

Attachment A

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ATTACHMENT A – DISCUSSION

PROJECT BACKGROUND

In February 2004, the County received an application proposing a 281-unit subdivision over 76-acres that was operated as a golf course (Rancho Canada-West Course, PLN040061). In January 2008, the *Rancho Canada Village Specific Plan Draft Environmental Impact Report* (Draft EIR) was prepared and circulated for public comment; however, due to a variety of factors, the project application did not go forward for consideration by the Planning Commission or Board of Supervisors at that time. Subsequently, the original 2008 Draft EIR was revised to address comments and analyze impacts of a 130-unit reduced density alternative project. A Recirculated Draft EIR (RDEIR) for was circulated for public review from June 2, through August 8, 2016. A Final EIR was prepared with responses to comments received on the RDEIR.

On December 13, 2016, the Board of Supervisors certified an EIR for the Rancho Canada Village subdivision, approved the 130-unit project alternative, adopted the GP/CVMP amendment to CV 1.27 which reduced the affordable housing requirement from “50% affordable/workforce” to “20% affordable”, “notwithstanding any other General Plan policies” and adopted a rezoning ordinance to rezone the property corresponding to the Vesting Tentative Map for the 130-unit project, with such rezoning to be operative if and when the final map for that project was approved and recorded.

The Carmel Valley Association (CVA) brought a lawsuit challenging the Board’s 2016 certification of the EIR and project approval. (*Carmel Valley Association v. County of Monterey* (Monterey Superior Court Case No. 17CV000131).) The trial court held that the EIR’s project description was legally inadequate because the EIR had characterized the 281-unit project as the “project” but the 130-unit project was the “true project.” As such, the court held that the EIR did not contain a reasonable range of alternatives to the 130-unit project. RCV appealed from the trial court’s CEQA determination and the trial court’s determination about County’s “unusual circumstances” finding for the inclusionary housing contribution, while the County appealed and CVA cross-appealed on issues related to County’s implementation of two General Plan policies.

At the same time as appealing the trial court decision, the applicant requested that the County prepare a revised EIR to address the specific legal inadequacies identified by the superior court. The Second Revised Draft EIR (SRDEIR) for the Rancho Cañada Village Project application was prepared in accordance with CEQA. The SRDEIR was circulated for public review from June 22 through August 11, 2020 (SCH#: 2006081150). The project description in the SRDEIR is the 130-unit project, which is the same as the 130-unit “alternative” in the 2016 EIR with minor modifications. The 145-unit Project which is the subject of this resolution and the Project approval being considered concurrently by separate resolution is Alternative 6b from the Second Final EIR (SFEIR), refined to specify that the project includes a total of 145 units, of which 40 are affordable, with the affordable units consisting of 28 moderate income units, 6 Workforce I units, and 6 Workforce II units. (SFEIR is **Attachment J**).

On May 19, 2021, the Court of Appeal issued its decision in the appeal relating to the Board's 2016 approvals of the Rancho Canada Venture project. The court ruled in the County's favor on all issues and reversed the superior court decision. (Court of Appeal Case No. H046187, **Attachment M**). County expects the Court of Appeal decision to become final by late July and the trial court to issue a judgment in accordance with the Court of Appeal decision, at which point the 2016 approvals would be valid and intact, and the applicant could elect to proceed with development under the 2016 approvals. Consequently, the applicant has requested that the County continue to consider certification of the SFEIR and approval of the Project (the 145-unit refinement of Alternative 6b) but requests that if the County approves the Project and related entitlements, such approval would be conditional on the occurrence of: (a) the passage of 95 days after the posting by the Monterey County Clerk of a Notice of Determination (NOD) for the approval of the entitlements for the 2021 Proposal without the filing of any litigation challenging those County approvals under any law, including without limitation, either CEQA or Planning and Zoning Law (Gov. Code, § 65000 et seq.); and (b) written notification from the applicant to the County Housing and Community Development Director, within 100 days of posting of the NOD, of RCV's intention to proceed with the approvals of the 2021 Proposal.

The 130-unit project was presented to the Carmel Valley Land Use Advisory Committee (LUAC) on February 16, 2021, at which time the LUAC voted to recommend support of the project if designed to include the 2010 General Plan affordable housing requirements (4 to 1 vote, 1 absent). (LUAC minutes are **Attachment I**.)

The 130-unit project was also presented to the County's Housing Advisory Committee (HAC) on January 13, 2021. Both the applicant and County staff attended the HAC meeting. A letter and an economic study prepared by Economic Partnership Systems (EPS) was provided by the applicant. The HAC continued the discussion to a February 17, 2021 special meeting to provide more time to review the applicant's letter to the HAC regarding the affordable housing component and the economic study. During the discussion, a CVA member suggested the applicant set aside a 5-acre parcel for CVA to work with a non-profit affordable housing developer to better meet inclusionary housing requirements, which was commended by committee members. The HAC voted at the February 17th meeting to recommend support of the project with the caveat that staff work with the applicant on a design that would better reach 35% affordable housing set by the County's Inclusionary Housing Ordinance and General Plan affordable housing policies, with flexibility to increase the total number of units to address the economic feasibility of increasing the percentage of affordable units. (4 to 1 vote, 1 absent). (HAC minutes are **Attachment H**.)

