

# Exhibit A

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## DISCUSSION

### OVERVIEW

#### *Site Description*

The project site consists of three existing legal lots of record. Approximately 6.6 acres, or 83.5% of the site, are currently used for row crop agriculture producing strawberries, melons, artichokes, squash, pumpkins, fennel, fava beans, zucchini, radishes, and flowers. The remaining 1.3 acres, located at the southeast corner of the site, are developed with an existing single-family residence and a detached garage. The southeast corner of the site also contains planted mixed woodland habitat.

The site is bordered to the north and south by low density single-family residences; to the east across Val Verde Drive by undeveloped land; and to the west by existing commercial use buildings and parking lots which are accessed from Carmel Rancho Boulevard. Beyond the open space across Val Verde Drive is the former Rancho Canada Golf Club, located approximately 500 feet east of the southeast corner of the site. The Carmel River is located approximately 1,050 feet south of the site, and Carmel Middle School is located approximately 500 feet east of the northeastern corner of the site. Carmel Valley Road is located approximately 1,050 feet north of the site; however, Val Verde Drive does not provide non-emergency access to Carmel Valley Road.

#### *Project Description*

This application is to subdivide the 7.92 acres into 25 lots to accommodate 31 units, including 24 single family residences and one lot with seven affordable housing units. Entitlements for consideration include the subdivision and a use permit for more than two units on one lot. The proposed Tentative Subdivision Map is shown in **Exhibit F** of this staff report. As shown therein, it is anticipated that market rate lots would range in size from 0.24 to 0.38-acre, and the lot for the affordable housing (inclusionary and Workforce I) would be 0.91 acre. It is anticipated that each market rate home would be approximately 1,670 square feet in size and each of the seven inclusionary units would be approximately 860 square feet in size; however, an Administrative Permit and Design Approval will be required for future development of the 31-unit residential development project because the property is in the "S" (Site Control) and "D" (Design Control) zoning districts.

Access would be provided from an improved Val Verde Drive. Currently, Val Verde Drive is a private, dirt roadway based on a private easement with a width that varies between approximately 16 and 25 feet wide. If approved, a condition of approval would require the applicant to pave this roadway from Rio Road to the northern property boundary, widening it to include two 17-foot travel lanes for a total width of 34 feet. One internal looped road would be constructed on the site, with two entrances to Val Verde Drive. The applicant has confirmed via court order that Val Verde Drive can be used for the benefit of the subject property including ingress and egress.

A Community Water System (CWS), sourced from the existing New Travers Well and Gamboa Replacement Well, would supply domestic and irrigation water for the project. On-site water infrastructure would include a 24-foot by 12-foot by 10-foot water treatment unit and two 4,500 gallon storage tanks, all located on the proposed inclusionary lot. Treated water would be conveyed to on-site residences through a conventional gravity system including proposed 8-inch water pipes located within proposed street right-of-way.

Sanitary sewer services would be provided by the Carmel Area Wastewater District (CAWD). Wastewater generated by the proposed project would be collected and conveyed through a conventional gravity system with proposed 6-inch sanitary sewer pipes located within the proposed street right-of-way. The wastewater collected on-site would be conveyed to an existing 12-inch CAWD sanitary sewer main located at the southwest corner of the property within an existing 10-inch wide sewer easement. This easement abuts the subject property along the entire southern property boundary.

The project site zoning (LDR/1-D-S-RAZ) allows a density of up to one unit per acre. However, the site is subject to CVMP Policy CV-1.10, which allows a density of up to four units per acre if 25 percent of the units are developed for individuals of low and moderate income or for workforce housing. Applying the 4 du/acre to a 7.92-acre site allows a maximum of 31.68 units. The project's consistency with various regulations and policies is addressed in the Analysis section of this report.

## ***BACKGROUND***

On May 1, 2012 the Board of Supervisors adopted Resolution No. 12-112 to deny the appeal by Brian Clark on behalf of Carmel Rio Road, LLC from the Planning Commission's denial of a prior application for a Combined Development Permit (GPZ090004) consisting of a standard subdivision of the 7.92 acre property into 31 Market Rate lots and one Inclusionary Housing lot containing 11 Inclusionary units (2 very low, 5 low and 4 moderate). As a result of ensuing litigation, the Superior Court approved a Settlement and Release Agreement, which provides that the Board of Supervisors rescind its decision adopting Resolution No. 12-112. Accordingly, on February 25, 2014, the Board rescinded Resolution No. 12-112. Rescission of Resolution No. 12-112 does not result in the grant of permits or entitlements sought by Carmel Rio Road LLC for the project. Instead, the Settlement and Release Agreement calls for the applicant to submit a scaled down Amended Project. The Board of Supervisors has discretion to deny the Amended Project or approve a modified project. If the Amended Project is not approved, the applicant has the option to resume the litigation.

