plan Land Use Map designation of the subject property and the policies of this plan. The policy refers to respective Area/Master Plans, including the Carmel Valley Master Plan.”
- More dense, not clustered, and less affordable housing than allowed by CV-1.10
- Less affordable housing than the 35% affordable housing required by LU-1.19
- Exceeds unit cap of CV-1.6
- Significant and unmitigated harmful impacts on traffic worsening LOS F

**POLICY CV-1.6: NEW RESIDENTIAL SUBDIVISION ...  
SHALL BE LIMITED TO CREATION OF 190 NEW UNITS  
AND SHALL GIVE PREFERENCE TO PROJECTS  
INCLUDING AT LEAST 50% AFFORDABLE UNITS.**

- Draft EIR: “proposed project’s contribution to 190-unit cap would be **31 units**” (p. 4.11-8)
- April 24, 2017: County chart said **28 units** left. County Planner told CV LUAC **28 units** left.
- May 4, 2017 – Surprise! County claims *could be 34 units left if* County “interprets” CV-1.6 differently ... in a way County Code does not authorize.

**SIGNIFICANT AND UNAVOIDABLE  
IMPACTS ON LOS F TRAFFIC**

Level of service (LOS) from A to F:

A = smooth flowing

F = clogged stop and inch forward, stop and inch forward

Traffic is already **LOS F**, project would worsen by **more than 300 trips** every day.

CEQA requires decisionmakers to make Statement of Overriding Considerations if insist on approving project despite harmful and unmitigated traffic impacts.

**This project does not deserve special treatment.**

County has total discretion **not** to adopt Statement of Overriding Considerations.

## **NOTHING GOOD ABOUT THIS PROJECT**

- Too dense
- Not clustered
- Not consistent with plans and zoning
- Obstructs County flood control project
- Significant and unavoidable traffic impacts
- Not supported by anyone

## **MITIGATIONS ADDRESS HARMFUL IMPACTS ONLY “TO EXTENT FEASIBLE” BUT THAT IS TOO SQUISHY**

- Problem: determination of “feasible” would be made by County staff instead of Planning Commission or Board of Supervisors.
- County staff has rejected mitigations as “infeasible” for flimsy reasons:
  1. Applicant’s claim about cost, even though the cost had not been established.
  2. The mitigation would require further environmental review.
  3. The property owner had not agreed to the mitigation.
  4. Additional technical studies were needed to show effectiveness of mitigation.

\*2016-2017 County records

## **RECOMMEND TO BOARD:**

1. Deny the project.
2. Do not certify the EIR.

EIRs are not required for  
projects that are denied.

Thank you.



Monterey County General Plan  
Carmel Valley Master Plan  
October 26, 2010 – Amended as of February 12, 2013  
CARMEL VALLEY MASTER PLAN  
SUPPLEMENTAL POLICIES

1.0 - Land Use

**CV-1.1**

All policies, ordinances, and decisions regarding Carmel Valley shall be consistent with the goal of preserving Carmel Valley's rural character. In order to preserve the rural character of Carmel Valley, development shall follow a rural architectural theme with design review.

**CV-1.5**

In the residential areas, maximum densities are as shown on the Carmel Valley Master Plan Land Use Map. However, attainment of maximum density in these areas is dependent upon conformity of the proposed project to plan goals and policies.

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Chair and Commissioners,

Ref: Carmel Rio Road project, PLN140089

HEARING SUBMITTAL	
PROJECT NO./AGENDA	RN140089 #1
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For the Record

Item #1

Good morning! My name is Margaret Robbins. I live at the mouth of Carmel Valley just about two blocks away from this project. I submitted almost five pages of comments on the Draft EIR. Most of the answers I received were less than satisfactory. I am concerned about water use and the possibility that our landscape well might run dry. I am also concerned about which flood control improvements the applicant will eventually make. Again, that is one of the critical details that will come at some unknown time later but before a building permit is issued.

I have been following land use issues in Carmel Valley for over 20 years. This is absolutely the worst project I have analyzed. There are so few details provided that the report should be stamped "TBDL" to be determined later – if at all.

In my opinion, any controversial project—this is certainly one—should go the extra mile—any make as many reports available for the DEIR and FEIR as possible. That way the public has enough facts to determine if the conclusions by the applicant's team are valid.

Now, let's look closely look at Val Verde Drive. All existing residences are single family homes with a couple of tiny quest quarters. The lots range from 1.3 to about five acres. I, like many at both Arroyo Carmel and Riverwood enjoy walking along that street because there is so little traffic and so much to see and enjoy.

Starting at the north end of the street are Mark and Sara and their two young sons. This is the barn built by Betty Green. She moved her horse training business here from Ocean Avenue in Carmel Proper many decades ago.

Next is the Broadman family home owned by Eileen's daughter. Mrs Broadman said her daughter would never sell because her father's ashes were scattered there. Sue and Rich live here and they board several hoses in back. So horse trailers are often seen on Val Verde. This lot, now organically farmed, is where the applicant plans to build a multi-unit subdivision.



This home is where Maxine lives with her two elderly sisters—Alice and Regina. Maxine had horses while her daughter was growing up. My daughter gave Lilly riding lessons in their corral. Lilly is getting married soon. Maxine hopes that when Lilly has children she will move back to the property will move back to the property and again have horses.

This is the Kluz home. Stan and Bozena are retired and are concerned that the two 5-acre parcels across the street will try to develop large subdivisions. Stan says “if the Carmel Rio Road project is approved it could create a precedent that we do not even want to think about.”

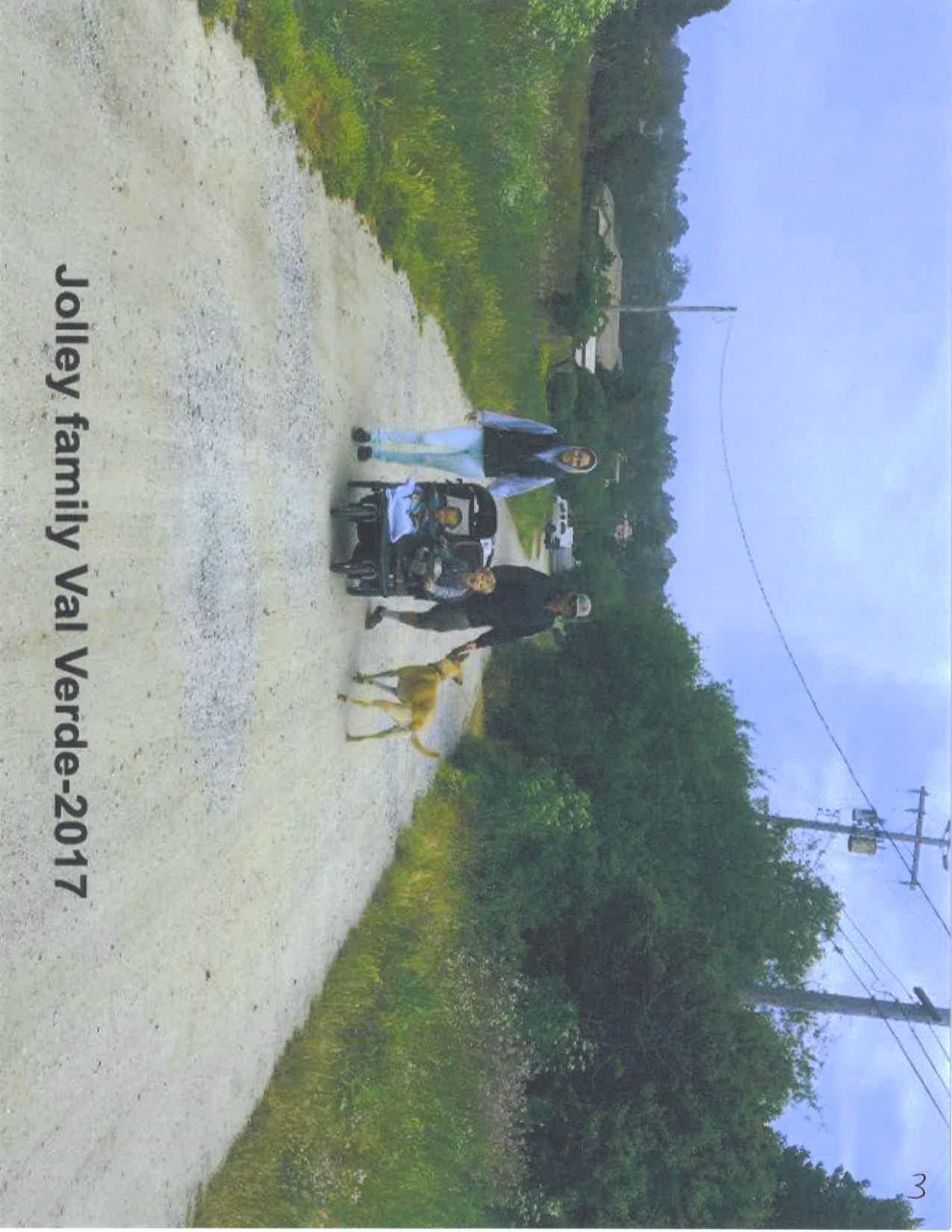
Across the street from Stan is the home that Jon and Jessica just bought. They have hoses and 3 young children and definitely don’t want to have over three hundred car trips on Val Verde that the Carmel Rio road project will provide.

Here’s how Val Verde would like if this project is approved. (Show all ) The black and white drawing show<sup>s</sup> all 31 units .Outlined in yellow is where the 7 inclusionary units are crammed. These are the market rate homes and these are the inclusionary units.

*deny*  
If the Carmel Val Verde project is approved. The life enjoyed by the existing Val Verde residents will end. Please the Carmel Rio road project. It’s totally incompatible with the rural nature of Val Verde.