RCV considered the community input at the LUAC and HAC meetings, and returned to County with an additional alternative to increase the percentage of affordable housing and increase the total number of units. The proposal is within the same project footprint but locates the affordable housing on a 5-acre parcel on the west side of the project site (as shown in Figure 5-6 of the Second FEIR.) The SFEIR includes this alternative as Alternative 6b and concludes that this alternative does not require supplemental environmental analysis, as it does not involve new significant impacts or increase in severity in environmental impacts from what was analyzed in the SRDEIR. Alternative 6b analyzed an affordable housing unit count in the range of 40 to 50 units and total project units in the range of 145 to 155 units. RCV proposes to develop

Alternative 6b refined to a total of 145 housing units (“Project”). The 40 affordable housing units would all be on a 5-acre parcel within the subdivision, built with a future entitlement. The applicant proposes inclusionary housing (twenty-eight moderate income households) and twelve Workforce housing, which would not reflect the County’s 6-6-8-5 percentage distribution of income levels set out in General Plan Policy LU-2.13 and the inclusionary housing ordinance, but would adhere to the overall 20% inclusionary housing requirement and include more than 5% housing for Workforce housing.

On May 5, 2021, the Planning Commission held a duly noticed public hearing on the project at which time the applicant and members of the public had the opportunity to be heard. At this public hearing, staff recommended and the Planning Commission considered Alternative 6b as the Project. For this initial hearing, applicant had proposed a Vesting Tentative Map corresponding to the 145-unit refinement of Alternative 6b and proposed a distribution of the affordable units of four very-low income units, four low income units, 20 moderate income units, and 12 workforce units. (**Attachment K** [April 27, 2021 letter from Remy Moose Manley].) Following deliberation, the Commission continued the hearing to June 9, 2021 with direction to staff to work with the applicant to achieve consistency with the County’s Inclusionary Housing Ordinance that requires a distribution of 6% very low, 6% low, and 8% moderate income units, and to revise the draft resolution to address more specifically the Project (refinement of Alternative 6b) recommended by staff.

Staff discussed the inclusionary housing requirements again with the applicant and adjusting the number of bedrooms per unit type. Not reaching an agreement on redistribution of income levels, staff incorporated the required affordable housing income distribution into the draft Planning Commission resolution as directed for the continued June 9 Commission hearing.

Between the May 5 and June 9, 2021 Planning Commission hearings, the Court of Appeal issued the decision in *Carmel Valley Association v. County of Monterey*. The decision, when final, provides the applicant the opportunity to proceed under the 2016 approvals of the project, which is for 130 units, of which twenty-five units would be moderate income rental units. Consequently, applicant revised its proposed distribution of affordable housing for the 145-unit project to include twenty-eight units of moderate income housing (equal to 20% inclusionary) and twelve units of Workforce I and II housing (equal to over 8% Workforce), and proposed this distribution to the Planning Commission at its June 9 continued hearing on the project.

Other matters discussed at the Planning Commission hearings included the quality and capacity of the preliminary drainage plan. Remy Moose Manley, on behalf of RCV, re-shared letters from the consultant who developed the hydrologic report used in the Second Revised EIR for the benefit of the decision makers that clarified the matters. (**Attachment K.**) Also at the hearings, a question arose about the source of water and water rights. The Project has sufficient water rights for the Project, and this information is found in the SFEIR and acknowledged by Monterey Peninsula Water Management District (MPWMD) in a letter concerning the FEIR (**Attachment F**). For reference, staff has attached a letter from Remy Moose Manley on behalf of RCV dated February 11, 2021 that provides additional information about the Project’s water rights and water supply (**Attachment K**).

At the June 9, 2021 hearing on the project, the Planning Commission supported the applicant’s most recent proposal of twenty-eight moderate income and twelve workforce housing units. The Planning Commission unanimously (vote of 9 to 0, with one absent) recommended that the Board of Supervisors certify the SFEIR, approve the amendment to Policy CV-1.27, adopt the zoning ordinance to rezone the property in a manner that corresponds to the 145-unit proposed Project, and approve the Combined Development Permit. The Planning Commission also included a recommendation for staff to work with the applicant in response to RCV requests for modification to conditions of approval stated in their June 8, 2021 letter (**Attachment N**).

APPLICANT REQUESTS

On July 20, 2021, RCV submitted corrections to the Vesting Tentative Map. The corrected VTM is attached to the draft Project resolution. The letter from Remy Moose Manley on behalf of RCV dated July 12th repeated two requests that the Board revise conditions which staff has explained are not advisable (Conditions 47 and 52). Several other conditions have been discussed and compromises reached, as discussed below. RCV and staff are at an impasse on the remaining issues and seek Board direction. The following quick chart is a summary of the differences in what the Planning Commission recommended to the Board and what RCV is currently proposing. Note that there is no difference between the two in that the Project is a refinement of Alternative 6b, a 145-unit project with 40 units of affordable housing.

Planning Commission Project	RCV latest proposals	Recommended Compromise
All roads in the private subdivision are privately owned and maintained	Approximately 3,280 linear feet of road and a cul-de-sac in the subdivision to be owned and maintained by County	Return to the Board with a redesign of the Project which locates the affordable housing closer to Carmel Valley Road <i>OR</i> dedicate ~ 1,500 linear feet of the road to County
VTM showed Parcel A blank in all sheets	VTM showing Parcel A with roadways and infrastructure	Applicant submits additional sheets showing roads and infrastructure on Parcel A (resolved via July 20, 2021 submission of corrected VTM)
Condition 52 – subdivision improvements showing standard language	Condition 52 augmented with “The owner/applicant shall be reimbursed for costs <i>above its fair share</i> for these improvements from Carmel Valley Transportation Improvement Plan (CVTIP) funds received from other benefitting property owners.”	Board can direct staff to leave “fair share” expressions out of the MMRP and leave the matter up to RCV to seek Regional Parks and other neighbor contributions.