On April 1, 2014, the applicant submitted an application for an Amended Project consisting of a Zoning Ordinance Amendment of Section 21.14.050 by adding a clarification that allows an exception to exceed 4 units/acre on a lot if it is done to achieve affordable housing pursuant to Policy CV 1.10 in the Carmel Valley Master Plan and a Combined Development Permit consisting of a standard subdivision to allow the development of 31 units including 24 single family lots and one parcel with seven inclusionary units and Administrative Permit and Design Approval for development in the "S" (Site Control) and "D" (Design Control) zoning districts.

## **ANALYSIS**

Analysis of the project's consistency with the 2010 General Plan/Carmel Valley Master Plan is presented below.

### ***2010 General Plan/Carmel Valley Master Plan***

#### ***General Plan Land Use Policy LU 2.13***

General Policy LU-2.13 states:

The County shall assure consistent application of an Affordable Housing Ordinance that requires 25% of new housing units be affordable to very low, low, moderate, and workforce income households. The Affordable Housing Ordinance shall include the following minimum requirements:

- a) 6% of the units affordable to very low-income households
- b) 6% of the units affordable to low-income households
- c) 8% of the units affordable to moderate-income households
- d) 5% of the units affordable to Workforce I income households

The County's Inclusionary Housing Ordinance (Chapter 18.40) requires 20% of new housing units to be affordable to very low, low and moderate-income households at the percentages specified in Policy LU-2.13 (6% very low, 6% low, and 8% moderate). Unlike Policy LU-2.13, the Inclusionary Housing Ordinance does not include a requirement that 5% of new units be affordable to Workforce I (120%-150% of median County household income) income households. The County's Inclusionary Housing Ordinance provides that residential developments required to provide a fractional unit may pay an in-lieu fee corresponding to the fraction (MCC, Sec. 18.40.090.A.3).

Under Policy LU-2.13, however, no fractional unit is arguably required under the County's Inclusionary Housing Ordinance for the 31-unit project. The site consists of three existing lots that, under the terms of CV-1.10 could each have one unit built. Consistent with the method for applying General Plan affordability policies to other projects, the first unit on an existing lot of record does not count toward the unit total. Accordingly, the proposed project provides 25% affordable units (25% of 28 units is 7 units). Therefore, the project provides 25% affordable units consistent with Policy CV-1.10. Despite meeting the 25% inclusionary housing threshold set forth in CV-1.10, the project applicant has agreed to provide an in-lieu fee of \$206,544 under the terms of a Settlement and Release Agreement between the County and Carmel Rio Road LLC. Final determinations of consistency with the County's General Plan and County's Inclusionary Ordinance are reserved to the Board of Supervisors.

#### ***General Plan Land Use Policy LU-1.19***

An additional consideration in relation to the project is General Plan Policy LU-1.19, which calls for the establishment of a Development Evaluation System (DES) to evaluate developments of five or more lots or units or developments of equivalent or great traffic, water, or wastewater intensity in areas of the unincorporated non-coastal county outside of Community Areas, Rural Centers and Affordable Housing Overlay Districts. Once established, the DES would provide a

quantitative means of evaluating development proposed in areas of the County not especially targeted or suited for future development. Pending adoption of a detailed program implementing the DES, the County has been implementing the DES through application of the criteria in LU-1.19. Accordingly, an interim analysis has been completed for this project based on the Policy LU 1.19 criteria. As explained below, whether the project is consistent with Policy LU-1.19 involves a question of interpretation and application of the policy by the Board of Supervisors, and more than one interpretation is reasonable.

The DES criteria specified in Policy LU-1.19 are:

- 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

Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or rural Center:

- 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.

This Development Evaluation System shall be established within 12 months of adopting this General Plan.

The project site is not within a Community Area, Rural Center, or Affordable Housing Overlay District. Thus, the project should be analyzed pursuant to the Development Evaluation System. The objective of the DES is to strongly discourage or avoid “leap frog” development not proximate to urbanized or community areas where public services and facilities exist. The Project meets this objective of the DES.

This project is infill in nature and is located at the Mouth of Carmel Valley, near existing communities, major roadways and services. The proposed project is consistent with the majority of the specified DES criteria, if the criteria are deemed to apply to an infill location such as the subject site. The one criterion not met by the proposed project is the proportion of affordable housing proposed. In areas subject to the DES, the DES calls for new residential development to provide “35% affordable/workforce housing,” 10% more than General Plan Policy LU-2.13. In addition, Policy CV-1.10 in the Carmel Valley Master Plan allows a density of up to 4 units/acre

on the subject site provided that at least 25% of the units are developed for individuals of low and moderate income or for workforce housing. Of the 31 units proposed, the project includes seven inclusionary affordable units plus an in-lieu fee.

