

**CALIFORNIA COASTAL COMMISSION**

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



# F6a

**Prepared July 11, 2017 for July 14, 2017 Hearing**

**To:** Commissioners and Interested Persons  
**From:** Susan Craig, Central Coast District Manager  
**Subject:** Additional hearing materials for F6a

Where checked in the boxes below, this package includes additional materials related to the above-referenced hearing item as follows:

- ☐ Staff report addendum
- ☒ Additional correspondence received in the time since the staff report was distributed
- ☐ Additional ex parte disclosures received in the time since the staff report was distributed
- ☐ Other.

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# California State Senate



**WILLIAM W. MONNING**  
MAJORITY LEADER  
SEVENTEENTH SENATE DISTRICT

CAPITOL OFFICE  
STATE CAPITOL, ROOM 313  
SACRAMENTO, CA 95814  
(916) 651-4017

MONTEREY DISTRICT OFFICE  
99 PACIFIC STREET, SUITE 575-F  
MONTEREY, CA 93940  
(831) 657-6315

SAN LUIS OBISPO DISTRICT OFFICE  
1026 PALM STREET, SUITE 201  
SAN LUIS OBISPO, CA 93401  
(805) 549-3784

SANTA CRUZ DISTRICT OFFICE  
701 OCEAN STREET, SUITE 318-A  
SANTA CRUZ, CA 95060  
(831) 425-0401

SANTA CLARA COUNTY  
TELEPHONE NUMBER  
(408) 847-6101

July 12, 2017

Dayna Bochco, Chair  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Dear Chair Bochco:

This letter is in regards to the Rancho Los Robles Subdivision ex parte document dated November 10, 2016, that the California Coastal Commission received and was submitted by Commissioner Carole Groom.

In the ex parte document, I am listed as a "proponent" of the Rancho Los Robles project.

For the record, this document is erroneous. I have not and do not intend to take a position on the Rancho Los Robles project and would like all California Coastal Commission documentation corrected to reflect this.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Monning", with a stylized flourish at the end.

WILLIAM W. MONNING  
Senator, 17th District

WWM:tuv



**From:** [Uptain-Villa, Tobias](#)  
**To:** [Kahn, Kevin@Coastal](mailto:Kahn, Kevin@Coastal)  
**Subject:** From the Office of Senator Monning: Rancho Los Robles  
**Date:** Friday, July 07, 2017 12:36:29 PM

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Hello Kevin,

Senator Monning's was listed as a proponents of the Rancho Los Robles project on an ex parte document for the Rancho Los Robles project.

I want to state for the Coastal Commission that Senator Monning has not taken a position on this project.

We will be following up with a letter expressing that Senator Monning has not taken a position on this project.

Best,

Toby Uptain-Villa  
Field Representative, Senator William W. Monning  
99 Pacific Street, Suite 575F  
Monterey, CA 93940  
P: (831) 657-6315 | F: (831) 657-6320  
<http://sd17.senate.ca.gov/>

Toby Uptain-Villa  
Field Representative, Senator William W. Monning  
99 Pacific Street, Suite 575F  
Monterey, CA 93940  
P: (831) 657-6315 | F: (831) 657-6320  
<http://sd17.senate.ca.gov/>



# HORAN | LLOYD

ANTHONY T. KARACHALE  
STEPHEN W. DYER  
MARK A. BLUM  
JAMES J. COOK  
ELIZABETH C. GIANOLA  
JEROME F. POLITZER  
PAMELA H. SILKWOOD  
JACQUELINE M. PIERCE  
BIANCA KARIM  
JENNIFER M. PAVLET

*Of Counsel*

FRANCIS P. LLOYD  
ROBERT ARNOLD, INC.  
VIRGINIA E. HOWARD  
DEBORAH S. HOWARD

LAURENCE P. HORAN  
(1929-2012)

HORAN LLOYD  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
26385 Carmel Rancho Blvd., #200  
Carmel, CA 93923

Tel: 831.373.4131  
Fax: 831.373.8302  
[horanlegal.com](http://horanlegal.com)

Mark A. Blum  
[mblum@horanlegal.com](mailto:mblum@horanlegal.com)

File No. 2955.01

July 7, 2017

California Coastal Commission  
c/o Central Coast District Office  
725 Front Street, #300  
Santa Cruz, CA 95060

Via U.S. Mail and E-Mail  
e-mail: [Kevin.Kahn@coastal.ca.gov](mailto:Kevin.Kahn@coastal.ca.gov)

Re. Appeal # A-3-MCO-09-009; Rancho Los Robles, Las Lomas

Honorable Chair and Members of Coastal Commission:

I represent Heritage Western Communities, Ltd., applicant for the Rancho Los Robles subdivision project. This letter responds to the June 23, 2017 appeal staff report (Staff Report).

## I. SUMMARY

Rancho Los Robles is a medium density, clustered residential project which will fill a gap in the existing built environment of central Las Lomas.

The project is sited on medium density residential designated land, not agriculturally designated land. It is bounded by existing development in "RDR", "LDR" or "HDR" zoning districts. The Coastal Commission has found that the Medium Density Residential designation for this site in particular is consistent with Coastal Act policies for the location of new development, the protection of sensitive habitats, and allocation of limited public works capacity. LUP/LCP Policy 4.3.5.2 The Las Lomas area is "appropriate for concentrated development" (LUP/LCP Policy 4.3.5.2) because "urban services; water, sewers, roads, transit, fire protection, etc. are available." (LUP/LCP Policy 4.3.6.D.2)

July 7, 2017  
Page 2

The applicant applied for 102 residential units. Monterey County approved 80 units to achieve LUP/LCP consistency. The project would have reduced deficit water use by more than half. When the appeals could not be resolved due to Commission staff's ("Staff") position that it was not enough to merely reduce deficit water demand, the Applicant went back to the community of Las Lomas for support of a redesign that could achieve a positive water balance with a net recharge to the aquifer.

Las Lomas is an impoverished, minority community lacking many rudimentary services and improvements that other communities take for granted. When approached, the community offered its support for a 52-lot project with substantial community-focused amenities. This project is designed to satisfy a number of those needs and enjoys very strong support among Las Lomas residents and elected officials.

The "52 Lot Alternative" reduces the approved project footprint, traffic generation, tree removal, need for screening, visual effect and water consumption, while still offering a higher percentage of affordable/workforce housing and dedicating more land and improvements to the community. Moreover, the project has substantial environmental benefits, including creation of jurisdictional wetlands, increased open space dedication, protection and enhancement of an oak woodland which has long been in decline, reduction of nitrate loading to the aquifer, reduction of sediment and nitrate loading to the Elkhorn Slough Estuarine Sanctuary, and preservation of willow riparian habitat.

Staff has opposed development of the site primarily based on water supply. Staff would not accept the historic baseline water use assumptions of the water balance studies. The 52 Lot Alternative was therefore designed in part to achieve a net positive recharge to the aquifer *using the water assumptions which Staff said should apply*. The revised water balance study was under review by the Commission's contract engineer for two years. But when the Commission engineer was satisfied that there would be a net recharge to the aquifer, Staff changed its interpretation of long standing water policies, taking the position that no new lots could be created as long as the basin remained in overdraft. After this reversal, Staff suggested that the Applicant could seek an amendment of LCP water supply policies, but then withdrew that option from the table.

These Staff actions and recommendations are contrary to the Commission's legislative determinations for this land. Prior to 1985, the land had been designated High Density Residential. The Commission certified a downzoning to Medium Density Residential ("MDR") based on a then lack of sewage service. This occurred when the water basin was already in overdraft and LCP policies limited development on that basin to 50% of planned buildout. The Commission nevertheless expressly found that the "MDR" designation for this site was *consistent with Sections 30254 and 30250 of the Coastal Act, which require in part, that limited public service capacity be allocated to priority land uses and new development have adequate public services*.

The Commission has the authority to *continue* to apply the relevant policies to allow for an approval of new lots is Rancho Los Robles on the grounds that designating the subject property

July 7, 2017  
Page 3

to medium density residential would not deprive other priority uses of limited water supply in an over-drafted basin. This result is particularly appropriate here, where the 52 Lot Alternative has a net positive water balance even when using the Staff's legally erroneous and inconsistent water baseline assumptions, and offers substantial benefits actively sought by an impoverished, minority community. This is a fact which distinguishes Rancho Los Robles from other recently denied North Monterey County "pipeline" projects.

Although the 52 Lot Alternative is clearly consistent with the North County LUP/LCP for all the reasons described in this letter, even if it were not, it merits approval on grounds of social public policy. This project is about improving an economically impoverished community and providing affordable and workforce housing, along with a host of other community amenities. It's about showing leadership to improve the lives of economically marginalized people. Staff only sees the community recreational areas as beneficial, not the housing opportunities. Staff suggests that the community can build recreational areas on its own, without housing. This is magical thinking that ignores generations of political and economic reality in Las Lomas.

## II. INTRODUCTION

The original subdivision application for the subject property was filed in 1984 (Oak Tree Ranch). At the time, the project site was designated Special Treatment Area, High Density Residential. In 1985, the County of Monterey ("County") downzoned the property to Medium Density Residential and denied the Oak Tree Ranch application. The downzoning was based on a finding that there was inadequate sewage capacity at the time to support a high-density project (up to 320 units) and that a medium-density project (up to 176 units) could be served by an on-site septic system disposal.<sup>1</sup> The Coastal Commission certified the Land Use Plan amendment.<sup>2</sup>

The owners re-applied for a 102-unit medium density residential subdivision (Rancho Los Robles). In 2008, the County approved the 80-unit EIR "Reduced Development Alternative" at less than one-half of the maximum allowable medium residential density.<sup>3</sup> The project was appealed to and by the Coastal Commission ("Commission").

The Applicant has been trying to resolve the Coastal Commission staff ("Staff") concerns since 2011.<sup>4</sup> Staff rejected various solutions offered by the Applicant over a multi-year period to

<sup>1</sup> A-3-MCO-09-009 Staff Report ("Staff Report") Exhibit 11, Pages 5-6.

<sup>2</sup> Staff Report, Exhibit 11, page 2 of 12.

<sup>3</sup> Staff Report, Exhibit 4; PLN 970159 approved 76 residential lots comprising 68 single family lots, 4 duplex lots and 4 units above commercial in a 17,000 s.f. mixed use configuration.

<sup>4</sup> In October 2011, the Applicant proposed establishing a water bank to off-set net project water use. On January 4, 2012, the Applicant described project modifications to respond to CCC appeal contentions.

July 7, 2017  
Page 4

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reduce perceived water supply impacts (e.g., generating off-site water credits, further reducing water demand on-site through project engineering, and water banking).

Consequently, in October 2014, the Applicant proposed greatly downsizing the project to 52 lots (the “52 Lot Alternative”). The 52 Lot Alternative is estimated to have a positive groundwater recharge of at least 7.89 AFY, and perhaps as high as 13.76 AFY. **Exhibits “B” and “C”**. The 52 Lot Alternative offers substantial benefits to the impoverished Las Lomas community (see Beneficial Effects Section, below) and enjoys strong community support, including from the Las Lomas Community Committee.

For two years following submittal of the 52 Lot Alternative, the focus of the Staff’s discussions with Applicant has been on water supply. Staff contracted with engineer Mark Johnsson to review Applicant’s water balance study and consistently gave the impression that if the project could achieve a net positive water balance, Staff could determine it consistent with the North County LUP/LCP water policies.

Staff now asserts, however, that both the 80-unit County approved Reduced Development Alternative and the 52 Lot Alternative (sometimes collectively referred to as the “Projects”) are inconsistent with LCP policies regarding: water supply, water quality, visual resources, the community character of Las Lomas, transportation/traffic, environmentally sensitive resources and agricultural resources. **These Staff assertions are contrary to the prior legislative findings of Monterey County and the Coastal Commission for approval of LUP/LCP Major Amendment M 1-85.**

In passing and adopting Resolution 85–151, downzoning the subject property from High Density Residential (up to 320 units) to Medium Density Residential (up to 176 units), the County Board of Supervisors expressly found that:

*The existing residential community of Las Lomas is designated medium density on the certified North County Land Use Plan and re-designating these sites would be consistent with the community character and future residential densities of Las Lomas.<sup>5</sup>*

The County adopted the following evidence for this finding<sup>6</sup>:

- a. *The reduction in density will reduce areas of impervious surfaces (new roads and sidewalks, enlarged existing roads, driveways, dwellings and garages) resulting in reduced storm water runoff and consequent reduction of the potential for flooding, erosion and sedimentation of the receiving waters of Elkhorn Slough, a National Estuarine Sanctuary and designated an environmentally sensitive habitat area in the certified Land Use Plan.*

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<sup>5</sup> Resolution 85–151, **Exhibit “A”** hereto.

<sup>6</sup> Resolution 85–151, **Exhibit “A”** hereto.

July 7, 2017  
Page 5

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- b. *The reduction in density will significantly reduce traffic impacts on the local county road infrastructure and reduce impacts on State Highway One; an important commercial trucking arterial as well as the major North-South access for public recreation and visitor-serving beach and ocean use. ...*
- c. *The reduction in density will facilitate future planning for the protection of a number of mature native oak trees which grace the subject properties which would be removed according to a draft environmental impact report (Oaktree Ranch).*
- d. *The reduction in density will result in future development which is consistent with the existing density (1 to 4 units/acre) of the adjacent Las Lomas community and will retain the community character of Las Lomas and the rural character of North County.*

The North County LUP/LCP amendments were submitted to the Coastal Commission. Staff recommended that the Commission approve changes to the land use designation of the subject property "from medium density residential from high density residential". Staff specifically recommended that the Commission find that the medium density zoning is consistent with Coastal Act policies for the location of new development, the protection of sensitive habitats, and allocation of limited public works capacity.<sup>7</sup> The Commission adopted the recommended findings that a MDR designation is consistent with Coastal Act policies for the location of new development, the protection of sensitive habitats, and allocation of limited public works capacity.