RCV sent a letter to HCD - Planning on April 23, 2021 requesting County consider Alternative

6b as the project and provided a Vesting Tentative Map for that alternative (**Attachment K**). In the letter, RCV asserts that Alternative 6b is a feasible alternative and retains all the benefits of the 130-unit project. All responsible County departments and agencies reviewed the Alternative 6b Vesting Tentative Map submitted by the applicant. The Planning Commission reviewed that VTM as the VTM attachment to the Staff Report, alongside the other proposed entitlements.

In a letter from Remy Moose Manley on behalf of RCV dated June 8, 2021, RCV proposed revisions to the several conditions of approval. Staff has discussed with the applicant all of applicant's proposed refinements to the project, such as: applicant's request for a roadway within the subdivision to become a public County road rather than private road, applicant's request to be reimbursed for costs of constructing intersection improvements and drainage facility improvements, proposed revisions to the affordable housing condition; and inclusion of depiction of a road and cul de sac within Parcel A. These matters are discussed in more detail in the sections below.

Parcel A Roadway and Cul de sac

Staff identified that clarification was necessary for a roadway and cul de sac to be depicted within Parcel A, the parcel where the affordable housing would be located, on the Vesting Tentative Map. When the Carmel Valley Association (CVA) and RCV began discussing a 5-acre parcel for affordable housing, the residential lots, roadway and cul-de-sac were removed from that corner of the proposed VTM, and the lot became a blank for future affordable housing development. Although RCV may have discussed various draft plans with CVA, the VTM utilized in the FEIR, routed for interdepartmental review, and then presented as the VTM Exhibit to the Planning Commission, gaining its recommendation at the June 9th hearing, did not include the roadway and cul de sac in Parcel A. However, on July 20, 2021, the applicant submitted a corrected VTM with the only change being inclusion of the roadway and cul-de-sac within Parcel A. This June 2021 dated VTM is presented as the VTM with the Project resolution in **Attachment E**. Therefore, this issue has been resolved.

Publicly Dedicated Roadway Within Subdivision

Condition 47 is a standard condition of approval of a subdivision that requires the developer to designate private roads within the subdivision on the final map. This condition is consistent with Title 19 and the Subdivision Map Act. RCV has requested that the northern cross-road from the entry of the subdivision at Rio Road (east) to the connection with Rio Road (west), including a cul-de-sac in the affordable housing parcel, be a publicly dedicated roadway (known as the "Village Park Road"). RCV contends that since the affordable housing component is accessed via Village Park Road, the County should incentivize/support this development through County assuming ownership and maintenance responsibility. RCV further argues that the flood control for DA27 that the applicant plans to install along the eastern edge of the Project would later be annexed into county service area and then would require County Public Works to access the infrastructure via the roadway.

Contrary to the applicant's position, Staff does not find a compelling reason to take on the burden of public ownership and maintenance of Village Park Road in its proposed alignment. It has been the past practice to not accept additional roadways into the County's system because it is not able to maintain its current pavement condition index (PCI) to a satisfactory level.

Additionally, the roadways only serve the project and not the community at large. The roadway also serves the market rate units, not simply the affordable housing component of the project. The affordable housing component is at the farthest extend of the project site. If the affordable housing were near Carmel Valley Road, then staff's position may be different.

Furthermore, Policy C-4.2 of the 2010 General Plan states, "all new road and interior circulation systems shall be designed, developed, and maintained according to adopted County standards or allowed through specific agreements and plans." The central section of the proposed Village Park Road does not meet the standards for County roads such as the standard for width, so significant revisions of the VTM would be required to achieve consistency with the County standards if Village Park Road were to become a County road. Should the Board desire a public roadway, significant revision to the VTM would be warranted to achieve consistency with the General Plan and road standards. The widening of the roadway would also affect the layout of the parcels that front that segment of roadway.

In the event the Board were to agree with applicant's request to make this road a publicly dedicated roadway, staff would suggest the Board continue the hearing on the Project to a date certain to provide additional time to appropriately restructure the approval documentation. For example, the conditions of approval would need to be revised to address the irrevocable offer to dedicate the roadway and, with Board direction, Village Park Road may be redesigned to terminate at Parcel A rather than to extend through Parcel A so that the County's maintenance obligation is reduced.

Intersection Improvements

RCV requests that County reimburse it in full for the construction of the traffic signal or round-about that is required per Condition 52. Condition 52 is integral to the Project because the SFEIR Transportation and Traffic Chapter relied on analysis from a Traffic Report which included a presumed traffic light at the intersection of Carmel Valley Road and Rio Road (east). After a brief consultation between HCD, Public Works, and Monterey Peninsula Regional Parks District (MPRPD) staff, one possibility that RCV could pursue, independent of the County, is for RCV to present a proposal to MPRPD and any other neighbors that RCV believes would be served by the new signal for a cost sharing agreement. Additionally, and to comply fully with the Planning Commission's recommendation, staff met with the applicant to resolve the issue raised by RCV in its July 12, 2021 letter to the Board. As a result, staff suggests a revision to Condition 52 to clarify that the applicant is only responsible for its fair share. RCV indicated that this would sufficiently address the concern, with the language added in italics below.

“. . . The owner/applicant shall be reimbursed for costs *above its fair share* for these improvements from Carmel Valley Transportation Improvement Plan (CVTIP) funds received from other benefitting property owners.”

This revision has been made to Condition 52 in the draft Project resolution.