In terms of “site suitability,” “proximity to cities and communities,” and “multiple modes of transportation,” the project’s location at the Mouth of Carmel Valley, near a mix of commercial development and higher-density housing, makes the site suitable for the type of residential development proposed. Moreover, the site’s suitability for a residential project like the proposed project is reflected Policy CV-1.10 which allows for increased density on the subject site provided 25% of the units are developed for individuals of low and moderate income or for workforce housing. The site’s location also provides efficient access to Highway 1, the major north-south transportation corridor to the west of the site. Additionally, the nearby Monterey Peninsula communities of Carmel-by-the-Sea, Pacific Grove and Monterey are within short travel distance of the site and offer a wide range of commercial and personal services, employment opportunities and, alternate modes of transportation, including bus access, bicycling and walking.

Regarding “infrastructure and services,” the site has long been farmed, meaning that the proposed project will result in less water usage than baseline conditions. Net consumptive use of groundwater for the proposed project would be less than the baseline consumptive use and would not result in a net deficit in aquifer volume or a lowering of the local groundwater table level. Sufficient water supplies are available to serve the project from existing entitlements and resources. The site’s location in the more intensely developed Mouth of the Valley also makes it a suitable location to more efficiently connect to other necessary infrastructure, such as sewer, and to be more conveniently served by existing services, such as fire, police and schools.

Regarding “resource management” and “environmental impacts and potential mitigations,” implementation of the proposed project would have significant but mitigatable impacts on special status animal species. Construction of the proposed project could directly impact nesting raptors and other avian species. This impact is also considered significant but mitigatable. Construction of the proposed project may require removal of an on-site redwood tree which is considered less than significant.

Regarding the criteria “mix/balance of uses” and “jobs-housing balance,” the project proposes much-needed affordable housing at the Mouth of the Valley. As discussed, the Project will provide seven units of deed-restricted affordable housing (six inclusionary and one Workforce I), and the market rate housing (i.e., small-lot single-family detached) proposed should be “affordable by design” relative to the large-lot, single-family detached residences more characteristic of Carmel Valley. While the majority of the proposed units would not be subject to deed restriction, ensuring long-term affordability based on income category (such as very low, low, moderate or workforce), the proposed small-lot detached housing units builds in a degree of relative affordability. Accordingly, the Board could find that although the proposed project does not provide 35% affordable/workforce housing, the Project meets the intent of Policy LU-1.19 of providing a significant proportion of affordable housing through deed restriction and by design. When considered in relation to the DES criteria specified in General Plan Policy LU-1.19 and harmonizing LU-1.19 with Policy CV-1.10 which contemplates 25% affordable/workforce

housing for the level density at this site and Policy LU 2.13 which calls for 25% affordable workforce housing, the Board could find that the project is, overall, consistent with LU 1.19. Alternatively, the Board could interpret the 35% affordability requirement in LU 1.19 as a separate stand-alone requirement. That interpretation would lead to a finding of inconsistency of the project as currently proposed with LU 1.19. That interpretation could have implications for any future non-coastal subdivision applications with more than 5 units and that are outside of a Community Area or Rural Center. The Planning Commission found that, in this particular case, the project location was appropriate but the project should provide at least 35% affordable housing under Policy LU-1.19 in light of Carmel Valley Master Plan Policy CV-1.6 which states a preference for projects in Carmel Valley that include at least 50% affordable housing and which establishes a residential unit cap in Carmel Valley, of which this project would utilize most of the remaining units.

***Carmel Valley Master Plan Policy CV-1.10***

The site is also subject to CVMP Policy CV-1.10, which allows a density of up to four units per acre if 25 percent of the units are developed for individuals of low and moderate income or for workforce housing. The project includes 24 market rate housing lots and one inclusionary housing lot, which would be developed with seven affordable units. The site consists of three existing lots that, under the terms of CV-1.10 could each have one unit built. Consistent with the method for applying General Plan affordability policies to other projects, the first unit on an existing lot of record does not count toward the unit total. Accordingly, the proposed project provides 25% affordable units (25% of 28 units is 7 units). Therefore, the project provides 25% affordable units consistent with Policy CV-1.10.

***Carmel Valley Master Plan Policy CV-1.1***

CVMP Policy CV-1.1 states that all decisions regarding Carmel Valley shall be consistent with the goal of preserving Carmel Valley's rural character. Although the project site is currently mostly undeveloped and retains a rural character, there is existing urban development adjacent to the site, including commercial development along Carmel Rancho Boulevard west of the site and two story townhomes south of Rio Road. Further to the north is the Cottages of Carmel retirement community development.