All references to the LUP/LCP or the LUP herein refer to the North County LUP/LCP unless otherwise noted.

### **III. WATER SUPPLY:**

The FEIR and County findings determined that the 102-Lot project would result in a reduction of water use compared to the historic baseline.<sup>8</sup>

The Staff Report does not disagree that the 52 Lot Alternative has net positive water balance using the historic water baseline assumptions specified by Staff in its written comments in the project Final EIR. This fact distinguishes the Rancho Los Robles proposal from the Rancho Roberto<sup>9</sup> and Mayr<sup>10</sup> subdivision projects. Staff stated it was unclear whether Rancho Roberto

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<sup>7</sup> Staff Report, Exhibit 11, page 2 of 12.

<sup>8</sup> FEIR Pages 2-2 through 2-9; Staff Report, Exhibit 4, p.56, Finding 6b.

<sup>9</sup> A-3-MCO-05-027 p.26. "Subdivision will increase water demand by an estimated 11.51 AFY...However, it is unclear whether the project even has an identifiable and available water supply (let alone a *long-term* identifiable and available water supply...."

<sup>10</sup> A-3-MCO-06-044 p.16. "The proposed project is a residential subdivision that would increase water demand by an estimated 0.8 AFY...."

July 7, 2017  
Page 6

would be able to obtain a will serve letter.<sup>11</sup> Rancho Los Robles has both an active “Can and Will Serve Letter” and a Water Supply Assessment by California Water Service Company stating they are able to supply adequate water supplies to the originally proposed 102-lot project.<sup>12</sup> It also has a Can and Will Serve Letter from Pajaro County Sanitation District for sewer service (LUP/LCP Policies 4.3.5.2 and 4.3.6.D.2.)<sup>13</sup>

The FEIR certified by the County disagrees with Staff about the legally appropriate historic baseline water use for assessing the water supply effects of Rancho Los Robles.<sup>14</sup> However, in an effort to obtain Staff support, the 52 Lot Alternative was designed to achieve a positive on-site water balance **using the historic baseline water use assumptions specified by Staff in its written comments in the project Final EIR.** The Applicant presented Staff with revised water balance tables for the 52 Lot Alternative. On October 4, 2014, Staff re-confirmed once again that the key issue for any project in terms of LCP consistency was water supply, and stated that staff would have Dr. Johnsson peer review the Applicant’s Water Balance Analysis (by Ifland Engineers).

After approximately two years of consultation with Dr. Johnsson, Ifland Engineers revised its Water Balance Study to reflect Dr. Johnsson’s inputs. Dr. Johnsson then had additional questions about the revised report and Mr. Ifland provided a June 1, 2016 supplemental report letter to Dr. Johnsson. **Exhibit “B”.**<sup>15</sup> The project is projected to achieve a net positive groundwater recharge of 7.87 AFY. Subsequently, on June 8, 2017, I transmitted to Staff additional estimates by Ifland Engineers of the amount of current domestic water use on site which was never before added into the current water demand calculations. This estimated 5.89 additional AFY of baseline existing domestic water uses would be also cease and thus further increase the net positive groundwater recharge of the 52 Lot Alternative to as much as 13.76 AFY. **Exhibit “C”.** This is more than consistent with IP Sections 20.144.070(E)(11) and 20.144.140(B)(3)(a).

On October 6, 2016, Staff informed Applicant’s counsel that:

- 1) Staff was considering water balance and subdivision issues for all of the North County pipeline projects and policies. Staff considered the best approach would be to allow limited development along the lines of what the Applicant’s proposal for Rancho Los Robles.

<sup>11</sup> A-3-MCO-05-027 p.26.

<sup>12</sup> Staff Report, Exhibit 4, p.53, Evidence 6b(e) and p. 59 Evidence 6b(d).

<sup>13</sup> Staff Report, Exhibit 4, p.10, Evidence 2(l).

<sup>14</sup> See, e.g., Rancho Los Robles FEIR pp. 2-3 and 2-4 through 2-6.

<sup>15</sup> Despite repeated requests, Staff never acknowledged whether it agreed with the final Water Balance Study conclusion that the project has a net positive water balance, but Staff does not dispute the conclusion either.

July 7, 2017  
Page 7

- 2) Staff was supportive of subdivision at this site and recognized that this project is different from other pipeline projects. But without an LCP amendment, it will be lumped together with the other projects and recommended for denial. Staff was considering working with the County on how county staff interpret the North County LUP/LCP policies and the County processing an LCP amendment, allowing some North County development in exchange for community benefits.
- 3) Staff was recommending that the CCC and County staff work together on LCP amendments to address water issues, although they didn't know what those would look like yet.

Then on April 25, 2017, Staff reversed itself, informing counsel that it had determined that the LCP does not allow for any North County residential subdivision while the basin is in overdraft, regardless of whether the project has a net positive water balance. **Exhibit "D"**. Staff had concluded, after more than eight years of discussion about this project's water balance, that LCP consistency must evaluate the priority of uses for water, not merely the balance of water use in a project. Staff advised that although it had previously been thinking it could support the RLR project through an LCP amendment, it no longer considered that to be an option and wanted to bring the project to hearing with a recommendation for denial. The Staff position that an LCP amendment cannot allow development is legally inconsistent with Implementation Plan Section 20.02.060.C.<sup>16</sup>

While Staff asserts that the LCP/LUP prohibits any residential subdivision while the basin is in overdraft, this is an *interpretation* reached in this case more than eight years after the appeal was filed. As the Staff Report acknowledges, the County has a different interpretation,<sup>17</sup> set forth in the certified FEIR<sup>18</sup> and the County Findings for approval.<sup>19</sup>

The County found that the 80-unit Reduced Development Alternative would be consistent with LUP/LCP water resource policies.<sup>20</sup>

*The North County LUP/LCP acknowledges an overdraft condition of the groundwater basin. As a result, policy 2.5.3.8.2 LUP establishes a safe yield limit of 50% of the potential buildout remaining at the time LUP was adopted/certified (2,043 units/lots). As of August 2007, County records accounted for a total of about 680 units/lots remaining that could potentially be developed in the North County area. All of the pending projects*

<sup>16</sup> Implementation Plan Section 20.02.060.C. "If, under the forgoing provisions, a property remains undevelopable, then the County or applicant may initiate a land use plan amendment for the subject parcel."

<sup>17</sup> Staff Report, pp. 32-33.

<sup>18</sup> Rancho Los Robles FEIR pp. 2-2 – 2-8.

<sup>19</sup> Staff Report, Exhibit 4, pp. 10-11, Evidence (m).

<sup>20</sup> Staff Report, Exhibit 4, pp. 10-11, Evidence (m).

July 7, 2017  
Page 8

*known at this time account for about 300 additional units (including "pipeline" project projects such as Pajero Valley golf course and the subject parcel), leaving a maximum of 3 to 80 units before reaching the buildout. Although policy 2.5.3.8.2 allows for reaching this limit based on new information (defined in the LUP as "definitive water studies"), an LUP amendment would be required in order to adjust this limit.<sup>21</sup>*

Applicant agrees with County that an LUP amendment would be required in order to adjust the LCP buildout limit in Policy 2.5.3.A.2. If the Commission makes ad hoc adjustments to the LCP buildout limit in the context of an individual permit appeal, that illegally circumvents the Coastal Act by sidestepping the statutorily mandated LCP adoption amendment or periodic review process.

Under CEQA, the County determined that the project would have a less than significant impact on project groundwater resources and a potentially significant cumulative impact on regional groundwater and seawater intrusion that are justified by findings of overriding consideration based on project benefits for Las Lomas and the County as a whole.<sup>22</sup>

Specifically, Staff asserts that a net water positive subdivision of the subject lands is inconsistent with LCP groundwater resources and water supply policies, including those that specify coastal-dependent uses (i.e., coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP/LCP Policies 2.5.3.A.1 and 4.3.5.4).

Staffs' recent interpretation, delivered eight years after the appeal, is inconsistent with the finding of the Commission in Major Amendment M 1-85:

*The proposed amendment to lower residential density [of the Rancho Los Robles project site] to a level consistent with adequate public services is found to be consistent with Sections 30254 and 30250 of the Coastal Act which require in part, that limited public service capacity be allocated to priority land uses and the new development have adequate public services.<sup>23</sup>*

<sup>21</sup> Staff Report, Exhibit 4, p. 71 (Evidence 17(f)).

<sup>22</sup> Staff Report, Exhibit 4, pp. 56-60, and 69-72. (County Finding Nos. 5y, 6b, and 17.) The overriding considerations included: provide affordable housing; provide convenience commercial or public or quasi-public uses that serves the subdivision and the local area; provide open space to preserve oak trees on the site; provide parkland for all age groups that's suitable for use by residents and other members of the community; construct local circulation improvements, including intersection improvements and pedestrian/bicycle improvements; pay road fees and reduce traffic generation; reduce water use; reduce groundwater nitrate loading; capture storm water runoff and detain and filter that storm water prior to release to Carneros Creek and Elkhorn Slough, thus reducing sedimentation and downstream waters; remove pasture uses from beneath the oak trees; and provide higher density housing consistent with what the LUP and vision for this area.

<sup>23</sup> Staff Report, Exhibit 11, p. 6.



July 7, 2017  
Page 9

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Sections 30250 and 30254 of the Coastal Act provide, in pertinent part:

*30250. (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it.*

*30254. ... Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

In order to find MA 1-85 consistent with Coastal Act sections 30250(a) and 30254, the Commission *necessarily* determined that:

- 1) Designation of the Rancho Los Robles project site as Medium Density Residential was consistent with the Section 30250(a) requirement, because it would *be located within, contiguous with, or in close proximity to, existing developed areas [i.e., Las Lomas] able to accommodate it; and*
- 2) That despite a ground water supply known and acknowledged in the LUP to *accommodate only a limited amount of new development, services to coastal-dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses*, the Medium Density Residential designation of the subject property would not preclude those uses.

It's true that water overdraft was later found to be even greater than known in 1985, but it *was* known to the Commission in 1985 and the LUP contained the same water supply Policies it does now. Knowing this, the Commission did not interpret these LUP/LCP Policies to prohibit a designation of the subject property for medium density residential subdivision until the overdraft was resolved. This concept that no residential development can occur until the groundwater basin is in balance is a relatively recent Staff interpretation which the Commission is free to embrace or reject in whole or in part.

Certainly, the Commission has the authority to interpret the relevant policies to allow for an approval of Rancho Los Robles on the grounds that the LCP was certified for the subject property at medium density residential knowing that the area suffered from groundwater overdraft. This is particularly appropriate here, where the 52 Lot Alternative has a net positive water balance even using the Staff's legally erroneous and inconsistent water baseline

July 7, 2017  
Page 10

assumptions<sup>24</sup>, and offers significant benefits being actively sought by an impoverished, minority community.

#### IV. OAK WOODLANDS

Staff interprets policies to require complete avoidance of oak woodlands and a buffer around the entire habitat. This is not what the policies require. The policies allow for oak tree removal while requiring long-term maintenance of the oak woodlands habitat. Long-term maintenance of the habitat is assured through the project siting and design and conditions imposed by the County. Among other things, the conditions require conservation easements for protected trees. The 52 Lot Alternative further reduces tree loss and potential for habitat impacts over the approved project.

The effect of complete avoidance of oak woodlands with a buffer as urged by Staff is shown on **Exhibit "E"**. For all the reasons described below, such recommendations are unnecessary to satisfy applicable LCP Policies and would preclude residential development of the site consistent with the objectives established for it by the Commission in Major Amendment 1-85.

As described in the 2006 Preliminary Tree Evaluation by certified arborist James Allen, the original 102 lot application was configured to minimize the amount of oak woodland disturbance/tree removal consistent with Implementation Plan Section 20.144.050.C.6. Mitigation was recommended consistent with IP section 20.144.050.C.1.

One Hundred and thirty-eight trees were identified on site, including exotic species. Quoting the report:

*The trees on the site have not been maintained. The primary use of the property is that of a horse stable, corrals and pastureland. Many trees are in poor structural condition as evidenced by previous failures. Significant trees on the site stand-alone, with adequate space for full canopy and root development. ... Tree removal is required for trees that are currently structurally unsound [24 trees] or that are in direct conflict with the proposed construction [16 trees].*

Construction of the 102-unit project evaluated required the removal of forty trees: 16 trees due to construction impacts (6 landmark trees) and further recommended the removal of an additional

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<sup>24</sup> While Staff asserted that the historic water use baseline period used in the Sunridge Views water budget analysis was too short (because it omitted earlier years of lower water use)<sup>24</sup>, Staff asserts the historic water use baseline period used in the Rancho Los Robles water budget analysis: 1) "is not relevant for LCP demand or balance calculations"; and 2) was too long, because it included earlier years of higher water use.<sup>24</sup> Staff selectively and inconsistently chooses facts to support the outcome it desires.