Thank you. Margaret Robbins, 3850 Rio Road #26, Carmel, CA 93923 (624-1153)

*Margaret Robbins*  
*5/10/2017*



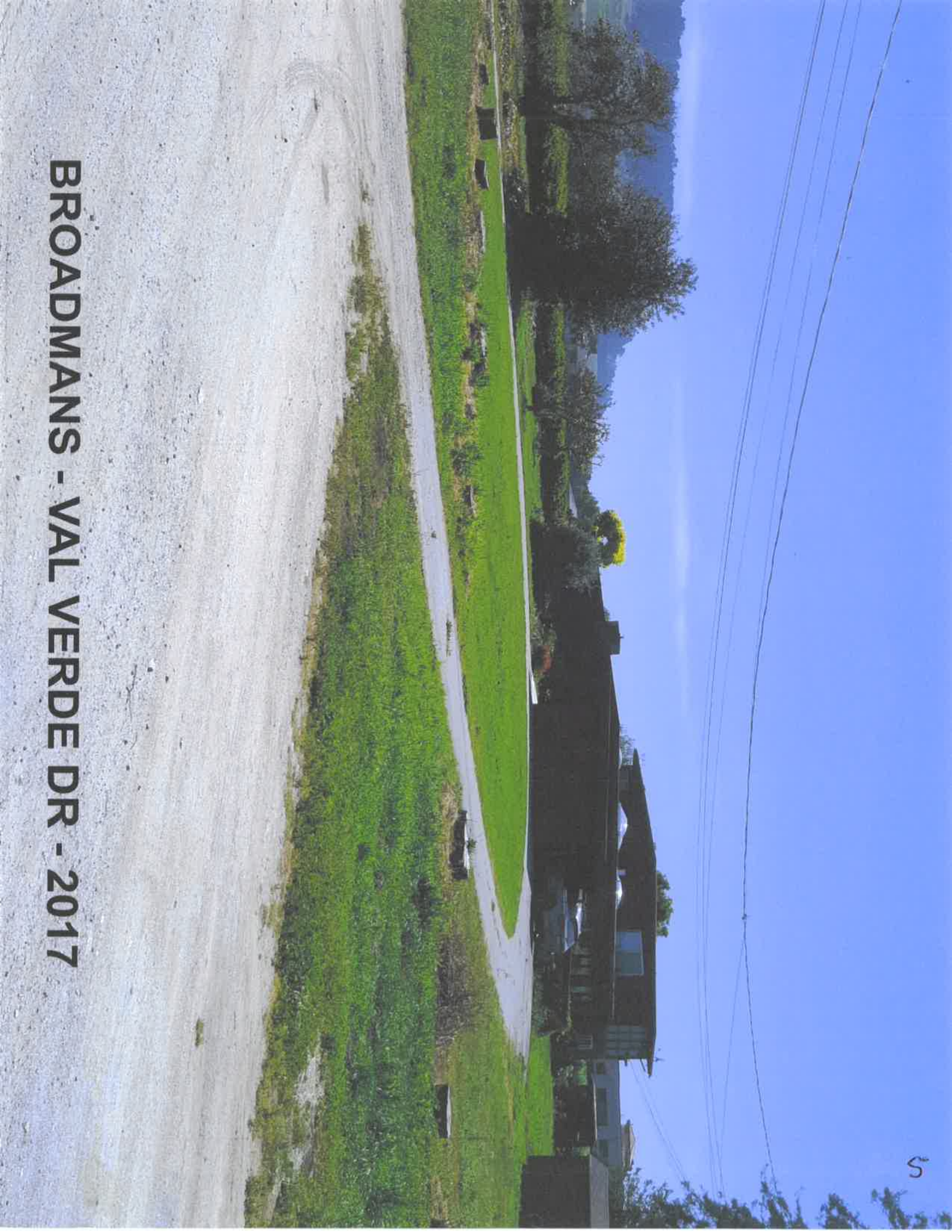
**Jolley family Val Verde-2017**





JOLLEY / NICHOLS - VAL VERDE DR - 2017





**BROADMANS - VAL VERDE DR - 2017**



Office buildings on Carmel Rancho



Val Verde Lot: new home of 31 units?