The proposed residences would be similar or lower in height compared to nearby development, with no structures exceeding thirty (30) feet. Further, the proposed density of development in the project would be similar to the residential development south of Rio Road and would be lower density than the Cottages of Carmel to the north of the project site. Therefore, the project would be consistent with the scale and character surrounding land uses.

In addition, the proposed project is the subdivision. This project does not entitle specific structures on the site. Entitlements for consideration include the subdivision and a use permit for seven units on one lot. Construction of the units/homes requires Administrative Permits and Design Approvals (AP/DA) for each parcel. The applicant provided conceptual plans adequate for environmental review, but did not submit specific site plans, landscape plans, etc. for each lot. Therefore, subsequent AP/DA action(s) will be required prior to vertical construction on each lot, and conditions on the project before the Board would be limited to what is necessary for the subdivision and infrastructure in preparation for building homes/units. The project is in a



“D” zoning district, which requires that development on each lot obtain a Design Approval. A key aspect to reviewing AP/DA will be to review designs for a rural character. Staff is proposing a condition of approval for design guidelines to be developed and approved prior to recordation of the Final Map. The design guidelines will be incorporated into Covenants, Conditions, and Restrictions to be administered by the development’s Homeowners Association.

### ***Carmel Valley Master Plan Policy CV-1.6***

Carmel Valley Master Plan Policy CV-1.6 establishes a building cap of 190 new residential units as a way to control development, and thereby traffic, throughout Carmel Valley. Policy CV-1.6 reserves 24 units for the Delfino property (former Carmel Valley Airport), leaving up to 166 units within the Carmel Valley Master Plan area available for other development. New units are deducted from this cap. However, Policy CV-1.6, subsection c, states that units added on qualifying existing lots do not count as part of the total unit cap. This means that the first single family home on an existing lot is allowed and does not count against the cap. For subdivisions, a unit is deducted at the time a new lot is created in order to avoid creating an unbuildable lot. On February 27, 2014, Carmel Rio Road LLC filed the subject application to subdivide 7.92 acres into 25 lots/31 units. At the time this application was deemed complete, all 190 units were available. To date, seven (7) new or secondary units have been approved. In addition, the Board recently approved the Rancho Canada Village (RCV) project with 130 units, including several accessory dwelling units. RCV had five existing parcels so that results in a net increase of 125 units deducted from the cap. Deducting RCV’s 125 units plus eight new/secondary units from the 166 available units results in 34 new units/lots currently available under the residential cap. There are several options for the application to be consistent with Policy CV-1.6 as follows:

1. Find Consistent. The project proposes to subdivide three existing lots totaling 7.92 acres into 25 lots/31 units. Under the terms of CV-1.6, each existing lot could have one unit without that unit counting against the building cap for new residential units. In addition, there is one single family home on one of the existing lots. Therefore, the project is credited with three units that could be built and not count against the cap.

One of the lots is proposed to have 7 affordable units; per CV-1.6.b, each such unit counts as part of the total unit cap. The other 24 lots are designed with one single family home. The project therefore creates a net increase of 28 new lots/units that count against the cap (i.e. 24 lots minus the existing 3 lots plus 7 affordable units = 28). The project’s 28 new lots/units do not exceed the current building cap limit of 34 new units/lots and is consistent with the current policy. The 24 lots designated for single family homes are prohibited from having a second/accessory unit under CV-1.6.

2. Reduce Units. If existing legal lots are not credited with the potential to develop one unit that is not counted toward the cap, then the five existing lots in RCV are added back into the available unit cap, meaning the current building cap limit is 29 units. The project could be reduced in scope to a maximum of 29 units. The Commission could require the applicant to submit revised plans for a project with 29 or fewer units. An alternative was introduced and evaluated in the Final EIR for a 28-unit project. A 28-unit alternative – which would be similar to the proposed project in every way except it would reduce buildout by three market rate units – would slightly reduce impacts associated with

population generation. These include: air quality, climate change, noise, public services, recreation, transportation, and utilities. These impacts would not be reduced to the same extent as for the Reduced Density Alternative, the Clustered Design Alternative, or the Modified Subdivision Alternative since the 28-unit alternative does not reduce the unit count as much as the other alternatives.

Because a 28-unit alternative would have the same overall footprint as the proposed project, impacts to biological resources and cultural resources would be similar, as would some hazards and noise impacts.

3. Approve a General Plan Amendment to increase the unit cap. Amend Policy CV-1.6 to increase the unit cap. A Settlement Agreement between the Carmel Valley Association and the County settling CVA's lawsuit on the 2010 General Plan does not restrict the County's land use authority, but unless CVA agrees to the amendment, CVA may argue that amending the policy to increase the cap is a material default of the settlement agreement.
4. Approve a General Plan Amendment to reserve fewer units for the Delfino project. The purpose would be to make units available without exceeding the Carmel Valley cap of 190 units total.
5. Deny the application. Denial of the application moots the unit cap issue for this project.