July 7, 2017  
Page 11

24 trees (11 landmark) due to poor condition/structural failure.<sup>25</sup> One to one replacement mitigation of protected trees was recommended consistent with Implementation Plan 20.144.050.C.6. The County conditions go further, requiring 3 to 1 replacement of the protected oaks to be removed, along with 4 other protective measures.<sup>26</sup> Mitigation success criteria which are incorporated in the mitigation. The mitigations render the proposed oak tree removal consistent with Senate Bill 1334.<sup>27</sup>

Mr. Allen has reassessed tree conditions and potential impacts for the 52 Lot Alternative. **Exhibit "F"**. As expected, fewer trees require removal for the 52 Lot Alternative. Seventeen coast live oaks will need to be removed due to unavoidable project impacts and ten of these are Landmark trees. Ten coast live oaks are recommended for removal due to poor condition, of which nine are Landmark status. Two eucalyptus trees (one Landmark) require removal due to impacts and one eucalyptus and two acacia are also recommended for removal due to poor condition, disease or hazard. One hundred and fourteen (114) trees will be preserved. The thirteen trees recommended for removal due to condition, disease or instability pose a risk to the long-term maintenance of the oak woodlands or a present hazard to existing residents of the property. These trees warrant removal irrespective of development of the property.<sup>28</sup> Contrary to the conclusions of the EIR, Staff suggests that LUP/LCP Policy 2.3.2.3 typically requires complete avoidance and a buffer around the entire oak woodlands area to assure long-term maintenance of the resource.<sup>29</sup> The cited policy does not state that either complete avoidance or a buffer is required. The Policy requires that development "shall be compatible with long-term maintenance of the resource." Uses are considered compatible where they "incorporate all site planning and design features needed to prevent habitat impacts upon habitat values and where they do not establish a precedent for [cumulative impacts]". Similarly, Specific Policy 2.3.3.A.4 allows development on oak woodlands under 25% slope if sited to avoid disruption of vegetation and habitat loss.

The Implementation Plan standard is also not complete avoidance of all development within 100 feet of ESHA, but rather, subdivision or development within 100 feet of ESHA "shall not be permitted where they will adversely impact the habitats long-term maintenance, either on a project or cumulative basis." "Removal of native trees shall be limited to that which is necessary for the development of the structure and access road and/or necessary for the forest's long-term maintenance...."<sup>30</sup> The emphasis of the County adopted mitigation measures is to avoid loss of trees and minimize habitat disruption, assuring long term maintenance.

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<sup>25</sup> DEIR 2-41

<sup>26</sup> DEIR Mitigation Measure 12

<sup>27</sup> DEIR 2-46.

<sup>28</sup> Exhibit "F", pp. 1-2.

<sup>29</sup> Staff Report, p. 38.

<sup>30</sup> IP Section 20.44.050.C.3

July 7, 2017  
Page 12

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North County LUP/LCP section 2.3.3.6 states, "removal of native trees and vegetation and landmark trees shall be permitted in accordance with sections 2.3.2, 2.3.3, 2.6.2 and 2.6.3 of this plan and other policies that may apply."

Development within oak woodlands is limited to slopes of 25% or less and has been be sited and extensively conditioned "to minimize disruption of vegetation and habitat loss" and is consistent with LUP/LCP Policy 2.3.3.4.A.4.

The Reduced Development Alternative, as conditioned to allow removal of 25 trees, incorporates all site planning and design features needed to prevent impacts upon oak woodland habitat values, consistent with LUP/LCP Policy 2.3.2.2.<sup>31</sup> The 52 Lot Alternative, which would remove 15 oak trees, has a correspondingly lesser impact.

The County found that the planning and design of the Reduced Development Alternative subdivision avoid significant impacts to oak woodland ESHA from development of proposed parcels, consistent with LUP/LCP Policy 2.3.2.3.<sup>32</sup>

Consistent with LUP/LCP Policy 2.3.2.4, the Reduced Development Alternative maintains significant, and where possible, contiguous areas of undisturbed land for low intensity recreation or resource conservation use.<sup>33</sup> As described in the FEIR for the original the 102-lot project application, about 29% of site along the southern and western facing terrace slopes, with greater concentration of the oak habitat, would be preserved as open space. This preservation area is increased for the Reduced Development Alternative and 52 Lot Alternative.

The above cited policies all focus on development that is compatible with the long-term maintenance of sensitive resources rather than complete avoidance. The project designs and conditions satisfy this standard and thus promote the preservation of oak woodlands consistent with LUP/LCP Policy 4.2.

Mr. Allen's 2017 report update affirms that the oak woodland habitat is in poor condition for the reasons he and other consultants have described. Without protective measures and intervention, the habitat will continue to deteriorate. He states the protections recommended in the county the conditions of approval are appropriate. If coupled with an oak woodland enhancement program, the project as conditioned could improve the quality and long-term maintenance of the oak woodlands over the "no project" conditions. **Exhibit "F"**, pp. 1-2. The 52 Lot Alternative would assure the long-term maintenance of the woodlands which is not presently assured. **Exhibit "F"**, pp. 1-2.

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<sup>31</sup> Staff Report, Exhibit 4, pp. 31-34.

<sup>32</sup> Staff Report, Exhibit 4, pp. 31-34.

<sup>33</sup> Staff Report, Exhibit 4, pp. 33-34, MM# 13b.

July 7, 2017  
Page 13

The County conditions for Rancho Los Robles incorporate six oak woodland specific mitigation measures,<sup>34</sup> including conservation easements, building envelopes and tree protection areas designated on the final map.<sup>35</sup> The mitigation measures further require: planning department review of grading plans and prohibit protected oak tree removal without further planning department review and approval based upon substantial evidence to support an exception to the prohibition<sup>36</sup>; arborist review of improvement plans and on-the-ground adjustments to the location of street improvements and grading limitations to minimize effects on oak trees and habitat; a qualified arborist or biologist shall verify that the trees are correctly marked and submit a report to the County. If additional tree removal or protection measures become necessary, these will be identified;<sup>37</sup> in the event that some tree loss cannot be avoided, as a last resort an additional mitigation measure requires re-location or replacement of protected trees at a 3 to 1 ratio.<sup>38</sup>

The effect of complete avoidance of oak woodlands with a buffer as urged by Staff is shown on **Exhibit "E"**. Clearly, such recommendations are unnecessary to satisfy applicable LCP Policies and would preclude development of the site consistent with the objectives established for it by the Commission in MA 1-85.

As the MA 1-85 staff report states, MA 1-85 was intended to eliminate LUP/LCP Policy 4.3.6 regarding the Special Treatment Area, High Density designation for the subject property. The language intended for deletion is still instructive:

*The special treatment area designation is applied in order to encourage planned development that will ensure retention of the site's natural amenities, **particularly its mature oaks** and also to provide the community needs such as a meeting hall or recreation area, and convenient shopping.*

The County and the Commission necessarily concluded that with the downzoning of the parcel from high density to medium density, the Special Treatment Area designation was no longer necessary to ensure retention of the site's natural amenities, including its mature oaks. Presumably, the County and the Commission reasoned that medium density residential development could be satisfactorily conditioned without the necessity of a Special Treatment Area designation to ensure retention of the sites natural amenities, including the oak woodlands. The County conditions of approval for Rancho Los Robles do in fact assure long-term retention of the oak woodlands.<sup>39</sup>

<sup>34</sup> Staff Report, Exhibit 3, pp. 43-48.

<sup>35</sup> Staff Report, Exhibit 3, Conditions 75-77.

<sup>36</sup> Staff Report, Exhibit 3, Condition 72

<sup>37</sup> Id.

<sup>38</sup> Staff Report, Exhibit 3, Condition 75.

<sup>39</sup> Staff Report, Exhibit 3, pp. 43-49, Conditions 72-77.

July 7, 2017  
Page 14

The trees that are to be removed will have no or very little visual effect, since the trees nearest Hall Road are within an open space and not proposed for removal.<sup>40</sup>

For all the reasons described here, in the draft and final EIRs, and in the County's findings and evidence, development within oak woodlands is limited to slopes of 25% or less and has been be sited and extensively conditioned "to minimize disruption of vegetation and habitat loss"<sup>41</sup> and is consistent with the relevant North County LUP/LCP Policies. The proposed reduction of the project to 52 lots further reduces tree loss and potential impacts to habitat and increases LUP/LCP consistency.

## V. WETLANDS:

The property contains an infrequently inundated wet lowland area, a portion of which the County has designated as Prime Farmland.<sup>42</sup> The only characteristic qualifying this area as wetlands under the LCP/LUP definition is the area's infrequent inundation by storm water. Because hydric soils and hydrophytic vegetation necessary for classification as jurisdictional wetlands under the U.S. Army Corps of Engineer's definition are not present, this low-lying area comprises non-jurisdictional wet lowlands and presently has no to little biological utility. According to a report prepared by biologist Dr. Jeffrey B. Froke, "the ecological elements of a wetland are missing, i.e., the fundamental indicators used to identify and define wetlands are absent." The DEIR, and Mitigation Measures 4a and b in County Finding 5c, concur with Dr. Froke that the wet lowlands are not ACOE jurisdictional wetlands.<sup>43</sup>

Dr. Froke's report states that there is an opportunity to create a riparian habitat using runoff flowage that courses to the existing culvert. Mr. Cowan's report agrees.<sup>44</sup> The Projects would each create this habitat through pond-scaping and establishment and maintenance of wetland vegetation which is presently lacking. Such habitat would also benefit water quality by maximizing the removal of pollutants from storm water runoff through settling and uptake and filtering by vegetation.

Conditions require a naturalized basin design that would enhance wetland function at the site, which preserves the wetlands and promotes filtering of pollutants prior to storm water running off toward Elkhorn Slough.<sup>45</sup> As conditioned, the area around the wetland will remain an open space with the conservation easement recorded (consistent with LUP/LCP policies 2.3.2.2, 2.3.2.3, and 2.3.2.6) over the southern portion of the site to ensure protection of this habitat and

<sup>40</sup> Rancho Los Robles FEIR 2-282

<sup>41</sup> LUP Policy 2.3.3.4.A.4

<sup>42</sup> Staff Report, Exhibits 14 and 15.

<sup>43</sup> DEIR pp. 2-31; Staff Report, Exhibit 4, pp. 20-22.

<sup>44</sup> DEIR pp. 2-29 and 2-30.

<sup>45</sup> Staff Report, Exhibit 4, p. 8, Evidence (e).

July 7, 2017  
Page 15

to help filter out pollutants before water is released downstream to Elkhorn Slough (consistent with LUP/LCP policies 2.3.3.B .5, 2.3.3.B .8, and 2.3.3.C.1 & .2).<sup>46</sup>

The drainage basin proposed within the non-jurisdictional wet lowlands area will be designed and maintained to restore the Coastal Commission wetlands and create a jurisdictional wetland area where none now exists. The new jurisdictional wetlands are required to be three times as large as any disturbance to the wet lowland area which may be necessary to create them.<sup>47</sup> Since the wet lowlands are only infrequently inundated, there is potential to restore and enhance them without any environmental disturbance.

The required conservation easement on the wetlands:

*Shall prohibit vegetation removal, excavation, grading, filling, and construction of roads and structures within the wetlands easement, except as may be permitted under a Nationwide Permit under Section 404 of the Clean Water Act. Such exceptions may include activities for watershed restoration or other activities that will ensure the long-term maintenance of the habitat. No grading, structures, grazing, or other activity shall be allowed except as maybe necessary to reduce the potential risk of wildfires, to maintain the vigor of habitat, to maintain diversity in value of the habitat, to remove non-native plants, or to otherwise ensure the long-term maintenance of the habitat.*<sup>48</sup>

The creation of jurisdictional wetlands through environmental enhancement on this site is necessarily a resource dependent development, because it depends on the inundation of storm water to the low-lying area. As such, it is consistent with LUP/LCP Policies 2.3.2.1 and 2.4.3.6 (vis a vis incorporation of Coastal Act Section 30233(a))<sup>49</sup>.

The proposed jurisdictional wetland creation is consistent with North County IP Section 20.144.040.B.3, since it will not “adversely impact the habitat’s long-term maintenance”, but will in fact enhance it dramatically. The newly created jurisdictional wetlands will be an environmental enhancement protected in perpetuity by a conservation easement.<sup>50</sup> Such action is consistent with the mandate of LUP/LCP Section 4.2 favoring “The preservation of coastal resources including...wetlands....”

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<sup>46</sup> Staff Report, Exhibit 4, p.8 (Finding 2, Evidence 2e); Exhibit 3, Page 32-33 (Condition 63).

<sup>47</sup> Staff Report, Exhibit 3, Condition 63.

<sup>48</sup> Condition 63a at Staff Report, Exhibit 3, pp. 32-33.

<sup>49</sup> 30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ... (6) Restoration purposes.

<sup>50</sup> Staff Report, Exhibit 3, Condition 63.

July 7, 2017  
Page 16

## VI. WATER QUALITY:

Notably, the Commission appeal did not raise issues of water quality, which Staff asserts for the first time in the Staff Report.