RUSSELL / KEENE - 26520 VAL VERDE - 20

4





KLUZ – VAL VERDE DRIVE, 2017

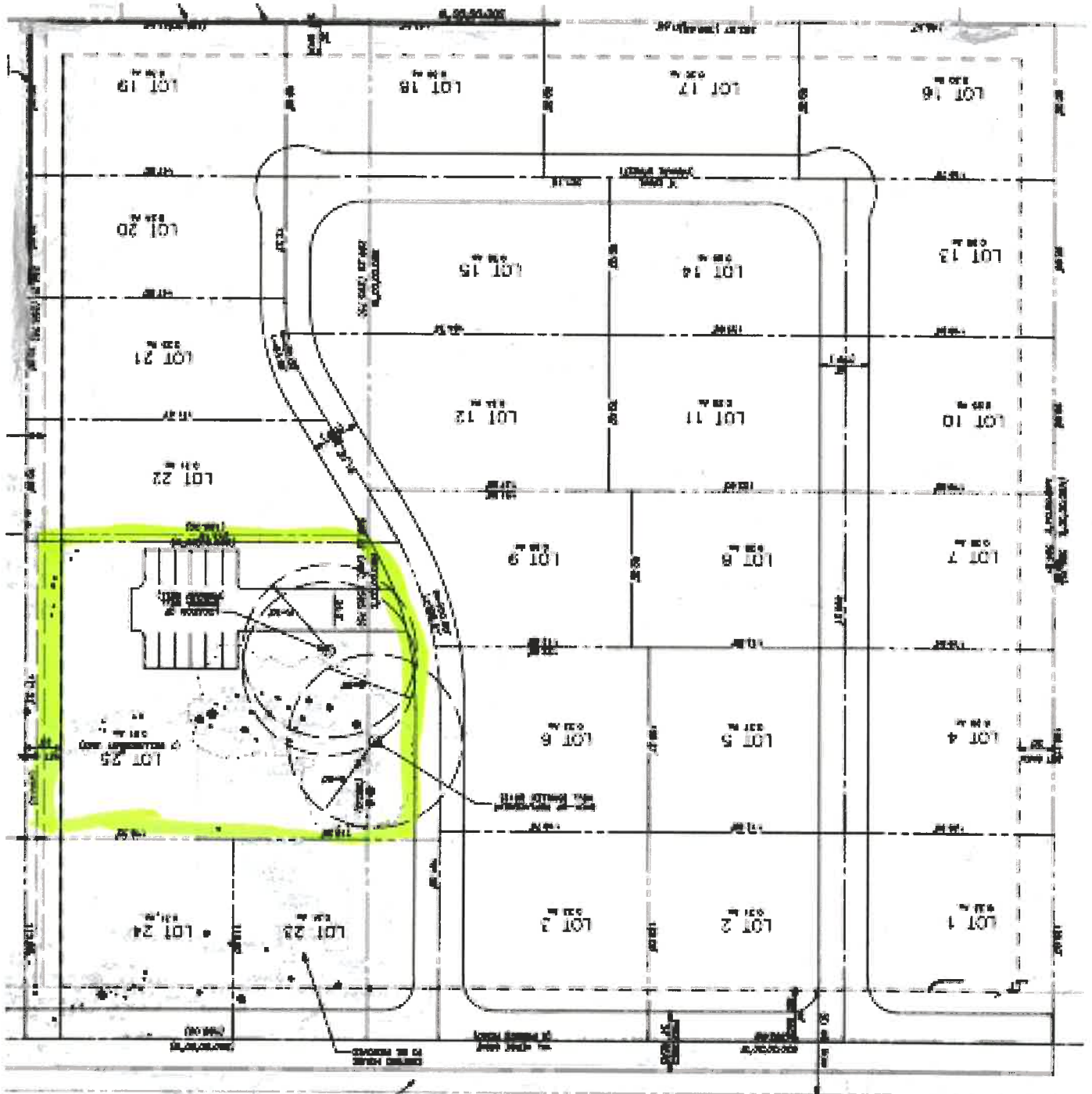


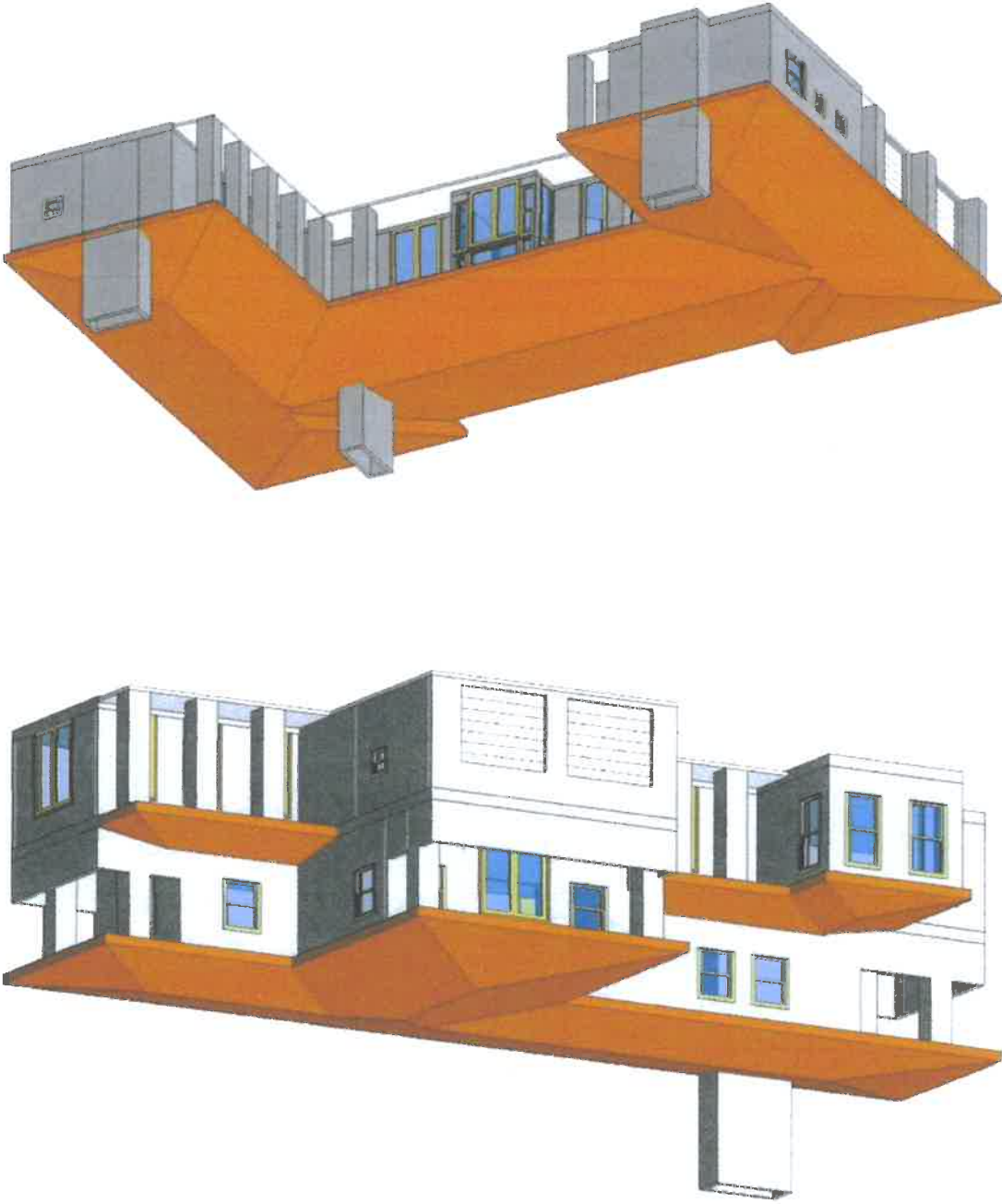


**BOLHAM - 26525 VAL VERDE DR - 2017**



# 15 AND 26500 VAL VERDE DRIVE 31 UNITS ON 7.9 ACRES



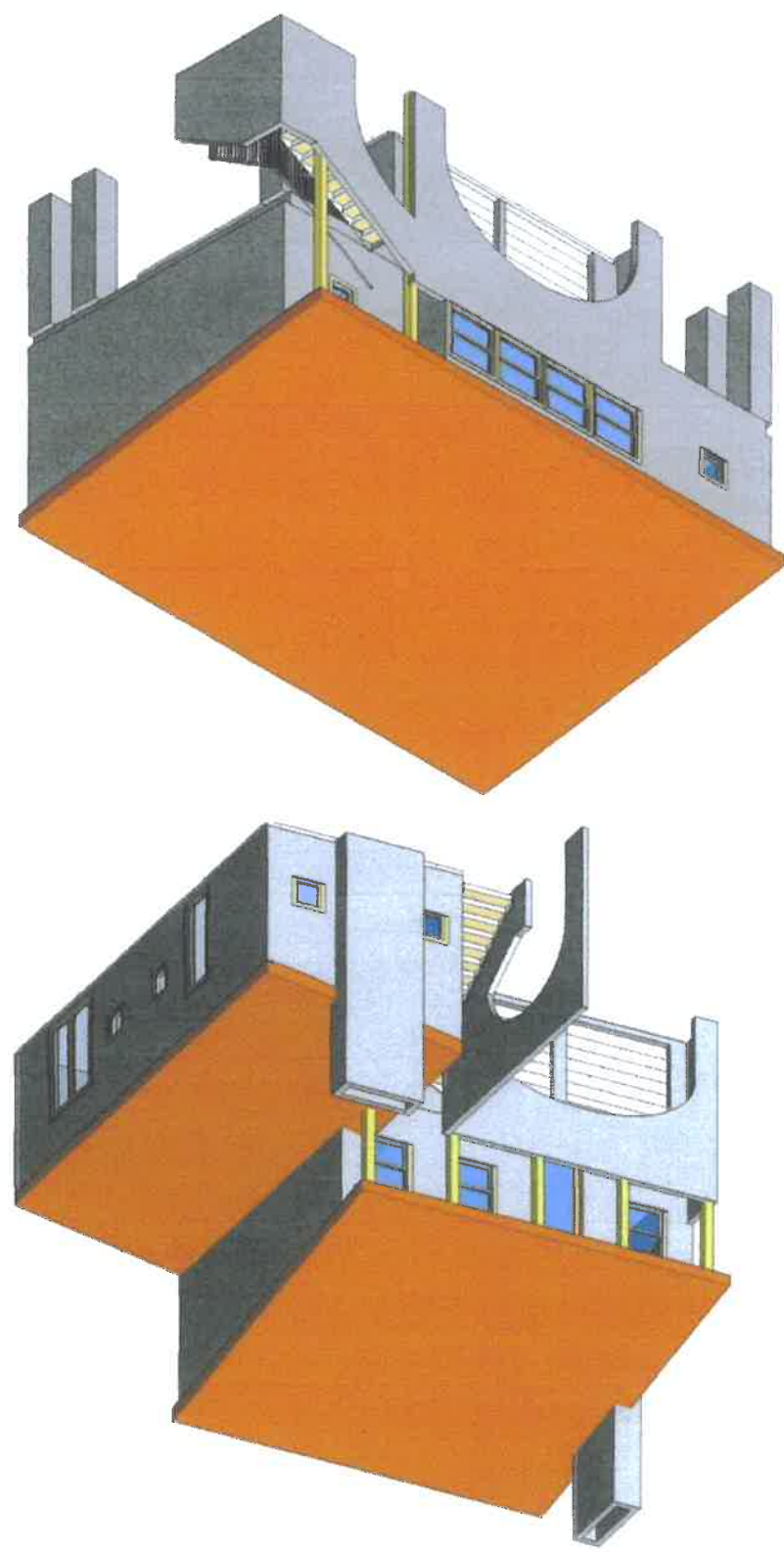


Preliminary Architectural Renderings:  
Market Rate Single-Family Units

Figure 2-4a

Source: Paul Byrne, 2014

County of Monterey



Preliminary Architectural Renderings:  
Inclusionary Units

Figure 2-4b

Source: Paul Byrne, 2014

5/9/2017

XFINITY Connect

For the Record  
Stem 04

XFINITY Connect

mm\_robins@comcast.net  
+ Font Size -

letter

From : Maxine Russell <maxine.keene@gmail.com>

Sun, May 07, 2017 05:52 PM

Subject : letter

To : MM\_Robbins <mm\_robins@comcast.net>

Maxine Keene  
26520 Val Verde dr  
Carmel 93923

Dear Chair and Commissioners

Our family came to live on Val Verde Drive in 1999 for the wonderful rural atmosphere, piece and quite, and to develop a safe and healthy environment for the children. My daughter now grown raised 3 horses there, hopefully returning soon for retirement.

Currently my two elder sister with disabilities that require a walker, enjoy the safety of the private rd. School children use it to walk back and forth to Carmel middle school.

Val Verde Dr is not only a home to families with children and horses. It also is a nesting ground for the wild life that has already been driven out of surrounding areas. Traffic is slow, scarce and aware of horses and young riders. Val Verde is once again becoming a growing equestrian community, as founded in earlier days by Betty green.

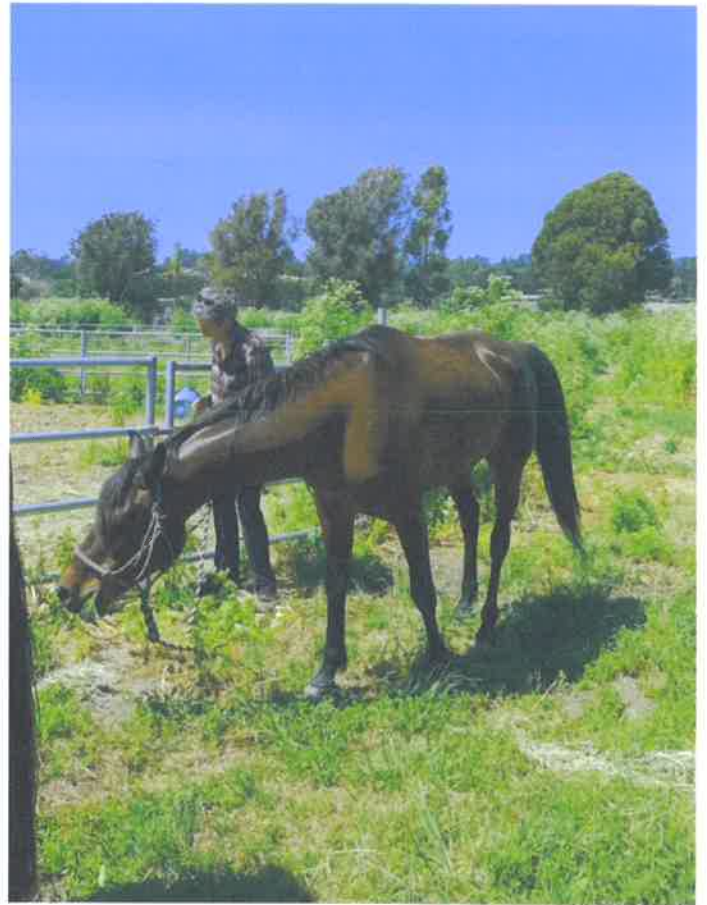
It is the last remaining road of its kind in Carmel, where the site of family's on horse back still exist, quail, rabbits and there young can still be seen scurrying down the safe dirt road, into nearby bushes, which will no longer be there, driven out by this large housing project. It will be used by hundreds daily. With continuous traffic and polluting gas fumes, making it unsafe for all our family, horses and the equestrian neighborhood. This is not wanted by this community and opposed by 100% of the homeowners on Val Verde. This project will negatively change and impact our way of life on Val Verde dr.