#### ***Policy CV-2.17***

Policy CV-2.17 establishes traffic standards for the Carmel Valley Master Plan Area. If the standards are triggered, then an EIR is required. Since an EIR was prepared for this project, the policy has been met.

As noted in Section 4.14 of the DEIR, the applicable segments of Carmel Valley Road (segments 6 and 7, as identified in the DEIR) currently operate at LOS E, which is below the standards identified in the policy. Under Existing plus Project Conditions, both segments would continue to operate at LOS E. Since the existing condition already does not meet the Policy CV 2.17 standards, but the project would not result in worsening operations to a lower LOS level, the project would not have a significant impact on these segments.

#### ***ENVIRONMENTAL REVIEW***

The Draft EIR for the Carmel Rio Road Project (see **Exhibit G**) was completed in November 2016. The Draft EIR was circulated for a 52-day public review period that began on December 2, 2016 and ended on January 23, 2017. The County received 34 comment letters on the Draft EIR. Responses to comments are contained in the Final EIR which was completed on May 3, 2017 (see **Exhibit H**). Before approval of the project, the Board of Supervisors must certify the EIR and make findings for project approval under the California Environmental Quality Act (CEQA).

## ***Flooding***

Although a small portion of the project site currently lies within a FEMA-designated 100-year floodplain, the current project design specifies that the portion of the site within the 100-year floodplain would be raised through the placement of fill and the use of retaining walls such that project structures would no longer be exposed to the 100-year flood. Raising a small portion of the site would remove some floodplain storage, but the impact on residual flood elevations is likely to be very small. The impedance or redirection of flood flows that could result from raising a portion of the site would be subject to the performance standards specified in Mitigation Measure H-1(c), which require that post-development, off-site peak flow drainage from the project site shall not be greater than pre-development peak flow drainage. Similarly, on-site flood protection measures are subject to a performance standard, such that all on-site habitable structures would be raised above the base flood elevation or would be fully protected from Drainage Area 27 (DA-27) flood waters produced during the 100-year storm event.

The EIR analysis presents a range of mitigation options that could be employed to achieve specified performance standards. Mitigation Measures H-1(c) and H-4, in combination, would protect people and structures from loss, injury, or death involving both on- and off-site flooding. The analysis presents a range of reasonable mechanisms that could be employed to achieve the performance standards and allows flexibility for the applicant to choose the most feasible mechanism or mechanisms to achieve those standards. Impacts related to increased stormwater runoff would be decreased with the 15-unit clustered design alternative.

## ***Long Term Water Supply***

The status of overdraft in Carmel Valley has gradually changed since 1995 due to mandatory reductions in Cal-Am pumping pursuant to State Water Resources Control Board Decision D95-10. Cal-Am has historically been the major pumping source in the basin, extracting about 11,000 AFY during 1995-2004, then declining to 7,000 AFY in 2015 (Stoldt, 2016). By comparison, riparian pumpers have pumped about 2,000 AFY throughout that period. It is unknown whether the Cal-Am pumping reductions will be sufficient to eliminate significant adverse impacts on riparian and aquatic species along the Carmel River.

Given this uncertainty, and to require that riparian users participate in efforts to eliminate overdraft, MPWMD passed Ordinance 175 (adopted November 14, 2016 and effective December 14, 2016) requiring land development projects to decrease water use relative to historical baseline conditions. The proposed project falls into a category for which future water use must be 25 percent less than baseline water use, defined in Rule 40-A section 4.c as amended by Ordinance 175. The Monterey Peninsula Water Management District (MPWMD) is the public agency directly responsible for managing groundwater in Carmel Valley. The preamble to Ordinance 175 states that the intent of the ordinance is to comply with General Plan Policy PS-3.2. Ordinance 175 is the agency's current estimate of the amount of water use reduction by riparian users needed to eliminate overdraft and is the basis for determining if a project has a long-term sustainable water supply as required by Monterey County General Plan Policy PS-3.2. The groundwater balance analysis documented in Appendix G-2 to the DEIR and summarized in DEIR Section 4.8, *Hydrology and Water Quality*, demonstrates that net consumptive use of

groundwater by the proposed project would be more than 25 percent less than under baseline conditions (see Table 4 of DEIR Appendix G-2). In its comment letter on the DEIR, MPWMD concurred with the baseline period and the groundwater balance calculations presented in this analysis.

### ***Transportation and Circulation***

The EIR identified potentially significant impacts to Transportation and Circulation which could result from the proposed project. These impacts are significant and unavoidable and will not be mitigated to a less than significant level.