It should be recognized that the methodology for determining the fair share contributions has not established, but staff and the applicant have agreed that additional analysis would be needed to determine the methodology for determining the applicable fair share contributions. However, if the Board finds that this presents uncertainty for the project and other projects in the future, the

Board may direct the condition to remain as it was without the added sentence, thereby requiring the applicant to fund the intersection improvement in its entirety.

Drainage Facility Improvements

Condition 55 was rewritten prior to the June 9, 2021 Planning Commission hearing to more firmly establish that the sub-divider is fully responsible for construction of the drainage and floodgate improvements and that the design would be reviewed by County Public Works for approval. Cost sharing is an option for the applicant to pursue, and annexation into county service area may be included in the drainage improvement agreement. Counter to what RCV states in the July 12, 2021 letter, neither current nor previous staff requested a 60-inch pipe be installed as the DA27 flood control improvement. Condition 55 indicates that the drainage plan would be reviewed and approved by County after project entitlement. However, the letter did not request a change to the Condition 55 language, so this issue is settled for now. Public Works has initiated a review of the RCV project's drainage facility improvements that have the potential to serve more than the immediate project area. Cost-sharing options for 1) an 84-inch pipe, and 2) ongoing maintenance of the facility would be reviewed prior to the applicant's anticipated drainage plan submittal for condition compliance.

Inclusionary Housing

Condition 112 was rewritten in July to capture the intent that RCV has expressed in making the inclusionary housing available to persons in income-qualified households who are working in the geographic areas near the project site, while the condition makes clear that any preferences must comply with fair housing law. Staff also included RCV's most recent offer of bedroom counts for the moderate income and workforce housing units, although the Board has discretion to further modify the condition at the public hearing. However, it is staff's understanding that this condition is no longer a source of contention. On July 20, 2021, RCV requested that a proposed site plan, elevations and floor plans be shared as an attachment to this staff report to illustrate the layout that would facilitate 8 one-bedroom units, 24 two-bedroom units, and 8 three-bedroom units. The plans, **Attachment O**, are illustrative because RCV would need to apply for additional entitlements (use permit and design approval) to build them.

2016 versus 2021 Approval

RCV continues to express a desire to pursue Alternative 6b with some refinements if the Board's approval is not challenged in court. To that end, RCV is not willing to proceed with new approvals if doing so includes the risk that Board action rescinds or supersedes the vested 2016 approvals and expose it to a legal challenge on the new approval of the RCV project under PLN040061-AMD1. RCV proposes to avoid the risk of litigation and further delay in the completion of the Project by requesting that the Board condition its approval of the Project (refinement of Alternative 6b in the SFEIR) on the expiration of the statutes of limitations to challenge any approval by the Board. Should timely litigation be filed, the current approvals would not take affect and RCV would proceed instead with its vested 2016 approvals. As such, if this Project is not acceptable to the Board, or the Board is unwilling to approve conditionally, RCV has indicated that they will proceed with the 2016 approvals, which is a 130-unit project in approximately the same footprint.

PUBLIC and AGENCY COMMENTS

Public comment was submitted to the Planning Commission preceding, during and after their May 5th hearing. The Planning Commission received oral testimony at the hearing, as well. The comments were generally in favor of higher percentages of affordable housing within the proposed 40-unit group or, in some cases, more than 40 units of income-restricted units. Two letters from responsible agencies were received concerning the Project's drainage plan's flood controls, and Caltrans sent a comment letter on the SFEIR.

Several written and oral comments about affordable housing were made to the Planning Commission for the May 5, 2021 public hearing. Many, including Monterey Bay Economic Partnership, LandWatch, Carmel Valley Association and others expressed that the opportunity should not be missed to build more affordable housing at this infill location. The Planning Commission embraced the opportunity for greater affordable housing by supporting a 145-unit Project, rather than a smaller one, to augment affordable housing. The Project, as recommended by the Planning Commission, offers fifteen more inclusionary housing units than the project approved by the Board in 2016. The levels of income restriction are expanded to include Workforce I and II, but no low or very-low income level housing is included.

A NOAA National Marine Fisheries Service (NOAA Fisheries) comment letter received on May 5, 2021 shared concern with the drainage plan design pertaining to potential impacts to steelhead (*Oncorhynchus mykiss*), a species of fish listed as threatened by the Endangered Species Act. The applicant agreed to include NOAA Fisheries in the review of the drainage plan to best protect this species. Updates were made to Condition No. 42, drainage improvement study, to address the concern as follows:

“NOAA National Marine Fisheries Service (NOAA Fisheries) will review the plan and make recommendations to better achieve protections of protected species” to the body of the condition; staff also added “Evidence must be provided that the drainage study and improvement plans were submitted to NOAA Fisheries for input to minimize potential harm to protected species” to the actions of the condition. The applicants agreed to these amplifications.

In condition number 79, edits shown in strikethrough and underline:

~~“ . . . The Applicant/Owner will obtain all necessary approvals and make all implementation arrangements for steelhead rescue prior to the construction of the new site basin and will provide proof of such permits and arrangements to the County.~~

Actions Needed for Resolution:

Prior to Recordation of a Final Map, this mitigation measure and its requirements shall be shown as a Note on the Map.

Prior to issuance of construction permits the Applicant/Owner shall ~~submit proof~~ show evidence that the proposed new detention basins/ponds locations are acceptable to NOAA Fisheries and CDFW and that the agents of the Applicant/owner are authorized to implement BIO-18 or the CRSA is permitted to implement BIO-18 and intercede as part of their ongoing steelhead rescue permits has granted permission to rescue steelhead. The project applicant shall submit proof that all required approvals and permits have been obtained.”