Please deny the Carmel Rio road project.

Kind regards  
Maxine Russell Keene and Family.  
Alice Russell and Regina Russell

M Keene 5/9/17





## CHILDREN, ELDERLY AND ANIMALS -VAL VERDE 2017







## LOADING HORSES – VAL VERDE



LOADING HORSES – VAL VERDE

TO: Honorable Planning Commissioners

FR: Brian Clark, Carmel Rio Road, LLC

RE: Minor Sub-Division Application - Val Verde Drive

- 24 Market Rate Homes & 7 Affordable Units (31 Units)

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PROJECT NO / AGENDA	PAJ140089 #1
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I represent Carmel Road, LLC, the owner of three parcels located on Val Verde Drive in Carmel Valley. The parcels were purchased in 2007 & 2008 with the intent to develop them in accordance with the then current (1982) General Plan designation and zoning, which was and continues to be low density residential (LDR) 5 - 1 Acres/Unit. During the ensuing application process which started in 2009 and with the adoption of the new General Plan in 2010 the land use Policy CV-1.0 remained the same. Identifying Val Verde Drive as an area of desirable higher density residential use.

A previous application was before this Commission for a 44 unit project. The project was denied by this Commission due to non-conformance with the 50' well control zone (project source water is two on-site wells) and Environmental Health request that each project well have completed the 8 hour pump water quality and quantity tests. The applicant appealed the Planning Commission denial to the Board of Supervisors.

Since the prior hearings the project applicant has drilled a new source water well and successfully completed a third round of 8 hour quality and quantity tests in compliance with Environmental Health.

At the appeal hearing the Board of Supervisors denied applicant appeal and project due non-compliance with a new General Plan directive regarding the intensification of existing private easements and, for the first time in the eight year application processing, Supervisor Potter stated project did not comply with zoning. While the California State Department of Housing and Development, and the County itself, had found the project was consistent with existing zoning - complied with affordable and market rate percentages - Supervisor Potter in an election year voting cycle stated the project did not comply with zoning.

After the Board denied the project the applicant met each denial condition by:

- drilled and tested a replacement well to comply with Environmental Health standards
- obtained a roadway agreement in Monterey Superior Court (on file with County) that allows for the intensification of the private easement for any Carmel Rio Road, LLC project (thereby complying with a General Plan goal since there was no easement regulation to comply with at the time of Supervisors denial or when legal easement agreement was reached)
- sued the County entering into a Settlement Agreement for a project with the reduced size of 31 gross units

This letter is to address the comments submitted by Carmel Valley Association, Land Watch and others requesting prohibition of future subdivisions in Carmel Valley. Despite the 266 housing cap set forth in Policy CV-1.6 of the new Carmel Valley Master Plan ("CVMP") under GPU5 being reduced to 190 units through litigation - the new General Plan's Final Environmental Impact Report did address all CEQA categories and impacts to accommodate 266 new housing units. While we have completed an EIR for the project all the Findings of Facts in the 2010 General Plan Final Environmental Impact Report (FEIR) addressed 266 new units in Carmel Valley. Given that gross unit cap was further reduced to 190 units all CEQA and EIR categories had previously been addressed and this project specific DEIR is redundant to information to the GPU5 - Findings of Fact.

Policy CV-1.10 for development within the Val Verde Area has been in existence since the 1982 General Plan and remained in the 2010 General Plan regardless of affordable housing overlay districts. Carmel Valley Overlay districts that have not produced one affordable housing unit in ten years.

Development, including subdivisions, in the area of Val Verde makes sense because it is premised on "city" centered in-fill growth rather than urban sprawl due to the existing infrastructure and development in the area. Any residential development on Val Verde Drive would balance the commercial development of the nearby Crossroads Shopping Village and The Barnyard Shopping Village, creating the desirable "mix/balance of uses" (Policies LU-4.5 and LU 1.19, GPU) and "walk ability/bike ability" for residents, which would reduce impacts to traffic and climate change. Policy CV-1.10 further promotes the uncontested Policy LU-4.5, which states, "A mix of residential and commercial uses shall be encouraged in commercial areas where good site and project design and utilization of the property are demonstrated. Mixed use of sites and buildings is appropriate." In order for these General Plan policies to be consistent with one another, Policy CV-1.10 remained in the new General Plan.

Development pursuant to Policy CV-1.10 on Val Verde Drive would also benefit traffic improvements in the area through the payment of impact fees. As stated in the



GPU5 FEIR, “since 1992, traffic improvements have been funded through fees for new development” and “impact fees have been used to fund roadway improvement in CVMP for many years.” The FEIR also noted that, “there is no apparent source of other funding” other than impact fees collected from new development to pay for roadway improvements. Impact fees from new development projects are essential in improving the traffic circulation in Carmel Valley.

Finally, Policy CV-1.10 is sensitive to addressing the need for affordable housing in Carmel Valley. As stated in the FEIR, the March 11, 2008 Annual Housing Report presented to the Monterey County Board of Supervisors noted an affordable housing crisis in Monterey County, which has been further exacerbated by the ongoing mortgage crisis and economic downturn. Moreover, by law, the General Plan Housing Element must provide for the future housing needs of all economic segments of the community (Government Code Section 65580, et seq.).

If a Housing Element cannot be certified because it does not designate sufficient land to accommodate affordable housing, the jurisdiction may lose eligibility for housing grants. (Page 2-20, FEIR.) The FEIR noted that affordable housing requirements cannot be accommodated by building single family dwellings on remaining existing lots of record, even accounting for each and every existing lot of record (even those that cannot be built). (Page 2-20, FEIR.)

Eliminating subdivisions in Carmel Valley may jeopardize current and any future housing grants to Monterey County and will further exacerbate the affordable housing crisis in the County. There are developers willing to provide affordable housing in the Val Verde area. The County must approve minor subdivision applications in order to provide much needed affordable housing in Carmel Valley.

In closing, we urge you to approve the minor sub-division application maintaining the well thought-out and supportable policies (Policies CV-1.6 and CV-1.10) of the CVMP. These policies remained in all versions of the previous and current General Plan, including the final General Plan Update (circa 2008 & 2010) in order to make the General Plan internally consistent and to accommodate affordable housing.

Respectfully submitted,

*Brian Clark 5/9/17*

Brian Clark

Carmel Rio Road, LLC

## DEIR - Carmel Rio Road, LLC & 2010 GPU5 CEQA Environmental Impact Report - Facts and Findings

Pursuant to and in compliance with the California Environmental Quality Act, Public Resources Code Section 21000 et. seq. ("CEQA") and Title 14 of the California Code of Regulations, Section 15000 et seq. (CEQA Guidelines:), the County of Monterey prepared an Environmental Impact Report ("EIR") for the new/updated General Plan adopted in 2010. That final EIR addressed 266 new residential units for Carmel Valley. While the number for housing units for Carmel Valley was further reduced to 190 units the Carmel Rio Rd., LLC - minor sub-division (the Project) for 31 homes - and the potential environmental effects were addressed in GPU5. The County of Monterey ("County") is the CEQA lead agency for the Project.

Throughout the development and environmental review of the Project site specific studies are consistent with GPU5 - CEQA Findings of Fact (the Final Program Environmental Impact Report (EIR) for the Monterey General Plan Project State Clearinghouse No. 2007121001).

The 2010 General Plan includes the mandatory Land Use Element, Circulation Element, Conservation and Open Space Element (including the mandatory Noise Element and also addressing flooding and other hazards). In addition, the 2010 General Plan Findings of Fact address updates for specific geographic inland areas of the County including the Carmel Valley Master Plan.

The 2010 General Plan and Area Plan did not amend or replace the Housing Element for the unincorporated inland area of the County and uses the 2009 housing element. The 2009-2014 Housing Element was adopted by the Board of Supervisors on June 15, 2010 and certified by the State Department of Housing and Community Development on August 18, 2010.

Consistent with CEQA Guidelines 15126.4(a)(2) the EIR Findings of Fact contains feasible mitigation measures proposed and now adopted in the EIR and contained in the 2010 General Plan as policy or are included in the Mitigation Monitoring and Reporting program.

This DEIR is consistent with 2010 GPU5 CEQA Findings of Fact adopted by the Monterey Board of Supervisors on October 26th, 2010. These exhibits may be viewed online:

[http://www.co.monterey.ca.us/planning/gpu/GPU\\_2007/102610\\_Board\\_Package/Exhibit%20B/SRbos\\_PLN070525\\_10%2010.26\\_Ex%20B\\_EIR1-Findings.pdf](http://www.co.monterey.ca.us/planning/gpu/GPU_2007/102610_Board_Package/Exhibit%20B/SRbos_PLN070525_10%2010.26_Ex%20B_EIR1-Findings.pdf)

Carmel Rio Road minor sub-division would not result in any new significant impacts or any substantially more severe impacts that are disclosed in the EIR CEQA Findings of Fact - Exhibit EIR1 (EIR Certification Passed and Adopted by the Monterey Board of Supervisors on October 26th, 2010).

"Mitigation measures are not required for effects which are not found to be significant."  
(CEQA Guidelines 15126.4(a)(3).