Based on the impact analysis in the Traffic Impact Analysis (TIA), three intersections and two roadway segments require mitigation under Existing plus Project conditions. This includes intersections #3, #7, and #8, and road segments #1 and #3. The TAMC Regional Transportation Plan (RTP) includes a list of projects to improve traffic operations within the project study area. Planned improvements include:

1. Add a second northbound through lane on Highway 1 between Rio Road and Carmel Valley Road
2. Highway 1/Rio Road Intersection:
  - a. Convert the northbound right-turn lane to a shared through/right-turn lane
  - b. Add a second westbound right-turn lane
  - c. Add an exclusive southbound right-turn lane
3. Highway 1/Carmel Valley Road Intersection:
  - a. Convert the northbound right-turn lane to a shared through/right-turn lane

The above planned improvements would eliminate the proposed project's impact to intersection #3 (Highway 1/Rio Road) and road segment #3 (Highway 1 between Carmel Valley Road and Rio Road) in the northbound direction. Project-specific impacts to intersection #8 (Highway 1/Carpenter Street) and segment #1 (Highway 1 between Carpenter Street and Ocean Avenue) in the northbound direction could potentially be reduced with the addition of a northbound right-turn lane at Highway 1 and Carpenter Street. However, as intersection #8 and road segment #1 both operate deficiently without the project, the project applicant would be responsible for a fair share contribution only. The project's contribution to this intersection would be seven trips during the AM peak hour and nine trips during the PM peak hour, none of which would turn right from Highway 1 onto Carpenter Street. The improvement is not planned within the TAMC RTP or other regional document, and there is no funding established for this improvement. Thus, there is no mechanism into which the applicant could pay a fair share to ensure the improvement is constructed. Further, the improvement would be within Caltrans jurisdiction, and would therefore be beyond the control of the project applicant and/or the County. For these reasons, this TIA-identified mitigation is considered infeasible and is not included in the Draft EIR or Mitigation Monitoring and Reporting Plan (MMRP).

Project impacts to the following intersections and road segments would remain significant and unavoidable under Existing plus Project conditions:

Intersection #3 – Rio Road/Highway 1

Intersection #7 – Highway 1/Ocean Avenue

Intersection #8 – Highway 1/Carpenter Street

Road Segment #1 – Highway 1, Carpenter Street to Ocean Avenue (northbound and southbound)

Road Segment #3 Highway 1, Carmel Valley Road to Rio Road (northbound and southbound)

### ***Statement of Overriding Considerations***

Because the transportation and circulation impact is identified as a significant unavoidable impact, project approval would require adoption of a statement of overriding considerations. Specifically, CEQA Guidelines Section 15093 requires decision makers to balance the economic, legal, social, technological or other benefits, including region-wide environmental benefits of a proposed project against its unavoidable environmental risks when determining whether to approve a project with significant unavoidable impacts. Potential project benefits that outweigh the significant unavoidable traffic impacts include the following:

1. The project provides a range of housing types, including small lot single-family and apartment units, that are not typical of Carmel Valley and thereby would presumably be relatively more affordable by design in comparison to the typical large-lot (one acre or more) single-family residences and ranch homes that characterize Carmel Valley.
2. The project provides 25% affordable units in an area of the County in need of inclusionary and workforce housing. Despite meeting the 25% affordable housing threshold, the applicant has agreed to provide an in-lieu fee of \$206,544 under the terms of a Settlement and Release Agreement between the County and Carmel Rio Road LLC if the project is approved.
3. Provides housing in a location that is within walking distance to shopping and services.
4. Would create economic benefits to the County and the local economy through the creation of temporary construction jobs and the creation of new property tax revenue through higher property valuation.
5. Would reduce baseline consumptive water use on average by approximately 47% which will be a benefit to Carmel River and its biological resources.

### ***Alternatives/Housing Accountability Act***

The EIR evaluated a reasonable range of potentially feasible alternatives to the proposed project. The EIR considered the alternatives described below and as more fully described in the EIR. Six alternatives were considered in the EIR. They are: 1) No Project/No Development Alternative; 2) No Project/Existing Development Alternative; 3) Modified Subdivision Alternative; 4) Reduced Density Alternative; 5) Clustered Design Alternative; and 6) Conceptual 28-Unit Alternative. The No Project/No Development and No Project/Existing Zoning Alternatives reduce impacts to the greatest extent and therefore can be considered environmentally superior to the proposed project. If the decision-maker rejects alternatives, the decision-maker must make findings that specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the EIR.

One of the considerations is the Housing Accountability Act, a state law that requires local agencies to make specific findings to disapprove a residential project or to approve a residential project at a lower density. (Government Code section 65589.5.) If the applicant's proposed project is consistent with the General Plan, to select an alternative that results in no project or a lower density project, the County must make finding, based on substantial evidence, that:

- 1) The housing development "would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density," and
- 2) "There is no feasible method to satisfactorily mitigate or avoid" the identified impact other than disapproval or approval at lower density. (Gov't Code sec. 65589.5(j).)