The Staff Report asserts without analysis that the proposed 52 Lot Alternative does not minimize erosion and sedimentation of Elkhorn Slough and other coastal waters, or control and minimize non-point source pollution, inconsistent with LUP/LCP Policies 2.5.2.1 and 2.5.2.5.<sup>51</sup> Review of the County findings and conditions shows this is not the case. In fact, either project will enhance and improve existing water quality. “[T]he water leaving the site will be cleaner than if it flowed freely off the site.”<sup>52</sup>

Consistent with Policy 2.5.2.1, the conditions incorporate mitigation measures to minimize of erosion and sedimentation into the sloughs, including the measures identified in Policy 2.5.3.C.6.<sup>53</sup>

Consistent with Policy 2.5.2.5, the conditions require point and non-point sources of pollution to be controlled and minimized.<sup>54</sup>

Staff further suggests that the removal of *any* coast live oak trees through the creation of new residential lots in oak woodland habitat is inconsistent with LUP/LCP Policy 2.5.3.C.6(e)’s requirement to retain the maximum amount of vegetation for all new development in order to address potential erosion concerns.<sup>55</sup> In fact, the policy specifies “...Maximum retention of vegetation cover shall be required for all new development. In particular, natural vegetation should be retained *to the fullest extent possible through careful siting and construction of new development.*” This is precisely what the conditions require.<sup>56</sup>

As noted in the section above, County conditions require a naturalized basin design that would, among other benefits, promote filtering of pollutants prior to storm water running off toward Elkhorn Slough.<sup>57</sup> As conditioned, the area around the wetland will remain an open space with the conservation easement recorded (consistent with LUP/LCP policies 2.3.2.2, 2.3.2.3, and 2.3.2.6) over the southern portion of the site to ensure protection of this habitat and to help filter out pollutants before water is released downstream to Elkhorn Slough (consistent with LUP/LCP policies 2.3.3.B .5, 2.3.3.B .8, and 2.3.3.C.1 & .2).<sup>58</sup>

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<sup>51</sup> Staff Report, pp.39-40.

<sup>52</sup> Finding 5o, Evidence (a), in Staff Report, p. 37.

<sup>53</sup> See, e.g., County Finding 5.o (MM#s 6, 19 and 23) in Staff Report Exhibit 4.

<sup>54</sup> See, e.g., County Finding 5.o (MM#s 6, 19 and 23) in Staff Report Exhibit 4.

<sup>55</sup> Staff Report, p. 40.

<sup>56</sup> See, e.g., County Findings 5c (MM #s 4a and 4b), 5i (MM#s 10a, 10b,11,12, 13a and 13b), 5k (MM#s 19, 21), 5n (MM# 9), and 5.o (MM#s 6, 9 and 23) in Staff Report Exhibit 4.

<sup>57</sup> See, e.g., County Finding 5.c (MM#s 4a and 4b) in Staff Report Exhibit 4.

<sup>58</sup> Staff Report, Exhibit 4, p.8.



July 7, 2017  
Page 17

## VII. AGRICULTURAL PRESERVATION:

When approving Rancho Los Robles, the County found that “The project site’s Medium Density Residential land-use designation is an indication that the certified Coastal Plan for North County (Policy 2.6.3.1 LUP) determined that this land is **better suited for dense residential and commercial development than for agricultural uses.**”<sup>59</sup>

The Coastal Commission similarly found that, “The medium density designation would be more consistent with existing land use densities in the Las Lomas area.”<sup>60</sup> The Commission could have imposed a Coastal Agricultural Preservation (CAP) or Agricultural Conservation (AC) zoning district, as it did for other parcels in MA 1-85.<sup>61</sup> It did not do so. Instead, the Commission found that Medium Density Residential designation for the Rancho Los Robles site was consistent with Coastal Act policies for the location of new development, the protection of sensitive habitats, and allocation of limited public works capacity.<sup>62</sup>

The Medium Density Residential designation is appropriate because any development onsite is an infill development that will fill a gap in the existing built environment between the concentrated development of central Las Lomas and Hall District School. Consistent with the findings of the Commission and the County, LUP/LCP Policy 4.3.5.2 provides that “the Las Lomas/Fruitdale area ...[is] appropriate for concentrated development.”

LCP agricultural protection policies need to be considered in the context of the land use map and site constraints. The North County LUP/LCP designates the project site for medium density residential and commercial development. Elsewhere in North Monterey County, large areas of agricultural land are protected for long-term agricultural use through LCP and zoning designations.

The subject land has not historically been used for crop production due to its marginal agricultural utility. **Exhibit “G”**, page 5. The mapping of portions of the subject property as prime and statewide importance farmlands did not occur until 2012<sup>63</sup>, four years after the “Reduced Development Alternative” was approved by Monterey County in 2008, and twenty-six years after the original subdivision application for Oak Tree Ranch was filed in 1984. The explanation for this recent farmland designation is simple.

The Applicant bought the property to develop and allowed the then existing horse pasture use to continue pending ongoing subdivision efforts. The County demanded that the horse pasture use be shut down and the Applicant voluntarily complied. Despite the poor soils, the Applicant

<sup>59</sup> Staff Report, Exhibit 4, p.9 (Finding 2, Evidence (g)).

<sup>60</sup> Staff Report, Exhibit 11, p. 6 of 12.

<sup>61</sup> See for example, Amendment No. 2 of MA 1-85 at Staff Report, Exhibit 11, p. 6 of 12.

<sup>62</sup> Staff Report A-3-MCO-09-009, Exhibit 11, page 2 of 12.

<sup>63</sup> <http://maps.conservation.ca.gov/dlrp/ciftimeseries/> and [mnt14\\_no.pdf](#); Staff Report, Exhibit 4, p.9.

July 7, 2017  
Page 18

resorted to leasing part of the land for berry and crop production as an interim use to partly defray carrying costs during its interminable subdivision efforts. As a consequence of this interim agricultural use, the County mapped the cultivated portion of the lands as farmlands.

The nature of the soils on-site also “render them better suited to dense residential and commercial development”.<sup>64</sup> The silty sands on-site are subject to erosion and render the site unsuitable for long term cultivation consistent with the protection of Carneros Creek and the Elkhorn Slough watershed. LUP/LCP Policy 2.6; **Exhibit “G”**, page 5. The Implementation Plan identifies the site as a “critical” erosion area.<sup>65</sup> The marginal suitability of these lands results in lease revenues far below normal. **Exhibit “G”**, page 5.

Discontinuance of the interim agricultural use of the site is further consistent with all applicable LUP/LCP policies and Implementation regulations the following reasons:

- Only “coastal dependent agriculture” has priority over residential use where there is limited land, water or public facilities to support development.<sup>66</sup> The interim agricultural crops on a portion of the subject land do not constitute “coastal-dependent agriculture”. The crops grown are mixed-vegetables and berries. Thousands of acres of mixed vegetables and berries (raspberries and strawberries) are grown throughout the non-coastal portions of the Salinas Valley and the Pajaro Valley, and are certainly not “coastal-dependent”.
- It's further readily apparent from LUP/LCP Specific policies 2.6.3.2, .3, .4, and .5, that only lands designated Agricultural Preservation, Agricultural Conservation or Rural Residential have limits on subdivision on account of their agricultural character.
- North County LUP/LCP Key policy 2.6.1 does not require the protection of productive farmlands which are not located on prime soils, **if they contribute to degradation of water quality**. The subject soils contribute to degradation of water quality. The Farmlands of Statewide Importance soils on site are Class IVe Santa Ynez fine sandy loam. Farming on these soils generally has a moderate to high erosion potential.<sup>67</sup> The Implementation Plan identifies this particular project site (which Staff characterizes as “steeply sloping”) as a “critical” erosion area.<sup>68</sup> As such, farming on this site may contribute to degradation of water quality in the Coastal Commission wetlands on site and in the receiving waters of Elkhorn Slough, a National Estuarine Sanctuary and designated an environmentally sensitive habitat area in the certified Land Use Plan.<sup>69</sup>

<sup>64</sup> Staff Report Exhibit 4, p.6; see also Staff Report, Exhibit 11, pp. 2 and 6.

<sup>65</sup> Board of Supervisors Resolution 08-374, Finding 18, Evidence (e).

<sup>66</sup> North County LUP Policy 4.3.5.4.

<sup>67</sup> Monterey County Soils Survey.

<sup>68</sup> Board of Supervisors Resolution 08-374, Finding 18, Evidence (e); Rancho Los Robles DEIR p.2-103.

<sup>69</sup> County BOS Resolution 85-151, Evidence a.

July 7, 2017  
Page 19

Additionally, the farming of the soils onsite contributes to degradation of water quality through nitrate loading. The certified FEIR identifies a project benefit from a drastic reduction in the nitrate loading which results from farming.<sup>70</sup>

The project soils, including the area under cultivation, are poor for agriculture. E2C Inc.'s Geology and Soils Report for the project site reports that the soils encountered are silty sand with varying percentages of clay in the central and eastern portion of the project site.<sup>71</sup> In this area, the clay varies in thickness from about 5 feet to more than 10 feet. In the western area, dense, clayey sand was found. A soil that meets the textural definition of loam can lose its characteristic desirable qualities as agricultural land when it is compacted, depleted of organic matter, or has clay dispersed throughout its fine-earth fraction, all of which describe the conditions at the project site. The historic use of the property as a horse pasture has overtime significantly compacted the soil, which has reduced aeration, decreased permeability, and induced nutrient deficiencies in the soil, thus creating poor soil conditions for use as agricultural land.<sup>72</sup> Berry production was first initiated as an interim use in 1998, only because the County instructed the owner to stop irrigation of the horse pasture and the owner voluntarily complied while its subdivision application was pending. The silty sands on-site are subject to erosion and render the site unsuitable for long term cultivation consistent with the protection of Carneros Creek and the Elkhorn Slough watershed. **Exhibit "G"**, page 5. The Implementation Plan identifies the site as a "critical" erosion area. Board of Supervisors Resolution 08-374, Finding 18, Evidence (e). The County found that the site has limited viability for continued agricultural use.<sup>73</sup> "The slopes and presence of oak woodlands on the property restrict potential use for crop production (LUP/LCP Policies 2.6.2.4 and 2.6.3.8)."<sup>74</sup> The Implementation Plan identifies this particular project site (which Staff characterizes as "steeply sloping") as a "critical" erosion area.<sup>75</sup>

The development of the subject lands is not an LCP prohibited conversion of cultivated lands for non-agricultural use, because the land is not within a Coastal Agricultural Preservation (CAP) or Agricultural Conservation (AC) zoning district.<sup>76</sup> Even if the land were cultivated land within a CAP or AC zoning designation, conversion to allow in-fill of existing developed areas is appropriate when, as here, the parcel to be developed is surrounded entirely by parcels in "RDR", "LDR" or "HDR" zoning districts.<sup>77</sup> This was a justification for the Coastal Commission designation of these lands as Medium Density Residential in Major Amendment M 1-85.

The subject property is designated and zoned residential because it is located in an urbanized portion of the Las Lomas community. (See LUP/LCP Policy 4.1.2. "Higher density residential

<sup>70</sup> Rancho Los Robles FEIR, p. 3-3.

<sup>71</sup> Rancho Los Robles EIR Appendix I.

<sup>72</sup> Rancho Los Robles EIR Appendix I.

<sup>73</sup> Staff Report, Exhibit 4, pp.8-9 (evidence 2(g)) and 10 (evidence 2(l)).

<sup>74</sup> Staff Report, Exhibit 4, pp.8-9, evidence 2(g).

<sup>75</sup> Board of Supervisors Resolution 08-374, Finding 18, Evidence (e); Rancho Los Robles DEIR p.2-103.

<sup>76</sup> See, e.g., North County IP Section 20.144.080.D.2.

<sup>77</sup> Id.; LUP Policy 2.6.2.2. and 4.3.6.B.3.

July 7, 2017  
Page 20

development is found in Las Lomas....”) The LUP/LCP ensures preservation of agricultural lands “by designating all lands in agricultural production, or suitable for such use, as ‘Agricultural Conservation’....” (LUP/LCP Policy 5.2.1.E.) The subject land is not designated “Agricultural Conservation”. Treating or designating the subject land as if it were designated “Agricultural Conservation” would blur the boundary between urban and rural areas in contravention of LUP/LCP Policy 2.6. The Projects both locate new development contiguous to existing developed area and constitute infill. LUP/LCP Policy 4.3.5.2 provides that “the Las Lomas/Fruitdale area ...[is] appropriate for concentrated development.”

By proposing infill development on residentially designated lands being productively used for agriculture that contribute to water degradation, the 52 Unit Alternative is also consistent with LUP/LCP Key Policy 2.6.1. The subject land was placed in agricultural use as an interim measure pending review of the present subdivision application. Taking the land out of agricultural production will resolve problems recognized in LUP/LCP Policies 2.6, 2.6.2.4 and 2.6.3.8, including water runoff and topsoil erosion from slope farming.<sup>78</sup> The Implementation Plan identifies this particular project site (which Staff characterizes as steeply sloping) as a “critical” erosion area.<sup>79</sup>

- Even if the interim agricultural use on-site was a priority coastal- dependent use, the 52 Lot Alternative does not locate any development on or near prime agricultural land and almost entirely avoids the subsequently designated farmlands.<sup>80</sup> **Exhibit “H”**.
- Portions of the small amount of newly designated farmlands the 52 Lot Alternative would overlap are in fact already developed. **Exhibit “H”**. The only non-recreational components of the 52 Lot Alternative that would affect any undeveloped farmlands is the cul-de-sac bulb at the east end of Oakland Avenue. **Exhibit “H”**. The proposed road south of the Community Service Parcel is to be located on already developed land. **Exhibit “H”**.
- Portions of the proposed soccer fields would be located on lands subsequently designated as farmlands of statewide importance, but public recreational uses have priority on coastal sites which are not habitat areas and not needed for coastal-dependent uses.<sup>81</sup> The playing field areas in the Projects are not proposed for habitat areas and are not needed for coastal-dependent uses. Because the 52 Lot Alternative almost entirely avoids the subsequently designated farmlands on-site, even if they were

<sup>78</sup> Staff Report, Exhibit 4, pp.8-9, evidence 2(g).