The GPU5 Facts and Findings determined which impacts that would be less than significant and because the analysis in the EIR was based on substantial evidence, there is no requirement to include additional mitigation in the following areas other than those discussed in the DIER including:

- 1) Land Use - no mitigation required
- 2) Water Resources - no mitigation required using less than historical baseline
- 3) Geology, Soils, and Seismicity - no mitigation required
- 4) Mineral Resources - no mitigation required
- 5) Transportation - can be mitigated with impact fees
- 6) Air Quality - no mitigation required
- 7) Noise - no mitigation required
- 8) Biological Resources - no mitigation required
- 9) Cultural Resources - no mitigation required
- 10) Public Services and Utilities - no mitigation required
- 11) Hazards and Hazardous Materials - no mitigation required
- 12) Aesthetics, Light, and Glare - no mitigation required
- 13) Population and Housing - no mitigation required

This DEIR complies with CEQA and Public Resources regulations:

- CEQA 15063

(B) Use a previously prepared EIR which the Lead Agency determines would adequately analyze the project at hand, or

(C) Determine, pursuant to a program EIR, tiering, or another appropriate process, which of

a project's effects were adequately examined by an earlier EIR or negative declaration.,

- CEQA 15006 REDUCING DELAY AND PAPERWORK

(I) Combining environmental documents with other documents such as general plans.  
(15166)

(m) Eliminating repetitive discussions of the same issues by using Environmental Impact Reports on programs, policies, or plans and tiering from reports of broad scope to those of narrower scope. (15152)

(p) Mentioning only briefly issues other than significant ones in EIRs. (15143)

- California Public Code: 21083.3

(b) If a development project is consistent with the general plan of a local agency and an environmental impact report was certified with respect to that general plan, the application of this division to the approval of that development project shall be limited to effects on the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report,

(d) An effect of a project upon the environment shall not be considered peculiar to the parcel or to the project, for purposes of this section, *if uniformly applied development policies or standards have been previously adopted by the city or county.*

(e) Where a community plan is the basis for application of this section, any rezoning action consistent with the community plan shall be a project subject to exemption from this division in accordance with this section. As used in this section, "community plan" means a part of the general plan of a city or county which (1) applies to a defined geographic portion of the total area included in the general plan.

To summarize - this DEIR and scopes of work:

- focuses on "area's ripe for discussion"
- is consistent with 2010 GPU5 CEQA Facts and Findings that overlay subject property

The General Plan EIR under CV-1.6 "Carmel Valley Residential Growth Controls":  
"Included AHO (Affordable Housing Overlay) units within 266 cap; allowed auxiliary units on existing lots of 5 acres or more; prohibited auxiliary units on new lots;..."

The highly restrictive cap of 266 units studied in GPU5 further reduced to 190 units in a litigation settlement agreement.

Given more restrictive policy than original 2007 GP Policy and adopted 2010 GPU5 resulted in lower level of build out in CVMP these CEQA elements had been addressed because they overlaid existing project and number of unit in the application was already addressed in the 266 unit cap within the EIR. GP policy included slightly higher build out in other parts of County by 2030, but no substantial increase in severity of impacts." (See Table F-4 EIR Certification Page 273 of 277 - Carmel Valley Master Plan)

Carmel Rio Road minor sub-division would not result in any new significant impacts or any substantially more severe impacts than those disclosed in the 2010 FEIR CEQA Findings of Fact - Exhibit EIR1 (EIR Certification Passed and Adopted by the Monterey Board of Supervisors on October 26th, 2010).

"Mitigation measures are not required for effects which are not found to be significant."

(CEQA Guidelines 15126.4(a)(3).

Because the DEIR determined that impacts would be less than significant or could be mitigated and the findings are consistent with GPU5 Findings of Fact no further analysis is required. The analysis in the DEIR was based on substantial evidence, is consistent with GPU5 FEIR (Findings of Fact), therefore no requirement to include additional mitigation measures other than those specified in the DEIR is required.

## **"2010 General Plan"**

### **Exhibit EIR1 - CEQA Findings of Fact**

#### **Environmental Impacts Found to be Less Than Significant**

(EIR Certification, Exhibit EIR1 Page 5 of 277)

#### **"Rationale for No Impact or Less than Significant Impacts"**

##### **1) Land Use**

(see pages 6 - 10 of 277, DEIR Sections 4.1.1.3, 4.1.4.3, 4.2.5.3; FEIR Chapter 4, Section 4.2)

##### **2) Water Resources**

(see pages 10 - 34 of 277, DEIR Sections 4.3.4.2; FEIR, Master Response 9, DEIR, Section 4.3.4.2; FEIR, Master Response 9)

##### **3) Geology, Soils, and Seismicity**

(see pages 34 - 38 of 277, DEIR Section 4.4.4.3, FEIR Master Response 9)

##### **4) Mineral Resources**

(see Pages 38 - 41 of 277, DEIR Section 4.5.4.2; Monterey County Zoning Ordinance)

##### **5) Transportation**

(see pages 41 - 48 of 277, DEIR Section 4.6.3.5; FEIR, Master Response 5 and 6, See page 44 CV-2.18 Carmel Valley Traffic Improvement Program includes measures set forth in Mitigation Measure TRAN-2B)

##### **6) Air Quality**

(see pages 48 - 50 of 277 DEIR, Section 4.7.4.2; Urban Land Institute 2008 Growing Cooler,

##### **7) Noise**

(see pages 50 - 56 of 277, DEIR, Section 4.8.5.2, page 55 CVMP Policy CV-1.14

urbanized areas  
mouth of the Valley)

**8) Biological Resources**

(see pages 56 - 61 of 277, DEIR, Section 4.9.5.4 and 4.1.4.3; FEIR, Chapter 4, Section 4.9; FEIR, Master Response 8)

**9) Cultural Resources**

(see pages 61 of 277, DEIR Section 4.10.3.7 and Public Resources Code Section 5097.98)

**10) Public Services and Utilities**

(see pages 61 - 66 of 277, DEIR, Section 4.11.3, 4.114.3 and Government Code Section 65995,

see page 65 CVMP Policy CV-1.8)

**11) Hazards and Hazardous Materials**

(see page 66 - 74 of 277, DEIR Section 4.14.5.3)

**12) Aesthetics, Light, and Glare**

(see page 74 - 88 of 277, DEIR Section 4.14.6.3)

**13) Population and Housing**

(see page 80 - 81 of 277, DEIR Section 4.15.4.2; Monterey County (June 15, 2010) 2009 - 2014

Housing Element)

Regulations - CEQA:

Traffic: Updates to the CEQA Guidelines Implementing Senate Bill 743

Governor Brown signed Senate Bill (SB) 743 (Steinberg, 2013), which creates a process to change the way that transportation impacts are analyzed under CEQA. Specifically, SB 743 requires the Governor's Office of Planning and Research (OPR) to amend the CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts. Particularly within areas served by transit, those alternative criteria must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." (New Public Resources Code Section 21099(b) (1).)

Measurements of transportation impacts may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated." (Ibid.) *Once the CEQA Guidelines are amended to include those alternative criteria, auto delay will no longer be considered a significant impact under CEQA. (Id. at subd. (b)(2).)*

Transportation impacts related to air quality, noise and safety must still be analyzed under CEQA where appropriate. (Id. at subd. (b)(3).) SB 743 also amended congestion

management law to allow cities and counties to opt out of LOS standards within certain infill areas. (See Amended Government Code Sections 65088.1 and 65088.4.)

Aside from changes to transportation analysis, SB 743 also included several important changes to CEQA that apply to transit oriented developments, including aesthetics and parking.

Complying Cities - No longer use Level of Service (LOS) in a Traffic Report under CEQA:

- San Francisco
- Pasadena

Senate Bill 743 mandates a change in the way that public agencies evaluate transportation impacts of projects under the California Environmental Quality Act. Legislative findings in that bill plainly state that California's foundational environmental law can no longer treat vibrant communities, transit and active transportation options as adverse environmental outcomes. On the contrary, aspects of project location and design that influence travel choices, and thereby improve or degrade our air quality, safety, and health, must be considered.

Revised Proposed Changes to the CEQA Guidelines Section II - includes proposed additions to the CEQA Guidelines, which are found in Title 14 of the California Code of Regulations. Note, these additions, must undergo a formal administrative rulemaking process, and once adopted by the Natural Resources Agency, be reviewed by the Office of Administrative Law.

Proposed New Section 15064.3.

Determining the Significance of Transportation Impacts (a) Purpose. Section 15064 contains general rules governing the analysis, and the determination of significance of, environmental effects. Specific considerations involving transportation impacts are described in this section. **Generally, vehicle miles traveled is the most appropriate measure of a project's potential transportation impacts.** For the purposes of this section, "vehicle miles traveled" refers to the amount and distance of automobile travel attributable to a project. Other relevant considerations may include the effects of the project on transit and non-motorized travel and the safety of all travelers.

A project's effect on automobile delay does not constitute a significant environmental impact. (b) Criteria for Analyzing Transportation Impacts. Lead agencies may use thresholds of significance for vehicle miles traveled recommended by other public

agencies or experts provided the threshold is supported by substantial evidence.

(1) Vehicle Miles Traveled and Land Use Projects.

A development project that results in vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, development projects that locate within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor may be presumed to cause a less than significant transportation impact. Similarly, development projects that decrease vehicle miles traveled in the project area compared to existing conditions may be considered to have a less than significant transportation impact.

(2) Induced Vehicle Travel and Transportation Projects.

Additional lane miles may induce automobile travel, and vehicle miles traveled, compared to existing conditions. Transportation projects that reduce, or have no impact on, vehicle miles traveled may be presumed to cause a less than significant transportation impact. To the extent that the potential for induced travel has already been adequately analyzed at a programmatic level, a lead agency may incorporate that analysis by reference.

(3) Qualitative Analysis.

If existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, a lead agency may analyze the project's vehicle miles traveled qualitatively. Such a qualitative analysis would evaluate factors such as the availability of transit, proximity to other destinations (such as homes, employment and services), area demographics, etc. For many projects, a qualitative analysis of construction traffic may be appropriate.