A comment letter from FEMA on the SFEIR dated May 5, 2021 was received. The comments included a statement that a hydrologic and hydraulic analysis must be performed prior to the start of development, and must demonstrate that the development would not cause any rise in base

flood levels because no rise is permitted within regulatory floodways. The Project SRDEIR included a series of Hydrologic reports and a Hydraulic and Transport study done by Balance Hydrologics, Inc. (dating from 2005 to 2017) as discussed in Chapter 3.2. Mitigation Measures HYD-1, HYD-2, and HYD-3 would ensure the drainage facilities are properly designed, maintained and monitored so they operate as intended (Condition Nos. 97, 98, 99). The letter from FEMA also instructed how and when to make Flood Map revisions. County is aware of the requirement and will work with the applicant and owner or to comply fully. Condition Nos. 15 and 16 address this issue.

Caltrans District 5 sent a comment letter to staff in response to the release of the SFEIR on April 16, 2021. The letter offered support for development that is consistent with smart growth principles including improvements from their Transportation Demand Strategies, such as pedestrian, bicycle, and transit infrastructure improvements. The Project includes walkable and bike-able paths in the direction of jobs, shopping and public transit as well as into the Palo Corona Regional Park. The letter also urged the use of Vehicle Miles Traveled (VMT) for assessment of transportation impacts in EIRs, effective July 2020. County commends the use of VMT in environmental analysis going forward from that date. This EIR was circulated in June 2020 and pre-dates the requirement. Caltrans included no changes to the transportation section.

A letter from the Monterey Peninsula Water Management District (MPWMD) requesting refinement of Mitigation Measure BIO-18 and text in the EIR chapters was received on June 14, 2021 (dated June 11). MPWMD conferred with the applicant and provided a second letter June 30, 2021 expressing that most of the concerns were allayed but the district still requested minor revisions to Mitigation Measure BIO-18 to indicate that MPWMD will not be involved in actions to rescue steelhead if stranded. At MPWMD's request, the Mitigation Measure BIO-18 has been modified to omit the parenthetical expression "(such as the MPWMD Sleepy Hollow facility)" and acronym "MPWMD." In discussion with the applicant, staff found that another edit was needed to clarify that evidence of permits for the applicant to handle steelhead would not be needed if the mitigation were to be completed through arrangement with organizations that are already involved with fish rescue on the Carmel River. Therefore, the follow edit was made: "The Applicant or successor(s) in interest will obtain all necessary approvals and make all implementation arrangements for steelhead rescue prior to the construction of the new site basin and will provide proof of such permits and/or arrangements to the County."

Because the changes were made after the FEIR was printed and distributed to responsible agencies and decision makers, an FEIR Errata Memorandum (dated July 15, 2021) was sent to all responsible agencies ten days prior to the public hearing, posted on the website made available at the HCD Counter, and is attached to the staff report of this Resolution. MPWMD also requested that they be added to the reviewing agencies in Condition No. 72, as shown below as underline of the compliance action section of the condition (below the body and not part of the mitigation measure BIO-11):

"Prior to issuance of grading and/or building permits, the Applicant/Owner shall submit proof that a management plan for the conservation area has (sic) be developed and approved by the MPWMD, USFWS and/or DFW. The management plan shall be reviewed and approved by HCD-Planning."

GENERAL PLAN

Rancho Cañada Ventures LLC (RCV) submitted an application proposing a 281-unit subdivision project in February 2004. Under the Subdivision Map Act (Government Code, Section 66474.2), subdivision projects are governed by regulations in effect at the time the application is deemed complete, with some exceptions. The Rancho Cañada Village application was deemed complete in 2005, and a Notice of Preparation was issued August 2006. At that time, projects were subject to 1982 General Plan, 1987 Carmel Valley Master Plan, and Monterey County Code (MCC) Chapter 18.40 MCC (Inclusionary Housing). Under the regulations in place at the time the project was deemed complete, this project was required to provide 20% inclusionary units. A draft environmental impact report (EIR) was prepared for that application. Thereafter, the 2010 General Plan with its updated Carmel Valley Master Plan was adopted. In response to the cap and community concerns, the applicant devised a 130-unit project alternative.

Although the applicant was entitled to process the project application under the 1982 GP/1987 CVMP based on the Map Act, the project was inconsistent with the 1982 General Plan land use designation for the site and could not have been approved without an amendment to the 1982 General Plan. When the County resumed processing the application and 130-unit alternative following adoption of the 2010 General Plan, the County determined that it was not possible to amend a General Plan that was no longer in effect and thus processing under the 1982 Plan would mean project denial. Accordingly, with applicant acquiescence, the County evaluated the project under the 2010 GP and prepared and circulated a revised draft EIR that evaluated both the 281-unit project and the 130-unit alternative, as well as other alternatives.

As part of the project approval in December 2016, the Board of Supervisors approved amending Policy CV-1.27 - Rancho Canada Village Special Treatment Area as follows:

CV-1.27 Special Treatment Area: Rancho Canada Village – Up to 40 acres within properties located generally between Val Verde Drive and the Rancho Canada Golf Course, from the Carmel River to Carmel Valley Road, excluding portions of properties in floodplain shall be designated as a Special Treatment Area. *Notwithstanding any other General Plan policies,* ~~r~~Residential development may be allowed with a density of up to 10 units/acre in this area and shall provide a minimum of ~~50%~~ 20% Affordable/~~Workforce~~ Housing. Prior to beginning new residential development (excluding the first unit on an existing lot of record), projects must address environmental resource constraints (e.g.; water, traffic, flooding).