<sup>79</sup> Board of Supervisors Resolution 08-374, Finding 18, Evidence (e); Rancho Los Robles DEIR p.2-103.

<sup>80</sup> The 2008 Reduced Development Alternative would have placed 12 residential lots on areas subsequently designated as farmlands of statewide importance and would have placed multi-use commercial and residential development on areas subsequently designated as farmlands of state wide importance or prime farmlands. See Staff Report, Exhibit 14.

<sup>81</sup> LUP Policy 1.1.

July 7, 2017  
Page 21

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protected by LUP/LCP Policies, development could nevertheless proceed consistent with LUP/LCP Policies 2.6.2.1 and 2.6.2.2.

The 80 unit Reduced Development Alternative is also consistent with the LCP and does not have the potential to significantly impact agricultural lands for these reasons:

- While the commercial mixed use component of the Reduced Development Alternative would affect lands subsequently designated as prime and productive agricultural land, the approval is consistent with the LCP, which accords commercial uses equal or greater priority with agriculture.<sup>82</sup>
- The Projects are consistent with LUP/LCP Policy 2.6, which requires “agricultural land” to be protected by establishing stable boundaries separating urban and rural areas (the MDR designation denotes the boundary between the urbanized lands of Las Lomas and adjoining agriculturally designated lands), by locating new development contiguous to developed areas (Rancho Los Robles is in-fill development), and by minimizing conversions or divisions of productive agricultural land *unless they are non-prime soils that contribute to water quality degradation*. On this last point, the farmlands of statewide importance on the subject parcel are silty sands on-site are non-prime soils subject to erosion and render the site unsuitable for long term cultivation consistent with the protection of Carneros Creek and the Elkhorn Slough watershed. LUP/LCP Policy 2.6. They also channel excess irrigation water to Hall Road culvert, thence to Carneros Creek and Elkhorn Slough.<sup>83</sup> The 52 Lot Alternative only encroaches slightly on farmlands of statewide significance which are not protected by LUP/LCP Policy 2.6 because *they are non-prime soils that contribute to water quality degradation*. As such, it is fully consistent with the third prong of the policy.
- The county approval of the Reduced Development Alternative in 2008 was consistent with LUP/LCP policy 2.6.1 requirement to preserve “prime agricultural soils”, because there was no prime agricultural soils designation on the site at that time. Of the lands recently designated as farmlands in 2012, the prime portion is about 30% of the total and comprised of Elkhorn fine sandy loam in Capability Class IIIe (where “e” represents high erosion potential). These lands are entirely outside the 52 Lot Alternative development footprint. The rest of the newly designated farmlands are Farmlands of Statewide Importance comprised of Santa Inez fine sandy loam with Capability Class IV e (where “e” represents high erosion potential). According to the Soil Survey of Monterey County, the erosion hazard on these soils generally is moderate to high and the soils are suited to irrigated hay and pasture. Irrigation water must be applied very carefully to avoid excess runoff. The Implementation

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<sup>82</sup> LUP Policies 3.1.3.1 and 4.3.5.4

<sup>83</sup> Rancho Los Robles EIR Appendix F, Natural Resource Evaluation for Rancho Los Robles, p. 2 February 13, 2004. The Rancho Los Robles DEIR, Revised DEIR and FEIR are incorporated by reference in this letter and these proceedings.

July 7, 2017  
Page 22

Plan identifies this particular project site (which Staff characterizes as “steeply sloping”) as a “critical” erosion area.<sup>84</sup>

- In further refining LUP/LCP Key Policy 2.6.1, LUP/LCP Policy 2.6.2.1 establishes that only prime and productive farmlands *which are designated for Agricultural Preservation or Agricultural Conservation land use* shall be preserved for agricultural use, and then only consistent with the protection of environmentally sensitive habitats. The farmlands on site are not prime and productive farmlands *which are designated for Agricultural Preservation or Agricultural Conservation land use*. Moreover, farming on the project site, while it has been an economic necessity during the lengthy subdivision process, is not protective of the environment. The agricultural use may encroach into the coastal commission wetlands on site and the highly erosive soils have the potential to degrade water quality in the wetlands and in water quality in the Coastal Commission wetlands on site and in the receiving waters of Elkhorn Slough.<sup>85</sup> The silty sands on-site are subject to erosion and render the site unsuitable for long term cultivation consistent with the protection of Carneros Creek and the Elkhorn Slough watershed. LUP/LCP Policy 2.6
- In addition to being consistent with LUP/LCP Policies for the reasons described above, neither of the Projects would not have a significant impact on the amount of Farmland of Statewide Importance in Monterey County. In the 30 years between 1984, when this property was first proposed for development, and 2014, Monterey County Farmlands of Statewide Importance have increased by 6,232 net acres. See **Exhibit “I”**. Since the 52 Lot Alternative avoids Farmlands of Statewide Importance almost entirely, any potential impact on the net Farmland of Statewide Importance acreage in Monterey County is even less significant.

### VIII. COMMUNITY CHARACTER:

The Commission has previously made a finding that the medium density zoning on the site is consistent with Coastal Act policies for the location of new development, the protection of sensitive habitats, and allocation of limited public works capacity.<sup>86</sup> The Commission further certified the County downzoning of the property, which action included this finding.

*The existing residential community of Las Lomas is designated medium density on the certified North County Land Use Plan and re-designating these sites **would be consistent with the community character and future residential densities of Las Lomas.***<sup>87</sup>

As evidence for its finding of LCP consistency, the County action, as certified by the Commission, cited this evidence:

<sup>84</sup> Board of Supervisors Resolution 08-374, Finding 18, Evidence (e); Rancho Los Robles DEIR p.2-103.

<sup>85</sup> County BOS Resolution 85-151, Evidence a.

<sup>86</sup> Staff Report, Exhibit 11, page 2 of 12.

<sup>87</sup> Resolution 85-151, **Exhibit “A”**.

July 7, 2017  
Page 23

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*The reduction in density will result in future development which is consistent with the existing density (1 to 4 units/acre) of the adjacent Las Lomas community and will retain the community character of Las Lomas and the rural character of North County.*<sup>88</sup>

Consistent with these Commission findings, LUP/LCP Policy 4.3.5.2 provides that “the Las Lomas/Fruitdale area ...[is] appropriate for concentrated development.” While the density of the 52 Lot Alternative is low, the design and siting still concentrate its development in the northern portion of the site consistent with LUP/LCP Policy 4.3.5.2.

## IX. VISUAL RESOURCES

North County LUP/LCP Key Policy 2.2.1 only allows low intensity development on scenic hills, slopes and ridgelines. CIP Section 20.144.030.B of the CIP provides that subdivision of parcels visible from a public viewing area minimize the development’s visibility from the viewing areas by incorporating appropriate planning techniques such as lot configurations which provide highest potential for each lot's building site to be screened by existing topography and vegetation. The Reduced Development Alternative was redesigned consistent with LUP/LCP visual resources Policy 2.2.1 and CIP Section 20.144.030.B to: (1) reduce the density and intensity of the project; (2) concentrate residential lots in the northern areas, farthest from Hall Road, minimizing visibility to the greatest extent feasible from Hall Road and naturally screening development with existing coastal oaks; (3) protect views by preserving about half of project site (around 15 acres) as open space to allow natural visual screening, with primary views of the live oak trees from Hall Road, preserving to a large degree the existing wooded character of the project property; and 4) place the steeply sloped areas of the site in an open space parcel, eliminating ridgeline development and only allowing low intensity development on the moderate slopes.

The 52 Lot Alternative removes more houses and streets to achieve an even higher degree of consistency by further reducing density, further concentrating development away from Hall Road, and preserving more of the project site as open space. **Exhibit “H”.**

The Reduced Development Alternative is about half (i.e., 54%) of the maximum density allowed and the 52 Lot Alternative as 40 percent. Because only low-intensity recreational development was approved for the slopes, scenic hills or ridgelines, consistency with Key LUP/LCP Policy 2.2.1 is achieved. The 52 Lot Alternative is would also allow only low intensity recreational development on slopes, scenic hills or ridgelines. It is equally or more consistent with LUP/LCP Policy 2.2.1 and IP Section 20.144.030.B

For consistency with IP Section 20.144.030.B, the Reduced Development Alternative totally eliminates the earth berms proposed at the top of the slope and fronting the storm water basin in the original project application. The Reduced Development Alternative avoids the potential for any adverse effect on the character of the lower area near Hall Road due to a less developed and

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<sup>88</sup> Resolution 85–151, **Exhibit “A”**.

July 7, 2017  
Page 24

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engineered look, including re-siting the storm water basin to provide a more natural look, elimination of the townhouses from the lower area, and shifting the community recreational area use to the upper portion of the project where it can't be seen from Hall Road.

North County LUP/LCP General Policy 2.2.2.1 identifies protected public vantage points as follows: Views to and along the ocean shoreline from Highway One, Molera Road, Struve Road and public beaches, and to and along the shoreline of Elkhorn Slough from public vantage point shall be protected. Hall Road is not a protected public vantage point and thus, it is considered neither sensitive nor a scenic public viewing area. Nevertheless, the Reduced Development Alternative and the 52 Lot Alternative are both sited and designed to treat it that way.

The Reduced Development Alternative no longer depends on the commercial buildings for screening of townhouses, which have been eliminated. LUP/LCP Specific Policy 2.2.3.3 allows development in public view between the road and shoreline (such as residential or commercial structures) if designed with materials, colors, landscaping and fencing appropriate to the rural setting, as project conditions require. Mitigation measures 1 and 2 require all site development, architectural, and landscape plans for the commercial, recreational, open space, and storm water basin components of the project to adhere to strict design standards that would be consistent with the wooded character of the project site.<sup>89</sup> These same conditions hold for the 52 Lot Alternative.

The mitigation for the Reduced Development Alternative relies on vegetation screening, not major grading of topography, and is therefore consistent with CIP Policy 20.144.030.B.5. The same mitigation would apply to the 52 Lot Alternative, but less screening is required.

The Reduced Development Alternative and the 52 Lot Alternative are both infill development in that it would fill a gap in the existing built environment between the concentrated development of central Las Lomas and Hall District School. The areas of concentrated development of central Las Lomas and Hall District School are not rural in character. As an infill project between existing concentrated development, the approved project would not alter the existing character of the Hall Road corridor and surrounding area.

The Projects are both consistent with IP Section 20.12.060.A, which allows for planned unit development to cluster the development. The Reduced Development Alternative clusters the development to the northern area of the parcel, while preserving the remaining 50% of the project site to open space. The 52 Lot Alternative is equally clustered and preserves more land as open space. **Exhibit "H"**.

The ridgeline assertion by Staff is incorrect, as both Projects would eliminate ridgeline development. Mitigation Measure 3 (Condition 66) requires lots to be individually designed to avoid ridgeline development as viewed from Hall Road. If landscaping is required to avoid

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<sup>89</sup> Staff Report, Exhibit 4, pp. 15-20.



July 7, 2017  
Page 25

ridgeline development, Mitigation Measure 3 requires that landscaping must be in place for two years or more prior to issuing a building permit. The recreational park would be placed in the area where housing was previously deemed by county staff to constitute ridgeline development. Consequently, the Reduced Development Alternative is fully consistent with CIP 20.144.030.B.7. The 52 Lot Alternative, which eliminates the lots to which Mitigation Measure 3 would apply, is even more so. **Exhibit "H"**.

The Reduced Development Alternative deletes the high earth berm from the original project plans. Because extensive grading and landform alteration (such as the earth berm) is not required to screen potential ridgeline development, grading for the Reduced Development Alternative will be minimized to the amount necessary for the construction of building site and access roads consistent with LUP/LCP Policy 2.2.2.5 and CIP Section 20.144.03.B.4. No landform alteration is anticipated to be necessary to screen the houses in the 52 Lot Alternative, which is even more consistent with UP Policy 2.2.2.5 and CIP Section 20.144.03.B.4.

North County LUP/LCP General Policy 2.2.2.3 states as follows: "Property containing land on scenic slopes, hills, and *ridgelines* when proposed for subdivision, should be subdivided so that the lots are situated to allow the highest potential for screening development and access roads from view. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development." The lots of the Reduced Development Alternative are both sited farthest away from Hall Road and avoid ridgeline development as required under Mitigation Measure 3 (Condition 66). Moreover, the sloped areas and top of slope will be landscaped with oak trees and other native vegetation to provide near 100 percent screening of future houses on proposed lots. Mitigation Measure 3 (Condition 66).

The Staff ridgeline development assertion is incorrect, as the both Projects would eliminate ridgeline development, although the 52 Lot Alternative requires less or no vegetative screening to do so. Mitigation Measure 3 (Condition 66) requires lots to be individually designed to avoid ridgeline development as viewed from Hall Road. If landscaping is required to avoid ridgeline development, Mitigation Measure 3 requires that landscaping must be in place for two years or more prior to issuing a building permit. The recreational park is sited in the area where lots in the original application were deemed by county staff to constitute ridgeline development.<sup>90</sup> Consequently, the Projects are both fully consistent with CIP 20.144.030.B.7.