(4) Methodology.

The lead agency's evaluation of the vehicle miles traveled associated with a project is subject to a rule of reason. A lead agency should not confine its evaluation to its own political boundary. A lead agency may use models to estimate a project's vehicle miles traveled, and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project. (c) Applicability. The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be



governed by the provisions of this section immediately provided that it updates its own procedures pursuant to section 15022 to conform to the provisions of this section. After [two years from expected adoption date], the provisions of this section shall apply statewide. Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Sections 21099 and 21100, Public Resources Code; California Clean Energy Committee v. City of Woodland (2014) 225 Cal. App. 4th 173.

#### Background on Estimating Vehicle Miles Traveled (VMT)

New modeling and counting VMT will require new terminology and modeling. This example illustrates some methods of estimating vehicle miles traveled.

Example:

Consider the following hypothetical travel day (all by automobile):

1. Residence to Coffee Shop
2. Coffee Shop to Work
3. Work to Sandwich Shop
4. Sandwich Shop to Work
5. Work to Residence
6. Residence to Store
7. Store to Residence

Trip-based assessment of a project's effect on travel behavior counts VMT from individual trips to and from the project. It is the most basic, and traditionally most common, method of counting VMT. A trip based VMT assessment of the residence in the above example would consider segments 1, 5, 6 and 7. For residential projects, the sum of home-based trips is called home-based VMT.

#### **Public Comments:**

1) Private easement regulation compliance: Does not comply with new regulation requiring an agreement from private easement owners to intensify use of that easement.

Response: Easement owners collectively hired legal council to represent easement

owners interests. Easement agreement was drafted with input from applicant attorney and other easement owners. A term of the agreement was owners required Monterey Superior Court would retain jurisdiction over enforcement of the terms of the agreement.

2) Architectural: Design does not meet rural character.

Response: No final design has not been done or submitted. In the big picture the homes will be court-yard style homes emphasizing in-door/out-door living. The single family homes are envisioned as one level. The inclusionary homes may be two levels but those designs have not been completed. All units will be ADA compliant.

Architectural designs will be reviewed prior to permitting approval. While Carmel Land Use Advisory Committee frequently say a project does not reflect rural character of Carmel Valley no design guidelines or covenants, codes, or restrictions regarding architectural designs are provided.

Therefore, architectural comments have no baseline for design compliance and design comments are subjective and lack any objective or measurable compliance criteria.

*As an in-fill development this property has existing development and screening on three sides and is 1,900 feet from Carmel Valley Road.*

3) Affordable housing: Will "ghetto-ize" the project.

Response: The 7 units are on 7/8ths of an acre. This lot also accommodates the water distribution facilities. The foot print for the water treatment facility in less than 25' by 40'.

Using any metric the affordable housing lot is highly underdeveloped. Los Angeles County, San Diego County, and San Francisco would allow over 100 units on a lot this size - a lot on which we are doing 7 units with approximately 1/80th of the lot being used for water treatment.

*The existing Affordable Housing Overlay districts in Carmel Valley, as outlined in GPU5, have not produced one affordable housing unit in 10 years.*

4) Traffic Impacts and "Walk-ability":

Response: This is the most "walkable" friendly in-fill location in the County of Monterey. Adjacent to the property are three shopping centers including the Barnyard

and Crossroads. Starting within 50 feet of the property line there are 250 public serving businesses from grocery stores (3), medical/dental offices, banks, brokerages, title offices, restaurants, gas stations, and transit stops. An owner at this project would not need a car and vehicle miles travelled greatly reduced since innumerable public errands can be accommodated

This project complies with the reduced green house gases and vehicles miles traveled mandates of Senate Bill (SB) 743 under the new CEQA guidelines from Governors Office of Planning and Research.

5) Water rights and availability: Does not have water rights.

Response: Project has legal water rights - either applying current usage baseline or using Monterey Peninsula Water Management District 10 year averaging. Project will use 46% less water than the current water use baseline. During eight hour pump tests per Environmental Health test guideline - tests revealed there is minimal drawdown of adjacent wells and almost immediate replenishment once artificial maximum pumping is terminated per Environmental Health 8 Hour Pumping test guidelines. *Wells pump over 400 gallons per minute with virtually no impact (drawdown) on neighboring wells.* Wells could be classified as "gushers".

# MONTEREY COUNTY PLANNING COMMISSION

MAY 10, 2017

AGENDA ITEM NO. 1



## Additional Correspondence

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CARMEL RIO ROAD LLC (CLARK) PLN140089

**Contact Info:**

**Bob Schubert, Senior Planner**

**Resource Management Agency Planning**

**168 W. Alisal St., 2<sup>nd</sup> Floor**

**Salinas, CA 93901**

**(831)755-5183 or [schubertbj@co.monterey.ca.us](mailto:schubertbj@co.monterey.ca.us)**

## Schubert, Bob J. x5183

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**From:** Richard Rosenthal <rrosenthal62@sbcglobal.net>  
**Sent:** Wednesday, May 03, 2017 1:26 PM  
**To:** Schubert, Bob J. x5183  
**Cc:** Richard H. Rosenthal  
**Subject:** PLN140089 - Carmel Rio Rd Subdivision: PLN 140089

Bob: Please be advised that Save Our Peninsula is concerned that the above referred to project is inconsistent with many of the Carmel Valley Master Plan policies regarding traffic and land use. In addition the EIR fails to adequately discuss the project's impacts to traffic, air quality, hydrology and impermissibly defers mitigation measures for hydrology and run off.

Please pass these concerns along to the Planning Commission

Thanks,

Law Office of Richard H. Rosenthal  
P.O. Box 1021  
Carmel Valley, CA. 93924  
831-625-5193

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HEARING SUBMITTAL	
PROJECT NO./AGENDA NO.	140089 / #1
DATE RECEIVED:	5/3/17
SUBMITTED BY VIA:	public email
DISTRIBUTION TO/DATE:	PL / email
DATE OF HEARING:	5/10/17

## Schubert, Bob J. x5183

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**From:** Lauryn Nichols <mslsninc@gmail.com>  
**Sent:** Thursday, May 04, 2017 8:50 PM  
**To:** Schubert, Bob J. x5183  
**Cc:** president@carmelvalleyassociation.org  
**Subject:** NO DEVELOPEMENT IN CV

Good Evening Mr. Schubert,

I felt so silly writing you so late in the game. I know that all emails were due on May 2nd which is Tuesday. Unfortunately I was working and forgot about the deadline until now. I just wanted to at least make the gesture and email my thoughts on the Val Verde Drive development.

I have lived in Carmel Valley Village my whole life (I am 27, almost 28) and I LOVE Carmel Valley! It is a beautiful rural area tucked in away from busy towns that are fairly close by. Resources are scarce in general, especially with all this talk about a future "super drought" so why would we keep building more and more? The community has a responsibility to protect the natural resources we have here in the Valley and people are already coming from around the world to visit its beautiful ambiance, delicious restaurants and wine tasting rooms. There is no need for further buildings in my opinion.

I think Carmel Valley and its community need to focus on conservation of land and keeping this area unique and special. We are already changing and with this we cannot go back, but we can help the now. Now it is important to think about all the animals, beautiful land and the fresh air we offer to all the residents of Carmel Valley Village.

Carmel Valley is a place where all these developers want to build.... but Carmel Valley needs to stay a "village" and be around for years to come and for people to see and enjoy! :)

Thank you so much for your time! I apologize again for my late response!

Kindest Regards,

Lauryn Nichols  
(Life-long Carmel Valley Resident)

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA NO.	140084 #1
DATE RECEIVED	5/10/17
SUBMITTED BY/VIA	public email
DISTRIBUTION TO/DATE:	public email
DATE OF HEARING:	5/10/17

**Schubert, Bob J. x5183**

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**From:** LandWatch ED <execdir@mcldw.org>  
**Sent:** Friday, May 05, 2017 3:02 PM  
**To:** Schubert, Bob J. x5183  
**Cc:** Janet Brennan  
**Subject:** LandWatch comments on FEIR for Carmel Rio Road subdivision (aka Val Verde project)  
**Attachments:** LandWatchComments\_CarmelRioRoadFEIR\_FINAL.pdf

Bob,

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

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

Regards,

Michael

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**Michael D. DeLapa**  
Executive Director  
LandWatch Monterey County  
[execdir@mcldw.org](mailto:execdir@mcldw.org)  
650.291.4991 m

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HEARING SUBMITTAL	
PROJECT NO./AGENDA NO.	140089 #1
DATE RECEIVED:	5/5/17
SUBMITTED BY/VIA:	public email
DISTRIBUTION TO/DATE:	public email
DATE OF HEARING:	5/10/17



May 5, 2017

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

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

Dear Chair Padilla and Planning Commissioners:

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

**The project is inconsistent with Carmel Valley Road Policies.**

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

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

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

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

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



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

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

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

#### *Relevant provisions of the DES*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**The FEIR does not adequately address air quality impacts.**

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

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

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

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

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

*The FEIR’s air quality consistency analysis is inadequate.*

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

*The FEIR fails to address construction traffic adequately.*

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

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

*Impacts of the proposed CSA Flood Control Project not addressed*

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized with a large, looped "M" and "D".

Michael DeLapa  
Executive Director

**Nickerson, Jacquelyn x5240**

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**From:** schachtersj@comcast.net  
**Sent:** Tuesday, May 9, 2017 4:14 PM  
**To:** Amy D Roberts; Ana Ambriz; Cosme Padilla; Don Rochester; Jose Mendez; Keith Vandever; Luther Hert; Marth Diehl; Melissa Duflock; Paul Getzelman  
**Cc:** Nickerson, Jacquelyn x5240; Schubert, Bob J. x5183; Walton, Priscilla; Mary Adams  
**Subject:** Letter from Carmel Valley Association on Val Verde Project  
**Attachments:** cva val verde letter.docx

Dear Planning Commission:

Attached is a letter from Priscilla Walton, President of the Carmel Valley Association, concerning the Val Verde project to be discussed at tomorrow's meeting.

