

Attachment B-2a

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Clerk of the Board
RCVD
11-27-2014



NOTICE OF APPEAL

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

By Julian Lorenzana

No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before 12/02/2019 (10 days after written notice of the decision has been mailed to the applicant). Date of decision 10-30-19.

1. Please give the following information:
 - a) Your name Alex Lorca / Fenton & Keller
 - b) Phone Number 373-1241
 - c) Address PO Box 791 City Monterey Zip 93942
 - d) Appellant's name (if different) Cynthia Pura

2. Indicate the appellant's interest in the decision by checking the appropriate box:
 - Applicant
 - Neighbor
 - Other (please state) _____

3. If you are not the applicant, please give the applicant's name: Paraiso Hot Springs Resort

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

	File Number	Type of Application	Area
a) Planning Commission:	<u>PLN040183</u>	<u>- See PC Reso 19-031 - Central Salinas Valley Area Plan</u>	
b) Zoning Administrator:	_____		
c) Subdivision Committee:	_____		
d) Administrative Permit:	_____		

5. What is the nature of the appeal?
- a) Is the appellant appealing the approval or the denial of an application? (Check appropriate box)
- b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

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

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

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

Please see attached.

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

Please see attached.

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

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

APPELLANT SIGNATURE AS for CYNTHIA PURA DATE 11/27/2019

ACCEPTED _____ DATE _____
 (Clerk to the Board)

**ATTACHMENT TO NOTICE OF APPEAL
ITEMS 6 & 7**

Ms. Pura incorporates herein all comments of her April 26, 2018 letter (“Pura Comment Letter”), attached hereto, as bases for this appeal.¹

Without limiting the breadth of the above bases, Ms. Pura asserts the following bases for the appeal with respect to Findings 1-21 of Resolution 19-031 for PLN040183:

- The October 2019 Final Environmental Impact Report (“FEIR”) for the Paraiso Springs Resort (“Project”) fails to analyze the existing litigation that seeks to quiet title to the Pura Spring (shown on Appendix B to the RDEIR, “Tentative Map” at CT-2 as Figure 8 “Spring Well”) currently pending in Monterey County Superior Court (Case No. 17CV000158) (“Lawsuit”).
- The FEIR ignores expert opinion and the County’s Historic Resources Review Board that reconstruction - in place – of the nine illegally demolished historic Victorian Cabins in 2003 is not only feasible, but a required mitigation. The FEIR proposes woefully inadequate mitigation measures for the illegal demolition of the historic structures.
- The FEIR’s “Master Response 5: Traffic” fails to analyze the impacts of the road widening on the residences along Paraiso Springs Road, as well as on the farming and ranching activities abutting Paraiso Springs Road. Such impacts must be analyzed before the FEIR can be certified or the Project approved.
- With regard to wetlands, final jurisdictional determinations must be made so that all necessary mitigations may be defined. The Pura Spring is located immediately adjacent to areas mapped as wetlands by the United States Fish and Wildlife Services.
- The potential for groundwater use by the Project to result in the drying of the Pura Spring, and in turn impact to this wetland feature must be evaluated in the jurisdictional delineation impacts assessment and within the project FEIR.
- The Regional Water Quality Control Board must be formally consulted regarding avoidance buffers and setbacks in light of the possibility of discharge of wastewater into jurisdictional waters.
- The FEIR fails to properly analyze the Maximum Day Demand or Peak Hourly Demand factors for Well 1 and Well 2.

¹ Ms. Pura also incorporates herein all comments of her July 3, 2019 and March 26, 201[9] letters, also attached hereto.