"Specific, adverse impact" is defined in the state law as "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (Gov't Code sec. 65589.5(j)(1).)

No Project/No Development Alternative. With the implementation of the No Project/No Development Alternative, the project site would remain in row crop agriculture and residential use, with a single-family residence and detached garage located at the southeast corner of the site. While some environmental impacts would occur as a result of the continued use of the project site for agriculture, impacts resulting from the No Project/No Development Alternative would generally be less than for the proposed project. In summary, this alternative would avoid each of the significant and unavoidable impacts identified in this EIR. However, none of the project objectives would be achieved.

No Project/Existing Zoning Alternative. The No Project/Existing Zoning Alternative assumes that the proposed project is not pursued, and that the project site is developed pursuant to existing zoning and lot configurations of the site. The approximately 7.9-acre project site is comprised of three legal parcels. This alternative assumes that the two agricultural parcels are developed with one single-family residence each, consistent with the existing zoning and lot configuration of the site. Impacts would be significantly reduced due to significant reduction in buildout potential. However, this alternative would not meet any of the project objectives. While this alternative would add two new market rate units, it would not create a mix of housing, nor develop higher density housing with pedestrian and bike connections. This alternative also would not eliminate the project's significant and unavoidable traffic-related impacts to Highway 1.

Modified Subdivision Alternative. The Modified Subdivision Alternative assumes that the project site is subdivided and developed in accordance with the site's existing zoning designation. The current zoning designation for the site is *Low Density Residential*, which allows a maximum of one unit per acre. It also carries the following restrictions: *Design Control*, *Site Plan Review*, and *Residential Allocation Zoning (LDR/1-D-S-RAZ)*. This designation would allow subdividing the approximately 7.9-acre site into a total of seven lots, each approximately 1.13 acre in size. Each lot could be developed with one single-family residence. This alternative assumes that the existing on-site residence, located in the southeast portion of the site, would be demolished and replaced with a new residence. General Plan Policy LU 2.13 requires that 25% of new housing units be affordable to very low, low, moderate, and workforce income households. In accordance with this requirement, this alternative would result in six (6) fewer affordable units. This alternative would reduce most

impacts associated with the proposed project, due to the reduced level of buildout. Because it would substantially reduce buildout, it would reduce impacts associated with population generation, air quality, climate change, noise, public services, recreation, transportation, and utilities.

Reduced Density Alternative. This alternative considers a reduced buildout of 19 units. This level of buildout would be achieved by subdividing the site into 16 lots, including 15 market-rate lots and one inclusionary lot. The inclusionary lot would be one acre in size and each of the market rate lots would be approximately 0.46 acre. The Reduced Density Alternative would reduce most impacts associated with the proposed project, again due to the overall reduced level of buildout. However, it would result in similar site disturbance as the proposed project; therefore, impacts to biological resources and cultural resources would be similar, as would some hazards and noise impacts.

Clustered Design Alternative. This alternative would include the development of 15 units clustered in the southern portion of the site. The 15 units would be located in the southern portion of the site on approximately 2.6 acres. Because this alternative would concentrate development on one third of the site, it would not only reduce buildout but would also substantially reduce overall site disturbance. Because this alternative would retain approximately 66% of the site in agricultural production, it would reduce impacts associated with site disturbance, including: aesthetics, cultural resources, flooding and geology and soils. Impacts related to increased stormwater runoff would be decreased due to less impervious coverage. Because this alternative would still disturb the on-site planted mixed woodland habitat, impacts to biological resources would be similar to the proposed project, despite the reduced footprint. In addition, impacts related to groundwater supply would be worse compared to the proposed project.

Conceptual 28-Unit Alternative - A 28-unit alternative was introduced and evaluated in the Final EIR. It would be similar to the proposed project in every way except it would reduce buildout by three units which would slightly reduce impacts associated with population generation. These include: air quality, climate change, noise, public services, recreation, transportation, and utilities. These impacts would not be reduced to the same extent as for the Reduced Density Alternative, the Clustered Design Alternative, or the Modified Subdivision Alternative, given the lower unit count reduction. However, they would be slightly reduced when compared to the proposed project. Because a 28-unit alternative would have the same overall footprint as the proposed project, impacts to biological resources and cultural resources would be similar, as would some hazards and noise impacts.

In conclusion, if the Board prefers one of the above alternatives, the public hearing could be continued to allow the applicant to revise the project. Again, the Cluster Design Alternative involves the development of 15 units clustered on 2.6 acres in the southern portion of the site. Because this alternative would concentrate development on one third of the site, it would not only reduce buildout but would also substantially reduce overall site disturbance. Because this alternative would retain approximately 66% of the site in agricultural production, it could reduce impacts associated with site disturbance, including: aesthetics, cultural resources, flooding and geology and soils.