Thank you for your consideration of these comments.

Sincerely,

Sandra Schachter, Secretary, CVA

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA NO.	140089, #1
DATE RECEIVED:	5/9/17
SUBMITTED BY/VIA:	public, email
DISTRIBUTION TO/DATE:	PL 5/10/17
DATE OF HEARING:	



Carmel Valley Association

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

May 9, 2017

Chair Don Rochester and Planning Commissioners  
County of Monterey  
168 West Alisal Street, 2nd Floor  
Salinas, CA 93901-2487

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

Dear Chair Rochester and Planning Commissioners:

The Carmel Valley Association team of volunteer reviewers has reviewed parts of the Final EIR released late last week by the County. This letter supplements our earlier comments.

The project is inconsistent with Carmel Valley Master Plan policies and General Plan policies designed to protect sites such as this one. The Planning Commission wisely denied the applicant's subdivision proposal last time, and we recommend that you do so again. There is no support for the proposal.

This project violates General Plan, Carmel Valley Master Plan and Zoning Policies that include the following areas: land use, air quality, traffic and circulation, aesthetics, hydrology, and water quality.

**Land Use: The project is inconsistent with Carmel Valley Master Plan, the County General Plan policies and Zoning requirements.**

This project violates CVMP Policy and the County Zoning Code Section 21.14.050.

Policy CV-1.10 allows one residential unit per acre in the Val Verde Drive area. The policy may allow 2 units per acre **if clustered**. Further it may allow a density of 4 units per acre if a minimum of 25% are developed for low and moderate income/workforce housing.

This project is not "a clustered" residential development. Rather this is a typical suburban unit development. The market-rate units are spread throughout the entire site. The minimum building site allowed is one acre. (§21.14.060.) The subdivision proposes lots (building sites)

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of 0.25 acre to 0.38 acre. This is smaller than the required minimum building site of 1.0 acre. The subdivision cannot be approved consistent with the Zoning Code, Title 21.

Zoning Code section 21.14.050.A limits density of residential units in LDR zones to “a maximum of 4 on any lot and not exceeding the zoning density of the property.” The applicant proposes to place the 7 inclusionary units on one lot.

**• The project is inconsistent with the CVMP Master Plan and Policy Zoning Code because it allows a density of more than 4 units per acre in the LDR zone.**

The project also clearly violates County Inclusionary Housing Requirements. The County has specific requirements for the affordable housing units to be integrated throughout the project rather than cramming them into one lot, as this project does. The intent is to scatter the inclusionary housing so that it is part of the overall comprehensive development and does not stand out. This project basically promotes a “lower income housing lot” that is readily identifiable within the project. This is in direct contradiction to the County’s intent of integration.

**•The project is inconsistent with County inclusionary housing requirements and good design planning.**

The Project is inconsistent with General Plan Policy LU-1.19 and Policy CV-1.6. The 2010 General Plan Policy LU-1.19 requires that residential development in Rural Centers must incorporate the following minimum requirements of 35% (25% inclusionary; 10% Workforce) affordable/workforce housing for project of five or more units. The project does not provide 35% affordable housing as required by LU-1.19 or 50% affordable housing as encouraged by CV-1.6(a). The project provides only 22.6% at the site. Thus, it does not meet the requirements for preference or approval.

**•The project is inconsistent with General Plan Policy LU-1.19 and CVMP Policy CV-1.6**

When the RCV's 130 new units and 8 new secondary unit as the County has done up until this week, the remaining units in the Carmel Valley Master Plan unit cap appears to be at most 28 according to the County's long standing calculations.

The County's brand new analysis of the number of units to be debited from the new unit cap is inconsistent with the County's past actions and inconsistent with CVMP policy CV-1.6, subdivision (c). Policy CV-1.6 states: "For purposes of the new residential unit cap set forth in this policy, the term “unit” or “units” means lots created by subdivision (including

condominiums), accessory dwelling units, single family dwellings beyond the first single family dwelling on a lot, and apartments." Thus, each lot "created by subdivision" and each new "apartment" is counted as a new unit that should be subtracted from the cap. Subdivision (c) clearly states that only units added on "qualifying existing lots," which are lots greater than 5 acres as stated in subsection c, shall not count as part of the total unit cap.

In its new analysis, the County now counts the Rancho Canada Village's 130 new units as only 125 unit because the County argues there could be some sort of "credit" of 5 units for "existing lots," even though these lots do not qualify pursuant to the policy CV-1.6, subdivision (c). These lots neither exist nor qualify because they have been subdivided. The exception for lots of 5 acres or more is a benefit and bonus for those lots as they exist. Those lots do not get the benefit if they subdivide smaller than 5 acres because they would no longer be "existing 5-acre lots." The County's new argument and new math is not rational and is inconsistent with the plain language of CV-1.6.

- *The County has introduced a new interpretation of the unit cap that is not consistent with the CVMP policy and the County litigation settlement with CVA.*

### **Traffic & Circulation: The Traffic and Circulation components of the project violate CEQA and County General Plans.**

#### General Statement on the violations of CEQA and General Plan:

CEQA Guidelines state that in response to public comments, "major environmental issues raised when the Lead Agency's position [expressed in the DEIR] is a variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, rezoned analysis in response. Conclusory statements unsupported by factual evidence will not suffice." (CEQA Guidelines §15088.5(c).)

Responses by the FEIR to CVA's comments on the traffic assessment in the DEIR fail systematically to meet this CEQA requirement. The responses are not complete, and are inadequate, and the reasons, evidence and factual support for the Lead Agency's positions quite clearly are not disclosed in good faith, as our replies below demonstrate in sufficient detail, and with sufficient evidence to require revision and recirculation of the DEIR, and consequently substantial revision of the relevant portions of the FEIR.

According to CEQA, the EIR “shall include ... relevant information sufficient to permit full assessment ... by members of the public.” (CEQA Guidelines 15147) “An EIR is an informational document which will inform ... the public generally.” (CEQA Guidelines §15125.) Therefore the responses to comments from the public must be written and directed to the public with full understanding that many (and probably most) commenters are not professionals in the relevant disciplines of environmental analysis, and will justifiably expect reasoned, intelligent responses that draw reasonable inferences from the comments, and that sensibly connect the import and evidence provided by comments with conditions and impacts toward which they are directed.

Evasion and obscuring of the evident significance and meaning of public comments, or of the evidence supporting them, is not warranted by CEQA in any way. Yet such evasion and obscuring is a central of the FEIR responses to CVA’s comments on traffic.

**The FEIR responses** to CVA comments on the traffic conditions in the project’s vicinity **violate CEQA**, and because many of CVA’s comments refer directly to violations of CVMP and General Plan provisions, certain of the **FEIR responses also effectively promote or advocate violation of the County’s own plans and ordinances.**

As a result, this **FEIR must not** be certified: CEQA Guidelines require that (emphases ours) **“Prior to approving** a project the lead agency **shall certify** that: (1) The final EIR has been **completed in compliance with CEQA**; (2) ... the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and (3) the final EIR reflects the lead agency’s **independent judgment and analysis.**” (CEQA Guidelines §15090.) An EIR that is **not complete, not adequate**, and which demonstrates **lack of good faith effort at full disclosure** (all of which are shown in the comments to be present in this FEIR) is not “completed in compliance with CEQA” and cannot be certified under CEQA. According to CEQA Guidelines’ discussion of certification, “the decision body itself must consider the information in the EIR.”

Some specific examples of the problems in the EIR:

1. CVA Response 8.7 (Comment 7): “The commenter notes that the proposed project would exacerbate existing degraded traffic conditions. .... Refer to Section 4.14, *Transportation and Circulation*, of the DEIR for a complete analysis of the project’s impacts on the local circulation system.”

CVA's position is that on the **contrary** the "complete analysis" in the DEIR (Section 4.14, traffic) is ***not* complete** and contains ***substantial errors and falsehoods***. The DEIR's ***incompleteness and extensive inaccuracies*** gave rise to the considerable length, detail and evidence contained in the CVA comments on the DEIR, "based to the extent possible on scientific and factual information" (CEQA Guidelines §15064), demonstrate incontrovertibly the EIR's inadequacy and incompleteness. This response **does not constitute the "good faith reasoned analysis" that CEQA requires.**

The clear intent of the CVA comment is to emphasize that **existing traffic conditions, according to information on traffic in the DEIR, already are unacceptable, unavoidable and that the project will make them still worse.** Furthermore, existing conditions that are "unacceptable" refer to current violations of standards stated in the CVMP and/or the County General Plan, which unquestionably are significant environmental issues as discussed in CEQA Guidelines.

• **The County violate CEQA with its dismissive response, "The comment is noted". This response does *not* meet CEQA requirements as stated in CEQA Guidelines: "[C]omments must be addressed in detail giving reasons why specific comments ... were not accepted." (CEQA Guidelines §15088.)**

2. CVA Reply to Response 8.8 (Comment 8): "The commenter states that the project, in addition to other development projects, will add more trips to an already congested area. The commenter also states that the DEIR does not adequately disclose, consider, and mitigate the additional trips that will occur during construction. The comment is accurate in that the project, and other development projects, will add more trips to the project area. The DEIR identifies the project's significant and unavoidable impacts. Refer to Response 4.17 for a discussion of construction-related impacts. As noted therein, such impacts would be less than significant."

The CVA comment in fact is correct, and the response in the FEIR is incomplete and inadequate.