This amendment reduced the affordability obligation from 50% affordable/workforce to 20% affordable with no specific requirement for level of the affordability range. The phrase “*notwithstanding any other policy*” means that other General Plan policies that reference affordable requirements would not apply in this case, including but not limited to LU-1.19 (Development Evaluation System), LU-2.11 (Affordable Housing Overlay), LU-2.13 (Inclusionary Housing).

As a result of the Court of Appeal decision upholding the 2016 project approvals, the amendment to Policy CV-1.27 which the Board adopted in 2016 will go into effect when the trial court enters judgment in accordance with the Court of Appeal decision, but this final disposition of the

litigation has not occurred as of the July 27, 2021 Board hearing. Because the status of the amendment was not clear while the litigation was pending and will not be fully certain until the trial court enters judgment in the litigation, the County has again processed a functionally similar amendment to Policy CV-1.27 as part of consideration of the Rancho Canada Village amended application. Therefore, the resolution which staff has prepared for the Board to consider now indicates that if the 2016 amendment to Carmel Valley Master Plan Policy CV-1.27 goes into effect, then the action is unnecessary and moot, and the action then would be merely to authorize County staff to update the Assessor Parcel Numbers listed in Policy CV-1.27, a ministerial action. (**Attachment C**)

The Project is consistent with CVMP Policy CV-1.6, which provides that new residential subdivision in Carmel Valley shall be limited to creation of 190 new units, as discuss above. This residential unit cap was adopted in part to reduce environmental impacts such as those related to water supply and traffic, as well as open space preservation. The Project will add 140 units to the unit count, which does not surpass the total allowable and available. The Project would leave a remaining 19 units for new development. Thus, the Project would not result in a higher level of housing or population growth in the CVMP area than anticipated in the adopted CVMP. The Project would not result in significant impacts to water supply or open space preservation (the project would increase the amount of open space open to the public). The Project would result in certain significant and unavoidable traffic impacts inside and outside Carmel Valley. The Project would contribute to cumulatively significant traffic impacts on Carmel Valley Road and SR 1.

General Plan (GP) Policy LU-1.19 requires development of a Development Evaluation System (DES) for 5+ units outside of priority growth areas. It also requires 25% inclusionary plus 10% Workforce where a project is located outside of a Community Area or Rural Center. In advance of adopting procedures implementing the Development Evaluation System, the County applies the DES evaluation criteria to projects pending finalization of the DES. This policy does not specify exemption for a STA. In 2016, the Board found that the project passed the DES criteria, other than the affordability percentage. The trial court upheld the County's application of the DES to the project. Due to the specific wording of the amendment to CV-1.27, the affordability percentage of CV-1.27 as amended (20%), rather than the DES affordability percentage, is applied to the project.

Policy LU-2.13 of the 2010 GP requires consistent application of an affordable housing ordinance which requires new development to provide 6% very low, 6% low, 8% moderate, and 5% Workforce I units for a total project obligation of 25%. Chapter 18.40 of Monterey County Code (Inclusionary Housing) requires 20% affordable units (8% moderate, 6% low, 6% very low) for all new development of 5 or more units. With the adoption of GP Policy LU-2.13, the affordability ratio in Policy LU-2.13 became the standard for residential development of five or more units. The Project as proposed would meet this requirement by providing 20% affordable at these percentages and another 8.6% workforce.

The proposed General Plan Amendment to modify CV-1.27, the Rancho Canada Village STA to allow for a minimum provision of 20% affordable housing, *notwithstanding any other General Plan policies*, would resolve any inconsistency between GP policies (**Attachment C**). Under the proposed amendment of CV-1.27, a minimum of 20% of the units would be required to be income-restricted rental units.

HOUSING IN CARMEL VALLEY

The Housing Element is a mandatory element of the General Plan. State law requires Housing Elements to be updated for set planning periods following the State adopting Regional Housing Needs Assessment, which assigns a set number of units at different income levels. Housing Element policies accommodate where and how it is possible to develop the units. Monterey County's General Plan – Housing Element establishes sites where housing needs can be met.

The Board of Supervisors adopted the most recent 2015–2023 County of Monterey Housing Element Update on January 26, 2016. This Element identifies a shortage of affordable housing in the unincorporated areas of the County. The Housing Element notes that as of September 2014 Carmel Valley had the County's second highest median home sale price (\$772,500, Housing Element, Table 19), trailing only Pebble Beach. In terms of rental costs, the Housing Element notes that in 2015 Carmel Valley and the neighboring Del Monte Forest area had the highest rents in the County (Housing Element, p 29 and Table 20, average 2015 monthly rental cost in Carmel Valley, \$2,581). This data shows that rents in Carmel Valley and the adjacent Greater Monterey Peninsula Planning Area are significantly higher than elsewhere in the County, resulting in housing that is not affordable to most County residents.

Policy H-3.7 of the Housing Element states: “work to achieve balanced housing production proportional to the job-based housing demand in each region of the unincorporated area.” The Applicant proposes to provide housing affordable to moderate income households and Workforce income levels that would assist in providing the jobs/housing balance by providing housing affordable to young professionals who work on the Monterey Peninsula and are trying to enter the housing market, as well as seniors or other residents looking to downsize from a larger single-family residence and move to a condominium or small-lot single-family residence. While, except for the inclusionary/Workforce units, these units would not be deed restricted to require affordability to particular income groups, units are anticipated to be more affordable in comparison to the typical large-lot, large single-family residences that characterize the area and make up a significant portion of the existing housing stock.