North County LUP/LCP General Policy 2.2.2.3 states as follows: "Property containing land on scenic slopes, hills, and *ridgelines* when proposed for subdivision, should be subdivided so that the lots are situated to allow the highest potential for screening development and access roads from view. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development." The lots will be designed farthest away from Hall Road, but avoid ridgeline development as required under Mitigation Measure 3 (Condition 66). Moreover, the sloped areas and top of slope is conditioned to be landscaped with oak trees and

<sup>90</sup> Staff Report, Exhibit 3, p.73.

July 7, 2017  
Page 26

other native vegetation to provide near 100 percent screening of future houses on proposed lots. The 52 Lot Alternative will require less screening.

North County LUP/LCP/LCP Key Policy 2.2.1 expressly allows screening to preclude ridgeline development. Although the policy does not include a list of suggested screening methods, trees, native to the area, planted to avoid ridgeline development, would blend with the environment and maintain the visual quality of the natural surroundings.

The vegetative visual screening for the project is consistent with what the CCC approved for Sunridge Views. The California Coastal Commission, in approving the staff report, dated March 29, 2006, for a de novo review of the Sunridge Views Subdivision project, which was approved by the Commission on April 12, 2006, agreed with the County's consistency analysis, which included preventive measures to preclude ridgeline development. The Coastal Commission's staff report reads as follows:

Any building envelope on proposed Lot 8 would most likely have to be placed on the eastern slope, where it would not be on the ridgetop and additionally may have to be screened so as not to create a ridgeline silhouette when viewed from San Miguel Canyon road or any other common public viewing area.... Examples of other visual protection measures would include landscaping plans designed to screen development from the public view, deed restrictions to maintain existing vegetation that is necessary to screen development, a scenic easement over steep slopes, lighting controls (e.g., installing unobtrusive lighting that is harmonious with the local area, limiting exterior lighting to low voltage fixtures, or requiring that lighting be screened so as not to be visible from off-site locations), requiring colors and materials that blend into the surrounding, and undergrounding of utilities." (Page 49, Emphasis Added.)

## **X. SPECIAL TREATMENT DESIGNATION:**

The Staff Report states that the County findings for approval cites a deleted LUP/LCP policy and a deleted LUP Map designation of Special Treatment Area.<sup>91</sup> This is debatable for the reasons discussed below, it is indisputable that the reason for the downzoning and the intended removal of the Special Treatment designation is, contrary to Staff's assertion<sup>92</sup>, no longer extant. The downzoning was based on a finding that there was inadequate sewage capacity at the time to support a high-density project (up to 320 units) and that a medium-density project (up to 176 units) could be served by an on-site septic system disposal.<sup>93</sup> At the time, the subject property

<sup>91</sup> Staff Report, pp. 15-16. Staff notes that Major Amendment #1-85 deleted the text of Policy 4.3.6.D.6. While that may have been intended, it does not appear that this was implemented in MA1-85 or in BOS Resolution 87-267.

<sup>92</sup> Staff Report, pp. 15-16.

<sup>93</sup> Staff Report Exhibit 11, Pages 5-6.

July 7, 2017  
Page 27

was not within the Pajaro County Sanitation District.<sup>94</sup> The CCC found that, "One likely solution for this area is to eventually tie into the regional wastewater treatment system."<sup>95</sup> Contrary to Staff's assertion<sup>96</sup>, sewage capacity is now available and is satisfactory to serve the Reduced Development Alternative.<sup>97</sup> The subject property has a Can and Will Serve Letter from Pajaro County Sanitation District for sewer service (LUP/LCP Policies 4.3.5.2 and 4.3.6.D.2.)<sup>98</sup>

Staff asserts that North County LUP/LCP Major Amendment #1-85, in addition to downzoning the maximum density of the subject parcel from High to Medium Density Residential, also removed the Special Treatment Area designation from the subject property.<sup>99</sup> While this may have been the original intent of the Board of Supervisors<sup>100</sup>, the Coastal Commission action in MA 1-85, and the County's subsequent LCP amendment action in Resolution 87-267 (**Exhibit "J"**), failed to implement the removal of the Special Treatment Area designation.<sup>101</sup>

The only indisputable legal effect of the adopted amendment was to downzone the subject parcel from High to Medium Density Residential.<sup>102</sup> Even if the text of Policy 4.3.6.D.6 had been deleted at the time County Finding No. 2 (LUP and IP Consistency) was adopted, the Finding is supported by substantial evidence. Findings 2 does not cite the text of Policy 4.3.6.D.6 or the Special Treatment Area designation. Finding No. 2 is supported by two evidentiary descriptions which do reference the Special Treatment designation and the policy.

Evidence 2(c) concerns compliance with zoning.<sup>103</sup> The Projects are indisputably residential uses allowable in the MDR zoning district and well within the maximum density permitted by the MDR zoning district irrespective of any possible lack of Special Treatment Area designation.

<sup>94</sup> See **Exhibit "A"**, Revised Findings 3 and 4.

<sup>95</sup> MA 1-85 Staff Report, Exhibit 11, page 5.

<sup>96</sup> Staff Report, pp. 15-16.

<sup>97</sup> DEIR 1-46; Board of Supervisors Resolution 08-374, Finding 18, Evidence (e)

<sup>98</sup> Staff Report, Exhibit 4, p.10, Evidence 2(l).

<sup>99</sup> Staff Report, pp. 15-16.

<sup>100</sup> See **Exhibit "A"**.

<sup>101</sup> The Land Use map which accompanies Major Amendment MA 1-85 only describes the change in density and makes no reference whatsoever to removal of special treatment area designation. See Staff Report, Exhibit 11, page 12 of 12. The North County Land Use Plan map was amended in 1993, after Major Amendment MA 1-85. (**Exhibit "K"**.) The map clearly shows that the subject property is now designated medium density residential and special treatment. The accompanying map change described in the North County LUP Update Index in item number three states: "Change in land-use designation from HDR to MDR." (**Exhibit "L"**.) There is no reference whatsoever to amending the LCP text or to removing the special treatment designation from the subject property on the map. Compare the map change description for item number four (accomplished by the same Board of Supervisors resolution), which expressly states that the amendment is expanding the special treatment designation for the affected property. (**Exhibit "L"**.) That amendment is also reflected on the North County Land Use Plan map. (**Exhibit "K"**.) Clearly, where a change to the special treatment area designation was effected, it was so stated and implemented on the North County Land Use Plan map.

<sup>102</sup> Id.

<sup>103</sup> Staff Report, Exhibit 4, p.7.

July 7, 2017  
Page 28

Similarly, Evidence 2(1) concerns consistency with the allowed land uses on the Land Use Map.<sup>104</sup> The purpose of the Special Treatment Designation and Policy 4.3.6.D.6 is to allow for the preservation of the site's natural resources and to provide amenities to the community including meeting or recreational uses and/or convenience commercial.<sup>105</sup> The evidence is that: 1) the Reduced Development Alternative at a net density of 2.4 residences per acre is consistent with the Medium Density Residential designation; and 2) both the originally proposed 102-lot project and the Reduced Development Alternative, as conditioned, are consistent with the Special Treatment designation because they provide protections in their design for on-site natural features by clustering development. Also, that the site has limited viability for continued agricultural use.<sup>106</sup>

If the site is no longer designated Special Treatment Area and is no longer subject to the requirements of LUP/LCP Policy 4.3.6.D.6, that means the project does not need to provide for the preservation of the site's natural resources and to provide amenities to the community including meeting or recreational uses and/or convenience commercial. The fact that both the originally proposed project and the Reduced Development Alternative continue to do so does not render them inconsistent with the remaining MDR land use designation on the property. Thus, the evidence supports Finding 2 that the originally proposed project and the Reduced Development Alternative are in conformance with all applicable LUP/LCP policies and IP regulations.

## **XI. TRAFFIC:**

Staff mischaracterizes the FEIR, stating "The project would introduce 54 new residences and park and other development and their associated traffic to an area served by to two-lane rural roads. As such the EIR concluded that the proposed project would result in significant and unavoidable traffic impacts for which no foreseeable or adequate improvements are seen [FEIR pages 3-12]." (Staff Report, p. 45.) In fact, the referenced FEIR conclusion was for the proposed 102 lot project application, which included a 17,000 square foot commercial center.

The proposed 102-lot project application's impact to Highway 1 will be lessened by the Reduced Development Alternative due to: (1) an approximate 20% reduction in residential density to 80 units, which will lower the residential traffic count to and from the project site by an equivalent percentage; 2) total trips will be reduced approximately 12%; and (3) the construction of the Salinas Road interchange, which is currently under construction.

By further reducing density another 32% below that of the approved Reduced Development Alternative, the 52 Lot Alternative is expected result in roughly another 30% reduction in residential traffic count. The replacement of the County approved commercial center on Hall

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<sup>104</sup> Staff Report, Exhibit 4, p.10.

<sup>105</sup> Staff Report, Exhibit 4, p.10.

<sup>106</sup> Staff Report, Exhibit 4, p.10.

July 7, 2017  
Page 29

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Road with a smaller footprint of public or quasi-public uses on Sill Road is expected to further reduce traffic count.

Although the EIR determined that the addition of project trips on Highway 1 south of Salinas Road associated with the proposed 102 lot project application would result in a significant and unavoidable impact, justified by overriding considerations, it also acknowledges that Highway 1 does not provide the "major transportation access" to the project site. Primary access to the project site is from Hall Road. Highway 1 south of Salinas Road only carries about 15% of the project's trip.

Regarding the Projects' potential to transform the character of the area, with the exception of widening of Highway 1 between Salinas Road and Castroville, the road improvements discussed as mitigation measures in the EIR are already part of adopted transportation plans.

The Projects are located in an area proposed for concentrated development – medium density residential -- within the established Las Lomas town area (See North County LUP/LCP 4.3.5 General Policy 2). The approved project is consistent with the land uses and densities of the North County LUP/LCP land use map.

The Projects are infill development in that it would fill a gap in the existing built environment between the concentrated development of central Las Lomas and Hall District School. The project site is within a developed area and surrounded by already highly used roadways such as Hall Road.

Project conditions provide a trail for pedestrian access between the existing and proposed residential areas and the commercial and community recreational sections of the project, reducing auto travel.

The original project's impact to Highway 1 will be lessened by the Reduced Development Alternative due to: (1) an approximate 24% reduction in residential density, which will lower the residential traffic count to and from the project site by an equivalent percentage; 2) total trips will be reduced approximately 12%; and (3) the construction of the Salinas Road interchange, which is now complete.

Although the EIR determined that the addition of project trips on Highway 1 south of Salinas Road would result in a significant and unavoidable impact, it also acknowledges that Highway 1 does not provide the "major transportation access" to the project site. Primary access to the project site is from Hall Road. Highway 1 south of Salinas Road only carries about 15% of the project's trip.

The impacts on Highway One capacity have already been evaluated under CEQA at the programmatic level, and it is inappropriate to reevaluate this impact each time a coastal development permit is issued within the North County planning area.

July 7, 2017  
Page 30

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The project applicant would pay the County ad hoc transportation fee to contribute its fair share toward traffic mitigation. The payment of pro-rata fees to reduce traffic impacts is consistent with CEQA Guidelines section 15130(a)(3) and case law, e.g., *Save Our Peninsula Committee v. Monterey County Board of Supervisors*.

A bus pull-out and shelter, as described in the Monterey Salinas Transit Development Review Guidebook, is required to encourage the use of public transportation.

North County LUP/LCP Policy 3.1.2 General Policies 5 and 6 and LUP/LCP Policy 3.1.3 Specific Policy 2 direct that the transportation infrastructure should be expanded to accommodate this planned growth.

## **XII. BENEFICIAL PROJECT EFFECTS:**

The Monterey County Board of Supervisors made CEQA findings of overriding consideration to approve the Reduced Development Alternative based on its beneficial effects. These include<sup>107</sup>:

- adding housing units in North Monterey County, including affordable housing units on the project site and in-lieu fees to fund off-site affordable housing;
- the project's recreational facilities would be used by local residents;
- the project would help fill a regional deficiency in housing and park and recreational facilities;
- the project would result in the removal of existing barn that breaks the ridgeline near the center of the project site...removing the barn would eliminate ridgeline development;
- the project would permanently preserve large open space areas visible to Hall Road and containing many large oak trees;
- the project will ensure the long-term maintenance of the Oak woodlands which are currently declining...the cessation of grazing could have beneficial if impacts on the natural understory beneath the Oakwood land; without grazing animals many of the understory plants would have a chance to grow out...cessation of grazing would also allow young oak trees to establish, thus increasing the age diversity of the Oakwood land;
- the project would result in substantial reduction in nitrate loading on the project site. Nitrate loading would be reduced from current levels of between 1965 and 2716 pounds per year to between 8 and 20 pounds per year under 102 lot project conditions [and less

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<sup>107</sup> Staff Report, Exhibit 4, pp.57-58, Finding 6.b. and FEIR, pp. 3-12 through 3-13  
26385 Carmel Rancho Boulevard, Suite 200, Carmel, California 93923

July 7, 2017  
Page 31

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for the 54 Lot Alternative]. Reduction in nitrate loading would have beneficial impacts on groundwater and well water quality in the immediate vicinity of the project site, and on downstream surface water quality in Carneros Creek and Elkhorn Slough;

- the proposed project would construct sidewalks along Sill Road at the project site's frontage and all the way to Hall District school.