CEQA requires, among other things, that the *response explain in good faith why* existing conditions, currently "unacceptable" according to County planning documents, would become acceptable in future scenarios (cumulative effects), when traffic certainly would be made still worse (exacerbated). CEQA requires that the *response* address in good faith the reasons why the impeded emergency services and of other local traffic as a result of undertaking the



project. CEQA requires that the *response* show in good faith and with reliable evidence why adding 300 daily auto trips and 4,000 vehicle trips during construction would be considered acceptable in considering approval of the proposed project, given that existing traffic conditions are not acceptable.

• **The FEIR response fails to meet these requirements. The comment specifically raises these issues; CEQA requires the County to respond with “good faith reasoned analysis”, *not* with the evasion and obfuscation that constitute the FEIR response.**

This is further confirmed by reference in the response to the earlier Response 4.17 (to LandWatch comments in Letter 4) which itself is inadequate. The response is **conclusory, violating CEQA standards for EIRs**; it uses projected peak hour auto traffic as a standard against which to measure an estimated 58 days of day-long construction traffic, which is an inadequate claim unsupported by pertinent reliable evidence related to construction traffic. Furthermore, this new assertion about construction traffic was unavailable to the public during the public comment period. And there is no guarantee or reason that the 58 days is a reliable estimate, and there is no condition limiting the construction traffic to 58 days. The reality of construction is that the actual amount of time would be far longer than 58 days and stretched out over longer period.

3. FEIR Reply to Response 8.9 (Comment 9). “The commenter provides a list of study road segments that show significant project impacts or unacceptable levels of service and under which scenario they first appear. The comment is noted. However, the commenter erroneously lists the LOS for eastbound segment #14 under cumulative conditions as LOS F, while the traffic study reports LOS E.”

The obvious meaning of the CVA comment is that an excessive number of road segments in the vicinity of the project operate at unacceptably poor levels of service; thresholds and standards stated in the General Plan and CVMP would be violated not once but many times over, in number that exceeds any reasonable environmental level of tolerance. To propose further contributions to traffic degradation in the area by proposing new vehicle trip-generating projects, is to propose not only even more numerous and greater violation of the CVMP (and County General Plan), but effectively to nullify the traffic planning and enforcement processes. The project cannot go forward without extraordinary and clearly unacceptable violation of the laws and protections put in place to protect Monterey County residents and businesses, and to assure their reasonable expectations of safe and trustworthy publicly owned infrastructure.

The clear meaning of the CVA “list” (in tabular form, prepared from the DEIR tables) provided in the CVA comment is that eight (8) two-way segments (1, 2, 3, 6, 7, 11, 13, 14) potentially affected by the project operate now at unacceptable levels, or that thirteen (13) one-directional segments (which is how they are listed in the DEIR), have unacceptable LOS ratings with segments 1, 2, 3, 13 and 14 each operating in unacceptably in both directions, and segment 11 in one direction only. Of these, segment 2 on Highway 1 was reported in the DEIR entirely erroneously as operating at LOS C in both directions, whereas in fact the level of service based on measurement of actual vehicle trips – of actual traffic -- long has been known to be LOS F as recent level of service measurements have confirmed.

There are two clerical errors in the CVA table that was submitted with the CVA comments. They are corrected as shown below and do not diminish the meaning and substance of the table:

seg	direction	1 <sup>st</sup> unacceptable scenario	LOS	2 <sup>nd</sup> unacceptable scenario	LOS
11	northbound	existing	E		
13	eastbound	existing	D		
14 3	westbound	existing	E	cumulative	F
14	eastbound	existing	D	cumulative	<del>F</del> E
14	westbound	existing	E	cumulative	F
1	northbound	existing	D		
1	southbound	existing	D		
2	northbound	bckgnd	F		
2	southbound	existing	F (although falsely reported in DEIR as C)		
3	northbound	existing	F		
3	southbound	existing	E		
6	both	existing	E		
7	both	existing	E		

With respect to the meaningful content of table concerning segments 1 – 4, the DEIR did not in fact assess vehicle trips on the relevant segments of Highway 1 at all. That is, Highway 1 LOS ratings for this report were not based on the number of vehicles moving along the road

per unit time as is necessary to learn the actual level or intensity of roadway congestion. Instead the report was based only on two fixed features of the highway that do not change over time except as a result of major changes in roadway design, namely the numbers of full stops vehicles execute per mile of roadway, and the proportion of intersections with left-turn lanes along the section of highway under study. This is not a measure of traffic but of highway design features, and is entirely independent of traffic. The method, called MMLOS or multimodal level of service for urban streets, when used on existing roads, cannot measure any changes in rate of vehicle flow, and automatically will yield the same automobile LOS value for existing, background and cumulative conditions. The method is wholly inappropriate for environmental reporting, and is useless in that application. Yet it was used here throughout the EIR and consulting traffic analysts' unwarranted references to the Highway 1 analysis to the Rancho Canada Village traffic study, which itself was a false and misleading representation of traffic between Ribera Road and Carpenter Street on Highway 1. This falsity was explained in considerable detail in the CVA comments on Rancho Canada Village, but evidently ignored by the County's Public Works and Planning departments.

*•The FEIR response confirms violations of CVMP standards are shown in an additional table on intersections analyzed in the CVA comment labeled by the responders as part of Comment 9, and similar CVA comments reference the table, as well. The appropriate points are made above.*

**The County allocated too little time from the date of the FEIR release prior to the Planning Commission hearing. The short time allotted makes it impossible to conduct a complete and fair examination of the FEIR's responses to CVA's comments on the DEIR, let alone the responses to other comments.**

In the limited time available in the three business days since the release of the FEIR to review it, it is fair to say that the FEIR does not even begin to satisfy the meaning and intent of CEQA and of the General Plan, including the CVMP. Numerous items in the DEIR and FEIR are wholly inaccurate, inadequate, incomplete, and clearly intentionally false, as has been repeatedly observed elsewhere as well as above. This FEIR is a particularly stunning example of bogus environmental claims and of evasion of accountability. It is an embarrassment to all who seek and value truth in government, as shown in our comments during the CEQA process.

Much more would be disclosed were the County to promote, accept and carry out truthful environmental reporting, and utilize a planning process that were faithful to County residents rather than one susceptible to accommodation to special influence.

- *We have supplied in our extensive comments on the EIR, fully irrefutable evidence to support our contention that it would be unlawful under CEQA to either certify the FEIR or to approve the Carmel Rio Road Subdivision.*

**Hydrology and Water Quality.** This project will increase the numbers of families by 31 who would live in a known high-risk flooding area. The lower river area has flooded 22 times in the last century, according to County records.

The FEIR claims “mitigation to reduce the extent of the runoff the maximum extent feasible” would ensure that the proposed project would not violate water quality standards or degrade water quality standards or waste discharge. The County provides insufficient information regarding feasible mitigation measures and who and on what basis would judge the “feasibility” of measures, which is an important issue given the County’s recent actions with regard to interpreting feasibility.

*The FEIR is inadequate because it fails to explain and quantify what they “the maximum extent feasible” and what impacts would remain.*

**Flooding:** The FEIR still does not explain and identify in detail the specific measures that would mitigate the downstream impacts that all project aspects would have. The County’s 2014 CSA 50 report states a “key deficiency” in the area’s existing drainage system. The north side of the Carmel Valley drains into this area and has caused prior flooding. The addition of 31 homes means that the 7.9 acres of agricultural land that can presently absorb some of the rainwater and drainage flows would be eliminated.

**Groundwater:** The Carmel Valley Alluvial Aquifer suffers from water table loss every year and is overdrafted. The water supply cannot be counted on as a long term sustainable water supply. County General Plan Public Service goals and policies require a long term sustainable water supply. The applicant’s proposes to pump from two wells to provide domestic and exterior water for the 31 units. Wells would pump from the aquifer thus it will contribute to overdraft. Exceeding water demand would further harm the river and habitat. The County has not required a mitigation that limits the groundwater pumping at the site. The applicant does not propose any effective cap or limits on water use. There is still no evidence or plan to



guarantee that the 31 new residents would not exceed the water demand.

**Agriculture:** The project would eliminate the current agricultural use of the project area. CVA reiterates that keeping the site in agricultural production would adhere to CVMP Policy CV-1.1 to maintain the rural and the agricultural character. That policy should prevent this proposal to turn productive agricultural acreage into further urban sprawl. This project would adversely impact the rural nature of the Carmel Valley. It has been in agricultural production growing local organic produce. Keeping it in agricultural use minimizes traffic by reducing the trucking in of agricultural products from outside that result in increasing traffic.

The project would not comply with the Master Plan Policies CV-6.2 and CV-6.3 requirements for protecting agriculture:

“Gardens, orchards, row crops, ... farm equipment, and farm buildings are part of the heritage and the character of Carmel Valley. This rural agricultural nature should be encouraged .... “

“Croplands and orchards shall be retained for agricultural use...”

The surrounding properties to the north and south of the proposed project are consistent with the rural character combining open space, equestrian uses, woodland habitat and low-density single-family residences. This site is not an urban infill area. The CV Master Plan visionary planning approach urges saving and integrating local farms to maintain the rural character of the Carmel Valley. The project is in direct contradiction to this goal and rather would recreate the intense urban sprawl that has destroyed many beautiful rural communities.

### **REQUESTED ACTION:**

**The Carmel Valley Association asks the Planning Commission to recommend:**

**1. Denying the project because it does not comply with the County General Plan, Carmel Valley Master Plan, Zoning Ordinance, County Inclusionary Housing policies, and unacceptable impacts on land use, traffic, water, flooding hazards, and all other issues identified by the public and Commissioners.**

**3. Not certifying the EIR. CEQA compliance is not required for projects that are denied, and thus there is no need to approve the EIR.**

The Carmel Valley Association and its members thank you.

Sincerely,

Priscilla H. Walton, President, Carmel Valley Association

Cc: Supervisor Mary Adams, 5<sup>th</sup> District