Furthermore, by clustering development away from the Carmel River and out of the line of site of Carmel Valley Road, the Project achieves a compromise between the 2013 CVMP policies of maintaining rural character and providing affordable housing by providing 40 units of inclusionary and Workforce housing in a 5-acre parcel.

The applicant contends that the ratio of affordable housing unit types reflects the market need in this area (**Attachment K**). County performed an assessment of affordable housing in Carmel Valley to check the contention. Table 1. Affordable Housing in Carmel Valley shows that there are very few moderate-income or Workforce units available in Carmel Valley.

Table 1. County Deed Restricted Affordable Housing in and Adjacent to Carmel Valley

<u>Projects</u>	<u>Occupancy Type</u>	<u># of Units by Bedroom Count</u>	<u>Target Population</u>	<u>Units VL-Income 50% AMI</u>	<u>Units Low-Income 80% AMI</u>	<u>Units Moderate 120% AMI</u>	<u>Units Workforce 1 150% AMI</u>	<u>Total Units</u>
Grey Goose Gulch	Rental	3-Bedroom (5) & 4-Bedroom (4)	Non-Targeted	5	4			9
Santa Lucia Preserve	Rental	Studio (2) & 1-Bedroom (6)	Non-Targeted		8			8
September Ranch	Owner	2-Bedroom 3-Bedroom (unknown split)	Non-Targeted			15	7	22
Sub-Total Non-Targeted Affordable Units				5	12	15	7	39
Kline Senior Housing	Rental	1-Bedroom (5)	Seniors		5			5
Pacific Meadows	Rental	Studio (28), 1-Bedroom (104) & 2-Bedroom (57)	Seniors	56	133			189
Rippling River	Rental	Studio (2) & 1-Bedroom (76)	Seniors / Disabled	24	54			78
Sub-Total Restricted Population Affordable Units				80	192	0	0	272
Total Affordable Units				85	204	15	7	311

Three projects listed in the table used tax credits and some form of County assistance. The low-income designation is based on the tax credit definition. There may have been other units that are affordable by design, but not deed restricted. In addition, other types of housing have been built in Carmel Valley to meet special needs. For example, Cottages of Carmel provides 57 units of special needs housing as a Senior Assisted Care facility.

CVMP Policy CV-1.27 affords the ability to develop up to 10 dwelling units per acre (du/ac) to achieve a certain level of affordability by design (density). The project site is approximately 77 acres; however, proposed development would be clustered on less than 40 acres due to other site constraints (e.g. floodway). County regulations allow a project to consider the gross area when establishing density.

When considering the entire site (77 acres), the Project equates to 1.9 du/Ac. When considering only the development area (40 acres), the 145-unit project equates to 3.6 du/Ac. The Project is (well) below the 10 du/Ac density allowed by the STA, indicating a fundamental relationship (i.e., the greater the density the greater the percentage of affordability) between density and affordability. As such, the Project includes a General Plan Amendment to the site-specific STA (Policy CV-1.27) language modifying the minimum affordable/Workforce housing requirement from 50% to 20% affordable, *notwithstanding any other General Plan policies*.

INCLUSIONARY HOUSING ORDINANCE

Chapter 18.40 of Monterey County Code (inclusionary housing ordinance) requires 20% of new housing units to be affordable to very low, low and moderate-income households (8% moderate, 6% low, 6% very-low¹). New development of three or more (3+) units/lots must meet the requirement of the Inclusionary Housing Ordinance. New development of five or more (5+) units/lots must provide Inclusionary Units and, depending on the size of the development, Inclusionary Units will be affordable according to the required percentage distribution to very low, low and moderate-income households.

MCC section 18.40.070 requires units to be built on-site unless they demonstrate greater contribution to County's affordable housing needs. In that case, units are to be located within same Planning Area (section 18.40.080).

When calculating the percentage of inclusionary housing, County subtracts existing lots from the total. The Project site consists of five (5) existing lots, so these five lots are subtracted from the total to calculate the number of affordable units required. In this case, one vacant lot is calculated to equate as one unit.

With 145 units proposed in the Project, the net difference is 140 units when subtracting the existing five lots. Using a 20% affordability ratio, the project is required to provide twenty-eight inclusionary units, which this Project does. The distribution as proposed by applicant and recommended by the Planning Commission is twenty-eight moderate income level units (20% inclusionary) plus six Workforce I units ((affordable to households earning between 120% and 150% of County median income) and six Workforce Housing II units (affordable to households earning between 150% and 180% of County median income). To modify the percentages as between very low, low and moderate units, the Board must find, based on substantial evidence, that "there is no reasonable relationship between the development and the requirements imposed by this Chapter [18.40], that the requirements would take property in violation of the Federal or California Constitution, or that as a result of unusual or unforeseen circumstances, it would not be appropriate to apply, or would be appropriate to modify the requirements of this Chapter." (Section 18.40.050.B.2.) A finding of unusual circumstances, supported by substantial evidence, is included in the draft project resolution.

¹ As discussed above, General Plan Policy LU 2.13 requires establishing an affordable housing ordinance that includes the 6, 6 and 8 distribution plus 5% Workforce I. Staff is in the process of undertaking a comprehensive review of the Inclusionary Housing Ordinance, including considering developing amendments to implement this and other General Plan affordable housing policies.

ENVIRONMENTAL REVIEW

The SREIR identified potentially significant impacts that require mitigation to Aesthetics; Air Quality; Biological Resources; Cultural Resources; Geology, Seismicity, and Soils; Greenhouse Gas Emissions and Climate Change; Hazards and Hazardous Materials; Hydrology and Water Quality; Land Use; Noise; Public Services, Utilities, and Recreation; and Transportation and Traffic, which could result from all components of the Project.