An unaddressed, but very significant benefit, is the cessation of farming on the critically erosive soils on the slopes of this site.

The benefits of the 52 Lot Alternative are even greater, as it has proportionately less development impacts without reducing amenities and proposes to dedicate additional lands and structures to a Community Services District (or another entity selected by the Las Lomas Community) for community-wide purposes.

Respectfully submitted  
HORAN LLOYD, A Professional Corporation

By:   
Mark A. Blum, Esq.

Client  
Senator Bill Monning  
Assemblyman Mark Stone  
County Supervisors

# Exhibit A



WHEREAS, the Monterey County Board of Supervisors has adopted and the California Coastal Commission has certified the North County Land Use Plan of the Monterey County Local Coastal Program; and

WHEREAS, the Board of Supervisors has considered an amendment to the North County Land Use Plan; and

WHEREAS, public notice and availability of the amendment requirements have been complied with; and

WHEREAS, public testimony has been taken and considered during the hearing process; and

WHEREAS, the Board of Supervisors determined on the basis of an initial environmental study and comments received that there is no substantial evidence that the amendment will have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Monterey County Board of Supervisors hereby adopts the following amendment to the North County Land Use Plan of the Local Coastal Program with regard to a 44 acre area (APN 412-073-2, 7, 8, 10, 11, 12, 13, 14 and 15) between Ball and Sills Roads in Las Lomas and also to delete a related action (pg. 64, 4.3.6, D-6), and to adopt a Negative Declaration thereon.

Change the land use designation of said properties to "Medium Density Residential" from "Special Treatment Area" and "High Density Residential" on the certified Land Use Map, and delete a related Action (4.3.6, D-6) to the North County Land Use Plan of the Local Coastal Program.

BE IT FURTHER RESOLVED that the following findings are adopted in support of this amendment:

REVISED FINDINGS

1. The subject sites were designated high density (7 to 7.5 dwelling units per acre) in the certified North County Land Use Plan of the Local Coastal Program to encourage low and moderate income housing in Las Lomas;
2. High density residential development at 7 to 7.5 dwelling units per acre require substantial public sewer capacity that is presently unavailable at the subject sites;
3. The subject sites are not within the adjacent Pajaro County Sanitation District;
4. If the subject sites were annexed to the Pajaro County Sanitation District; it is not known if the District would be able to serve the subject sites at the high density land use designation;
5. Medium density (1-4 units per acre) at the subject sites would at a minimum, allow for dwellings at one unit per acre and not require public sewer;
6. The existing residential community of Las Lomas is designated medium density on the certified North County Land Use Plan and redesignating these sites would be consistent with the community character and future residential densities in Las Lomas.
7. The General Plan will be inconsistent with the North County Land Use Plan for these sites as a result of this amendment and, therefore, the Board refers to the Planning Commission an amendment to remove any and all reference in the General Plan to Development Incentive Zones in the Las Lomas area.
8. The Board of Supervisors find that the proposed Land Use Plan amendment will have no significant impact on the environment and is intended to be carried out, in a manner consistent with the California Coastal Act of 1976, as amended.

EVIDENCE:

- a. The reduction in density will reduce areas of impervious surfaces (new roads and sidewalks, enlarged existing roads, driveways, dwellings and garages) resulting in reduced stormwater runoff and consequent reduction of the potential for flooding, erosion and sedimentation of the receiving waters of Elkhorn Slough, a National Estuarine Sanctuary and designated an environmentally sensitive habitat area in the certified Land Use Plan.
  - b. The reduction in density will significantly reduce traffic impacts on the local county road infrastructure and reduce impacts on State Highway One; an important commercial trucking arterial as well as the major north-south access for public recreation and visitor-serving beach and ocean use. Residential generated trips (10 per day per dwelling) will be reduced from a maximum of 2,760 trips (3,200 trips vs. 440 trips) to a minimum of 1,440 trips (3,200 trips vs. 1,760 trips) as a result of this amendment. These reduced trips will reduce impacts to existing agricultural produce trucking, who use Highway 1, from processing storage facilities at Hilltop and Capurro along Highway 1 and within the communities of Castroville, Pajaro and Watsonville.
  - c. The reduction in density will facilitate future planning for the protection of a number of mature native oak trees which grace the subject properties which would be removed according to a draft environmental impact report (Oaktree Ranch).
  - d. The reduction in density will result in future development which is consistent with the existing density (1 to 4 units/acre) of the adjacent Las Lomas community and will retain the community character of Las Lomas and the rural character of North County.
9. A noticed public hearing before the Planning Commission was held on September 26, 1984 and October 10, 1984.

EVIDENCE:

- a. Minutes and tapes of the Planning Commission public hearings of September 26, 1984 and October 10, 1984.

**D**  
**EXHIBIT**

document was published in the following newspapers on the indicated dates:  
SALINAS CALIFORNIAN, MONTEREY PENINSULA HERALD, September 15, 1984 and  
September 16, 1984, respectively.

**EVIDENCE:**

a. Planning Commission file number PC-5194.

11. The following persons spoke or had presented letters at the aforesaid public hearings before the Planning Commission: Brian Pinegan, David Ray and Scott Johnson.

**EVIDENCE:**

a. Planning Commission file number PC-5194 and the minutes and tapes of the Planning Commission public hearings on September 26, 1984 and October 10, 1984.

12. The approval by the Planning Commission was by written resolution carried by the affirmative vote of the majority of the total voting members.

**EVIDENCE:**

a. Resolution No. 267, October 10, 1984. Tape and minutes of the Planning Commission public hearing on October 10, 1984.

13. A noticed public hearing before the Board of Supervisors was held on this Land Use Plan amendment on January 8, and continued to March 19, 1985 and March 26, 1985.

**EVIDENCE:**

a. Board of Supervisors file number PC-5194.

14. Notice of the public hearing before the Board of Supervisors on this Land Use Plan amendment was sent to 267 interested individuals, groups, agencies (local, state and federal), and media, consistent with Section 30503 of the Coastal Act of 1976, as amended and in the following newspaper on the indicated date. SALINAS CALIFORNIAN, November 19, 1984. Therefore, the notice of the first hearing was more than 10 days before the hearing. Also, the notice of November 19, 1984 informed interested persons of the availability of the amendment for review more than 6 weeks prior to Board action on the amendment.

**EVIDENCE:**

a. Board of Supervisors file number PC-5194.

15. The following persons spoke or had presented letters at the aforesaid public hearing before the Board of Supervisors:

Brian Pinegan  
David Ray

Chuck Allen  
Frank Osmer

**EVIDENCE:**

a. The Board of Supervisors file number PC-5194 and the minutes and tapes of the Board of Supervisors public hearings on January 8, 1985, March 19, 1985 and March 26, 1985.

16. On March 26, 1985, a majority of the voting members of the Board of Supervisors adopted this amendment known as Las Lomas Density Reduction.

**EVIDENCE:**

a. Resolution No. 85-151 of the Monterey County Board of Supervisors dated March 26, 1985.

PASSED AND ADOPTED this 26th day of March, 1985, upon motion of Supervisor Del Piero, seconded by Supervisor Strasser Kauffman, and carried by the following vote, to-wit:

AYES: Supervisors Del Piero, Shipnuck, Petrovic, Karas and Strasser Kauffman.

NOES: None.

ABSENT: None.

# Exhibit B



Civil Engineering

Structural Design

Development Planning

June 1, 2016

#00001

Mark Johnsson  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**RE: Rancho Los Robles subdivision, Sill Road, North Monterey County  
Responses to Comments – Email Dated March 17, 2016**

Dear Mark:

On March 2, 2016 you contacted our office with some initial questions about the subject development (RLR), as it is proposed to be revised to address CCC staff concerns. After hearing your questions it seemed apparent that you had not yet been provided with certain documents submitted to Monterey County during their review of the development application. Subsequently, on March 4, 2016 we provided you with copies of our 2005 Water Balance Study and 2014 revised water balance calculations reflecting certain changes to the proposed project that have been made since 2005.

Upon review of those documents you contacted us again on March 17, 2016 with some follow up questions as outlined below.

In response to those questions we provide the following explanations and supplemental data that we hope will adequately address those questions and allow CCC to fully review the subject development proposal. Upon review of this information, should CCC staff have any further questions of us or the applicant, please don't hesitate to contact us.

For ease of reference, the written responses below are numbered to correspond with the comments in the subject email. These questions pertain to the 2005 Water Balance Study prepared by our office to accompany the project application, which at that time included 101 residential lots, a commercial parcel with an 18,000 SF building, a community park and associated roads and parking lots, and the aforementioned 2014 revised calculations based on changes to the development plan to reduce the number of residential lots, downsize the commercial building and remove the irrigation of community soccer fields.

- 1) The evapotranspiration rate assumed was taken from the 2002 Todd Engineers Technical Memorandum, page 2.
- 2) Page 7 of our 2005 study shows that the 74 GPD per capita water use came from a "then" recently approved subdivision in Salinas that was similar to RLR and that was also used in reviewing other similar developments in North Monterey County. As per my 3/10/16 email to you, this figure was changed to 65.36 GPD in our 2014 calculations based on a Cal Water Service Company Water Supply Assessment as included in the certified project EIR. We note that the 65.36 GPD figure is

consistent with the 70 GPD figure that CCC staff endorsed in its 3/29/06 Remand Staff Report on the Sunridge Views Subdivision appeal A-3-MCO-04-054.

- 3) Page 7 of our 2005 study explains that the average persons per household was derived from a California Department of Finance report specifically for the unincorporated areas of Monterey County.
- 4) Infiltration rates for each "category" of the calculations are explained on pages 7 and 8 of the 2005 study. The rates used in the 2002 Todd report pre-dated the site specific percolation analysis by Haro Kasunich and Associates, dated July 2005, which reflected high infiltration rates. Furthermore, the inclusion of a recharge facility in addition to the detention pond, as described on page 8 of our 2005 Water Balance Study increases the infiltration of runoff that is routed to/through those systems. At the time of the Todd report, only a detention pond was proposed.

Additional questions (note we have changed these designations from numbers to letters in order to distinguish them from the above numbered comments):

- A. Comment: *The report says that the historic average water usage on the parcel is 87 AFY, based on the years 1979-2004. That seems really high. We'd like to know what is the current water usage, and what has been the water usage in the recent past since 2004. We'd also like to know what uses the 87 AFY has been going to.*

Response: Although the applicant does not agree that the historic average water usage on the parcel of 87 AFY is inappropriate (for all the reasons stated in the FEIR pages 2-4 through 2-6), without waiving that position, the applicant has agreed with CCC staff to evaluate the shorter historic baseline period and lesser average water use proposed by CCC staff in its December 10, 2007 comment letter on the DEIR (page 3 of letter). Consequently, our updated study (May 2016) compares usage during the most recent three year baseline period of 2013-2015 to the projected usage based on the updated calculations. The question of what water uses comprised the 87 AFY average through 2004 is probably moot for the purpose of these revised water balance calculations because they follow staffs' direction to use the three most recent years' data. However, the question is answered in the Revised Draft EIR table presenting various water use estimates for the project site and historic water use figures, as well as in the RDEIR Appendices.

- B. Comment: *Where does the water they currently use come from? Private wells on site? And where will the water they use post-construction come from? Community wells? Are they within a public water supply district (Pajaro-Sunny Mesa)? This is key info for us.*

Response: The property is currently served by wells located on site for both domestic use and irrigation. Post-construction water supply will be provided by Cal Water Service Company and the project permit record includes a will serve letter and a Water Supply Assessment from that entity.

- C. Comment: *They are anticipating to use 22.97 AFY post-construction. Does that number include water usage for all project components, including the recreation fields as well as the residences? (And, just to clarify, you are ok with the 22.97 AFY assumption?)*

Response: The 22.77 (our correction) figure comes from our October 2014 calculations which were revised from the 2005 study based on changes to the project made subsequent to the 2005 study and yes, that figure included all water usage as outlined in Part B of the calculations. However,

given recent changes to the size of the intended commercial building, that figure has been slightly reduced to reflect the smaller building square footage (about 2,500 SF vs. previously assumed 8,000 SF) and elimination of "high use" category (intended use of the smaller structure means "low use" would be appropriate for the entire building SF). Also, it has been opined that the revised 2014 Capita per Household figure of 4.15, taken from the 2006 CWSC Water Supply Assessment is too high. If we revert back to the study cited in our 2005 report and use the original figure of 2.93 (which you felt was a more realistic figure in a recent phone conversation) then the total water usage is reduced somewhat. We note that the 2.93 figure is in line with the 3.0 – 3.1 figure that CCC staff endorsed in its 3/29/06 Remand Staff Report on the Sunridge Views Subdivision appeal A-3-MCO-04-054.

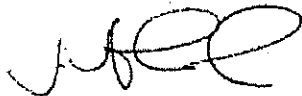
Included in our enclosed May 2016 update to the 2005 Water Balance Study, we have revised the water balance calculations to reflect these changes. As a result, projected water use, groundwater recharge and overall comparison to historic water use have been modified from both the 2005 and revised 2014 calculations previously submitted.

As you will see, using the hydrological assumptions recommended by CCC staff (in its DEIR comments) the project is projected to consume slightly less than the staff recommended historic average water use and achieve a net positive groundwater recharge of 7.87 AFY, an increase over existing conditions by 6.52 AFY.

We trust this information is sufficient for your needs. Should you require anything further please contact us at your earliest convenience.