### ***Planning Commission Recommendation***

The Planning Commission recommended finding that the project is inconsistent with that portion of General Plan Policy LU-1.19 which states: “*Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or Rural Center:*

- 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 Planning Commission did not agree with staff’s interpretation that, when considered in relation to the DES criteria specified in Policy LU-1.19 and harmonizing with Policy CV-1.10 which requires 25% affordable/workforce housing and Policy LU-2.13 which calls for 25% affordable workforce housing, the project is overall consistent with Policy LU-1.19. Rather, the Commission found that 35% affordable/workforce housing is required by Policy LU-1.19 for this project, in light of the preference for projects in Carmel Valley that include at least 50% affordable housing and the fact that this project would utilize most of the remaining units allowable under the Carmel Valley Master Plan unit cap. (Carmel Valley Master Plan Policy CV-1.6). (See Planning Commission Resolution, attached as **Exhibit C** to this staff report.) .

In Carmel Valley, housing needs to be located near to places where people work. This site is an appropriate for affordable housing because it is near services, shopping and jobs. However, the Commission noted that the Carmel Valley Master Plan states a preference for projects that provide at least 50% affordable housing. To achieve this goal, at least 95 of the units under the 190 unit cap established by Carmel Valley Master Plan Policy CV-1.6 would need to be affordable. Although Policy CV-1.6 does not require a minimum 50% affordable housing, there is clearly a preference for projects that are approved under the building cap that provide more than the minimum required amount of affordable housing. As such, the Commission found that the project is not consistent with the policy’s preference for development projects including at least 50% affordable housing. If approved, the proposed project would commit 28 new units of the 34 units currently remaining under unit cap. The exhaustion of the vast majority of units currently remaining under the unit cap would mean that areas within the Carmel Valley Master Plan that are designated as Affordable Housing Overlay Districts would not be able to develop a significant number of units, if at all, much less provide affordable housing, without an amendment to the residential unit cap.

At the meeting, the Planning Commission asked the applicant if he would be willing to revise the project to increase the number of affordable units to provide at least 35% affordable housing. The applicant indicated that he not willing to do that because then the project would not be financially feasible.

### ***Discussions with Applicant Following Planning Commission Meeting***

Following the Planning Commission, staff discussed the possibility of increasing the percentage of affordable/workforce housing with the applicant and there are a number of options available.



The mix that staff could support going forward with includes 21 market rate units and 10 affordable units. The proposed project includes 24 market rate units and 7 affordable units. The mix of affordable units would be as shown in the table below.

<b>Income Category</b>	<b>Proposed Project (25% affordable)</b>	<b>Option * (35% affordable)</b>
Very Low	1 unit (3.6%)	2 units (7.1%)
Low	2 units (7.1%)	2 units (7.1%)
Moderate	3 units (10.7%)	3 units (10.7%)
Workforce I	1 unit (3.6%)	0
Workforce II		3 units (10.7%)
<b>Total Affordable Units</b>	<b>7 units (25%)</b>	<b>10 units (35.6%)</b>

\*This mix results in 25% affordable units and 10% workforce units.

The income limits for the various income categories are as follows:

<b>Income Category</b>	<b>Maximum Monthly Rent *</b>	<b>Maximum Sales Price *</b>	<b>Maximum Annual Income *</b>
Very Low	\$989	\$130,434	\$38,050
Low	\$1,584	\$208,763	\$60,900
Moderate	\$2,176	\$302,149	\$82,450
Workforce I	\$2,576	\$384,733	\$103,050
Workforce II	\$3,091	\$494,515	\$123,650

\*These rates assume 4-person households in 3-bedroom units.

The applicant replied to the option presented by staff by asking for other considerations. Staff finds that allowing four times the density under Policy CV-1.10 and the code amendments to allow this project are significant considerations.

One option for the Board is to continue the hearing to allow applicant to revise the project if and as needed to provide at least 35% affordable units, if applicant is agreeable to exploring this option. The applicant would need to agree to provide at least 35% affordable units and allow additional time to work with staff to develop an appropriate unit mix. Once the project is revised to provide 35% affordable units, the applicant would need to submit a revised Tentative Subdivision Map if the revision necessitates a change to the proposed tentative map. Following review of the revised tentative map, staff would return to the Board with a draft resolution and conditions of approval for the Board's consideration.

### ***Upcoming Schedule and Actions***

Staff recommends that the Board of Supervisors open the public hearing on June 27, receive the staff presentation, take testimony from the applicant and the public, adopt a motion of intent as to the Board's preferred option, and continue the hearing to July 11, 2017.

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