Most of these impacts will be mitigated to a less than significant level with incorporation of mitigation measures from the EIR into the conditions of Project approval. In its review and decision, the Board considers Project approval subject to conditions of approval that incorporate the proposed mitigations that are noted below.

Aesthetics – The residential development would change the aesthetic features relative to the existing golf course. Given the setback distances from Carmel Valley Road, mitigating landscape measures, and the developed character of adjacent uses, visual impacts can be mitigated to a less than significant level. Impacts and mitigations are described in Chapter 3.4 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Air Quality – Construction may temporarily affect air quality. These impacts could be significant but can be addressed through mitigation described in Chapter 3.8 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Biological Resources – The project would remove native and non-native vegetation that may support several special-status species but would also restore native vegetation and wildlife habitat along the Carmel River in areas that are presently golf course. Proposed habitat restoration and mitigations are described in Chapter 3.3 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Cultural Resources – Proposed resource mitigations are described in Chapter 3.11 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Geology, Seismicity, and Soils – Proposed mitigations for geological, seismic and soils impacts are described in Chapter 3.1 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Greenhouse Gas Emissions and Climate Change – Possible impacts and proposed greenhouse gas emission and climate change mitigations are described in Chapter 3.13 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Hazards and Hazardous Materials – Possible impacts and proposed hazards and hazardous materials mitigations are described in Chapter 3.6 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Hydrology and Water Quality – The project would be built partially within the 100-year floodplain of the Carmel River (but not in the floodway). The project could alter the level and character of flood events upstream and downstream. However, based on the flood studies completed, with mitigation, the project would not a significant impact on flooding. Project drainage designs are capable of handling local drainage and runoff and in promoting recharge. Mitigations are described in Chapter 3.2 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Noise – Construction may temporarily affect noise. These impacts could be significant but can be addressed through mitigation described in Chapter 3.9 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Land Use – The project would convert a retired golf course currently used for cattle grazing to a 145-unit residential subdivision. The aesthetic mitigation measure AES-1 would mitigate the aesthetic incompatibilities, as described in Chapter 3.5 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

Public Services, Utilities, and Recreation – The new residences would have a demand for potable water. However, the project would shift use of water from golf course irrigation to residential use, which will result in a reduced withdrawal of water from the Carmel River aquifer. This reduced withdrawal from the aquifer will also benefit biological resources in the area. The Project Applicant’s water rights have been confirmed by the appropriate authorities and the prior water use documented by data presented in the SRDEIR. Mitigations are described in Chapter 3.10 of the SFEIR and summarized in Finding 3 of the CEQA Resolution for the Project.

The Project would provide more affordable housing, which was strongly desired by many public commenters on the SRDEIR, the Carmel Valley LUAC, and the HAC. The Project would result in greater impacts than the 130-unit project in relation to geology and soils, hydrology and water quality, aesthetics, hazards and hazardous materials, transportation and traffic, air quality, noise, public services, utilities, recreation, cultural resources, and greenhouse gas emissions, primarily due to the increase in residents. However, these greater impacts would not be associated with new significant and unavoidable impacts. Potential effects to biological resources and land use would be similar to the 130-unit project. No impacts would be reduced as a result of this alternative. Finding 5 of the CEQA Resolution for the project discusses the Project Alternatives.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

The SFEIR identified significant and unavoidable impacts to the area. A full description and analysis of transportation and traffic impacts is provided in Chapter 3.7 of the SFEIR. The first impact is temporary exceedances in LOS standards at unsignalized intersections before improvements are fully funded through the CVTIP Traffic Impact Fee. Mitigation Measure TR-1 requires the Project to contribute its fair share to the fee to fund interchange improvements of Laureles Grade and Carmel Valley Road.

The second traffic related impact of the Project would be added traffic to deficient segments of SR 1 at peak hours. No mitigation is available, as existing fee programs do not include widening of SR 1 north of Carmel Valley Road or south of Ribera Road to address this traffic issue.

Construction traffic associated with the Project is expected to be a significant impact, given that there are failing operations under existing conditions at certain locations, such as along SR 1 and at the Laureles Grade/SR 68 intersection. Mitigation Measure (MM) TRA-2 would reduce construction impacts, but would not avoid all contributions to locations with existing failing traffic operations.

A traffic signal or similar intersection traffic control was required in 2016 due to the inclusion of a signal in the SFEIR traffic studies. A roundabout was requested by TAMC very close to the 2016 project hearing. Therefore, a flexible condition was applied to the 130-unit project in 2016. The same condition is applied to this Project, with recently updated cost-sharing discussed in the APPLICANT COMMENTS section, above.

The SFEIR identified significant and unavoidable impacts to Land Use Plans, Policies, or Regulations. Full description and analysis of land use impacts is provided in Chapter 3.5. The Project has impacts due to inconsistency with CVMP Policy CV-1.27 and General Plan Policy LU-2.13, regarding affordable housing requirements for new development projects. This inconsistency would result in longer employee commutes and would contribute to traffic congestion along Carmel Valley Road and other roadway segments above the level of service standards. However, the Executive Summary observes that, with the proposed amendment to CV-1.27, these other policies' affordability levels do not apply to the Project. Additionally, by adding a higher percentage of affordable housing, the Alternative 6b Project mitigates this identified impact to a greater degree than the 130-unit project.

CONDITIONS OF APPROVAL

All conditions from the original project are carried over unless they are no longer applicable or are amended as discussed herein. The 2016 condition numbering is retained to avoid confusion, so conditions that are no longer applicable hold the numbering with a "Reserved" title.