- The 10-day pumping test on Well 1 was not carried out according to MCEHB standards.
- The FEIR fails to properly analyze the hydrogeologic interaction between the alluvial and hardrock aquifer and the associated springs.
- The FEIR fails to properly analyze precipitation values.
- The FEIR fails to consider potential environmental impacts from pollutants introduced into the groundwater from filling the new in-stream pond with overflow from the spring water used in the resort facilities.
- The FEIR fails to properly analyze the potential impacts from changes in stream temperature due to removal of culverts and riparian vegetation.
- The FEIR fails to properly analyze the preparation and implementation of a Storm Water Pollution Prevention Plan as it may not reduce the impact of erosion to a less than significant level.
- The FEIR fails to properly analyze the increased potential for seasonal flooding due to climate change as it relates to erosion control and prevention.
- The FEIR fails to properly analyze how the increase in impervious area would reduce the percolation to the source aquifer and therefore impact the quantity and quality of water from the Pura Spring.
- The FEIR fails to properly analyze the proposed stream crossings. Stream crossings must be designed to meet expected future flows, not storm water volumes typical in the past.
- The FEIR fails to properly analyze the impacts of the Stormwater Detention Basin being located in a soil type considered marginal with a moderate to high liquefaction potential.
- The FEIR fails to evaluate whether development up-gradient or at side gradient of the Pura Spring could adversely affect its water quality and quantity.
- The FEIR fails to properly analyze the impacts of the implementation of the Sustainable Groundwater Management Act.
- The best management techniques for controlling runoff are not sufficient mitigation for the potential lowering of the water table due to the Project's drawdown of 17.8 acre-feet per year from the basin.
- The FEIR fails to properly analyze potential impacts from introduction of overflow from spring water used in the resort facilities as it may relate to encouragement of non-native vegetation, such as Mexican fan palm, Peruvian pepper trees, tree tobacco, castor bean, and curly dock.

- The FEIR fails to analyze Ms. Pura's superior rights to the Pura Spring.
- The FEIR fails to fully address the impacts of the Project on the Pura Spring.
- The FEIR fails to address full development of the Pura Spring.
- The FEIR fails to analyze the relationship between precipitation events and the Pura Spring.
- The FEIR fails to properly analyze the impacts of the wastewater treatment facility with waste flowing through a membrane bioreactor into a biological treatment tank. The FEIR fails to take into consideration the possibility of failure or leakage from this treatment facility. The potential for major disruption to the system must take into account the many faults and seismic hazards in the area.
- The FEIR fails to consider potential impacts from the wastewater treatment facility's possible failure to meet the goal of nitrate-nitrogen levels of less than 6 mg/L, especially in light of the significantly heightened attention being paid to nitrate contamination of groundwater in the region.
- The FEIR fails to address the impacts of a sewage spill at the wastewater treatment facility on the Pura Spring water source.
- The FEIR fails to analyze whether standard wastewater setbacks should be augmented as it relates to the treatment tank and the Pura Spring.
- The underground wastewater storage tank is to be 216 feet from the Pura Spring, but will be at a depth of 20 feet. The FEIR must analyze boring results during seasonal high-groundwater conditions.
- The FEIR fails to properly analyze the excavation and development of the wastewater storage tank up-gradient from the Pura Spring.
- The FEIR fails to properly analyze the new growth that would result from the Project.
- The FEIR fails to properly analyze day trips created by the Project.
- The FEIR fails to properly analyze potentially significant impacts to mass transit.
- The FEIR fails to properly analyze the dominant land use surrounding the Project. The area surrounding the Project is predominately ranching and agriculture. Frequently, the machinery involved in such operations includes tractors with implements that can reach twenty (20) in widths. During the entry and exit of fields with these implements, traffic in both directions on Paraiso Springs Road is completely stopped. The FEIR fails to analyze and define mitigations for this.
- The FEIR fails to propose a project alternative that utilizes an alternative access roadway.

- The FEIR fails to propose a project alternative that relocates the Project further from the Pura Spring so as to avoid interfering with Ms. Pura's superior contractual rights to the Pura Spring and her right to develop all of the water therein and to protect the wetlands.
- The FEIR fails to propose a project alternative that makes use of the 35-acre parcel designated as APN 418-361-009.
- The FEIR fails to provide adequate detail as to why the hotel only alternative was eliminated.