Sincerely,

IFLAND ENGINEERS, INC.



Jon Ifland, President

JPI/s

Enclosures:

1. 2002 Todd Engineers Technical Memorandum ✓
2. 2005 Haro Kasunich and Associates Soil Profile and Percolation Tests ✓
3. 2005 Ifland Engineers Water Balance Study ✓
4. 2006 Todd Engineers Technical Memorandum and Peer Review ✓
5. 2014 Ifland Engineers revised water balance calculations
6. 2016 Ifland Engineers Water Balance Study update (including revised water balance calculations)
7. December 10, 2007 CCC letter to MCPBID and FEIR responses at pages 2-2 through 2-9 and pages 2-171 through 2-187.
8. October 28, 2007 letter from Horan Lloyd (FEIR pages 2-104 through 2-142 and FEIR responses at pages 2-2 through 2-9 and pages 2-143 through 2-150.

# Enclosure 1 of Exhibit B

**TODD ENGINEERS**

October 4, 2002

**Draft Technical Memorandum**

**To:** Richard R. James, Senior Planner, EMC Planning Group, Inc.  
**From:** Iris Priestaf, Ph.D. and William E Motzer, Ph.D., R.G., Todd Engineers  
**Subject:** Technical Memorandum  
Hydrologic Assessment  
Rancho Los Robles (Oaktree Ranch) EIR

**ENVIRONMENTAL SETTING**

The property or site is in the Oak Tree Ranch area of the North Monterey County Coastal Zone, bounded by Sill Road to the north, Hall road to the south, the First Baptist Church to the west, and residential properties to the east. Existing residential developments are also to the north and south across Sill and Hall Roads, respectively. The property is also in the Highlands North subarea and is listed as assessor's parcel number (APN) 412-073-002, 015 (Fugro, 1995 and 1996; Ifland Engineers, Inc., 2000). The site is approximately 800 feet north and approximately 15 feet higher in elevation than Hall Road to the south, which separates the site from existing farm and residential land.

The site's highest elevation is approximately 72.4 feet above mean sea level (MSL) on the north side just south of Sill Road to 13.5 feet above MSL on the site's southeast side (USGS, 1993; Ifland Engineers, Inc., 2000). The property is presently used for horse, cattle grazing, and specialty crops such as strawberries and is zoned for medium density residential and commercial use (Fugro, 1995). Current nonagricultural vegetation consists of native oak and grass (M. Jacobs & Associates, 1983; Haro, Kasunich & Associates, Inc., 1988). Approximately 10 acres are currently in strawberry cultivation and has been tilled (Heritage Western Communities, LTD., 2002).

The site contains 33.70 acres of which 12.12 acres [36 percent (%)] is being considered for an open space/common area, 13.50 acres (40%) will become residential lots, 4.88 acres (14%) will onsite private roads, 2.36 acres (7%) will be commercial development, and 0.84 acres (3%) will be public roads (Ifland Engineers, Inc., 2000). Therefore, approximately 21.5 acres or 64% of the property will eventually be paved or covered buildings. A revised building plan map indicates modifications to the original plan to limit residential building views from Hall Road. This modification reduced the number of residential lots from 103 to 101.



## **HYDROLOGY**

### **Precipitation**

Onsite annual precipitation is estimated at 19.5 inches per year (in/yr) (Rantz, 1969). As shown on Table 1 (Part A – Annual Precipitation), most of the precipitation is consumed by pasture or planted areas. The remaining rainfall runs off or infiltrates to groundwater (3.99 AF/yr)\* with evapotranspiration estimated at 85% of precipitation or 16.6 in/yr. The proposed development will result in changes in runoff and infiltration of rainfall, as documented in Table 2:

### **Aquifer System**

#### ***Regional Geology***

The underlying geologic formations on the site consist of the Aromas Formation (Aromas Red Sand) which was first described by Allen (1946) as a dark brown to red, friable quartzose sandstone that disintegrated and washed away easily when exposed in gullies and road cuts to form miniature badlands.

Dupré (1990) noted that the Aromas consists of partly oxidized and indurated, moderately well-sorted sand deposited in a series of coastal dune fields; these extended as much as 12.4 miles inland of the present shoreline. During much of the Quaternary, such dunes formed in the central and southern part of the Monterey Bay. The older dune deposits are capped with well-developed paleosols with hardpans. Individual depositional episodes, marked by such paleosols, generally are approximately 16 to 66 feet thick; the aggregate thickness of these deposits may be as much as 330 feet.

The Purisima Formation unconformably underlies the Aromas. Throughout most of the North County area, the top of the Purisima occurs at elevations ranging from -600 feet below sea level in inland areas to greater than 800 feet below MSL at the coast (Fugro, 1995).

#### ***Regional Groundwater Levels and Flow***

From 1970 to 1990, the regional groundwater level decline in North Monterey County averaged approximately 0.6 feet per year. From 1970 to 1990, the annual average water level change in the Highlands' subarea was -0.55 feet. Groundwater levels in approximately 50% of North Monterey County areas are now below sea level. Groundwater flow in the Highlands North subarea is generally to the northwest toward the Pajaro River and toward a pronounced pumping trough at Los Lomas. Groundwater

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\* It should be noted that estimates are reported to the nearest one-hundredth of an acre-foot. This level of reporting is to allow the reader to understand and duplicate the calculations and is not reflective of the level of accuracy of the estimates, which is probably accurate to the nearest acre foot at best.

demand in the Highlands North area is currently estimated at 5,621 acre-feet per year (AF/yr) with future demand estimated at 7,636 AF/yr. The current overdraft is estimated at 2,701 AF/yr with future overdrafts estimated at 4,716 AF/yr (Fugro, 1995; MCWRA and EDAW, Inc., 2002).

In the Highlands groundwater subarea, discharge rates for domestic, municipal, and agricultural wells range from 6 to 1,500 gallons per minute (gpm) [6,840 gallons per day (gpd) to 2,160,000 gpd] (Fugro, 1995). This wide range reflects domestic use for a single residence (at 6 gpm) to an agricultural well (at 1,500 gpm) for commercial cultivation.

### ***Local Geology***

The Fugro (1995) geologic cross sections indicate that the underlying geologic formations are Aromas Red Sand overlying the Purisima Formation, the top of which may occur at least 600 feet below MSL. The Monterey County soils map (USDA, 1978) suggests that on the ridge along Sili Road, the underlying geologic formations may actually be terrace deposits that generally overlie the Aromas.

### ***Local Soils***

In the property's vicinity, surface residual soils are composed of Elkhorn and Santa Ynez Series. The Elkhorn Series consists of well drained soils formed on marine terraces and dune hills. Elkhorn fine sandy loam generally forms on slopes ranging from 2 to 5%. This soil is composed of thin brown fine to medium sandy loamy A-horizons (0 to 26 inches), brown to reddish-brown sandy clay loam B-horizons (26 to 46 inches), and brown fine sandy clay loam C-horizons (46 to 63 inches). Runoff on Elkhorn soils is slow and erosion hazards are slight. This soil is used for specialty crops such as strawberries, artichokes, brussel sprouts, and broccoli (USDA, 1978).

The Santa Ynez Series soils are moderately well drained soils forming on terraces in alluvium derived from sandstone and granite. Santa Ynez fine sandy loam form on slopes ranging from 2 to 9%. They develop grayish-brown fine sandy loam A-horizons (0 to 18 inches), gray to grayish-brown clay to heavy clay loam B-horizons (18 to 43 inches), and light gray to grayish brown, moderately alkaline sandy clay loam. These soils are generally used for range and pasture (USDA, 1978).

### ***Local Surface Water and Wetlands***

Site runoff is currently minimal because the property contains few covered or paved surfaces. These are estimated to be approximately 0.8 acres. Stormwater drainage is to a swale in the southeastern portion of the property and to an existing culvert that drains under Hall Road to an adjacent property to the south (Ifland Engineers, Inc. 2000).

No surface water drainages such as creeks, ponds, marshes, or lakes currently exist on the property. The closest off site drainage is the Los Carneros Creek to the south, a tributary to Elkhorn Slough to the west. Los Carneros Creek, paralleling Hall Road, drains from east to west forming a flood plain before draining into Elkhorn Slough. (USGS, 1993).

No wetlands occur on the project site. Wetlands occur along Los Carneros Creek and Elkhorn Slough, which has been designated as an ecological reserve (Elkhorn Slough Foundation, 2001).

#### ***Local Groundwater***

Local groundwater is provided to the property from a domestic well and an agricultural well installed in 1966; at that time, depth to groundwater was measured at 194 feet below ground surface (bgs). The agricultural well was drilled to a depth of 356 feet with perforations in the 12-inch casing between 280 and 340 feet. A pump test yielded 900 gallons per minute with a 17-foot drawdown (Heritage Western Communities, Ltd., 2002). No data were available for the domestic well.

Current water use is for domestic consumption and agriculture that includes both domestic livestock (approximately 30 horses) and seasonal strawberry cultivation (approximately 9 acres).

#### ***Water Quality***

##### ***Waste Water Disposal***

Wastewater from the existing five residences is treated and disposed through onsite septic systems. The project currently plans to connect property sanitary sewage laterals to the Pajaro County Sanitation District (PCSD) with proposed modifications to the Las Lomas pump station. The PCSD serves Pajaro, Sunny Mesa, Los Lomas, and Bay Farms, providing advanced secondary treatment. The plant capacity is 1.57 million gpd with current use at 0.410 million gpd and a remaining capacity of 1.160 million gpd. The City of Watsonville treats and disposes waste water at the Watsonville Treatment Plant where wastewater undergoes advanced secondary treatment with discharge to Monterey Bay (Monterey County, 2002a; City of Watsonville, 2002). Upsizing of necessary pipelines will be determined on the final design plans. Lots on the most northwesterly portion of the property will be serviced by the existing sewer main in Sill Road (Ifland Engineers, Inc., 2000).

##### ***Water Quality Problems***

Groundwater quality in the property's area is being impacted by increasing concentrations of nitrate and chloride (Fugro, 1995; MCWRA and EDAW, Inc., 2002). Elevated nitrate ion concentrations commonly occur in unconfined and semi-confined aquifers in areas of intense agricultural activity where excess fertilizer leaches from the

soil to groundwater. It also results from the raising of domestic animals, such as horses and cattle, and the spreading of manure on fields; all of these factors increase nitrate loading to the soil (Fugro, 1996). Septic tank effluent is another nitrate source because such effluent generally contains from 40 to 45 mg/L total nitrogen. Ammonia constitutes approximately two-thirds of septic tank effluent with almost no nitrate. The portion of this nitrogen not converted to nitrate because of incomplete nitrification, denitrification, or adsorption of ammonia to clay in the soil, is assumed about 10 to 25% of the total available nitrogen. This results in a nitrate concentration of between 130 and 180 mg/L or ppm in effluent infiltrating to groundwater beneath a leach field (CH2M Hill, 1992).

Throughout Monterey County several studies and reports have identified pockets of groundwater with excessive nitrate concentrations; these are believed to have resulted from septic tank failure or leaching of agricultural fertilizer (Monterey County, 2002a). In the Highlands subareas, elevated nitrate in groundwater varies from site to site. Nitrate concentrations from groundwater collected from 33 wells indicated that 11 had nitrate concentrations greater than 45 ppm with the highest nitrate level occurring in Well No. 12S/02E-25N01 (approximately 1.5 miles east of the property) for a water sample collected on July 1, 1985. However, a third of the sampled wells had nitrate concentrations that were less than 10 ppm (Fugro, 1995).

#### ***Local Surface Water and Ground Water Quality and Their Interrelationships***

There are no on site surface water bodies; Los Carneros Creek is the closest surface water feature. Data are not available for Los Carneros Creek water quality. However, this creek drains grazing and agricultural land, which carry significant nitrate loads (Fugro, 1995).

Infiltrating surface water is currently carrying excess nitrogen from the property's livestock and cultivation downward toward groundwater. An estimate of current net nitrogen loading to the surface soils is between approximately 1,965 and 2,716 pounds per year (Table 4). Upon completion of the proposed project, this would be reduced to a net nitrogen loading of between 8 and 22 pounds per year (Table 5). Over time, the reduction in nitrate loading to the property's soils should improve groundwater quality.

No recent water quality analyses were obtained for the property. Local groundwater quality analyses for samples collected in 1988 (Table 3) indicate that for the domestic well (SC1603), the nitrate concentration (at 98 ppm) exceeded the drinking water standard of 45 ppm. Conductivity [at 1,530 micromohs per centimeter ( $\mu\text{mohs/cm}$ )] and total dissolved solids (TDS) (at 980 ppm) also exceeded the drinking water standards for those criteria (at 900  $\mu\text{mohs/cm}$  and 600 ppm, respectively). Total coliform bacteria were also detected which would require that water should be treated by chlorination prior to its use. For the agricultural well (SC1603) total iron (at 0.36 ppm) exceeded the drinking water standard of 0.3 ppm. Nitrate (at 150 ppm, conductivity (at 940  $\mu\text{mohs/cm}$ ), and TDS (at 600 ppm) also exceeded the drinking water standards.

## ANALYSIS OF IMPACTS

### Hydrology

#### *Evaluation of Changes in Runoff and Recharge*

The five residences, currently rely on groundwater for water supply and on septic tanks for wastewater treatment and disposal. The existing septic sewer systems for the current residences will be removed and the new housing development will be connected to the area's existing sanitary sewer. Of the estimated current groundwater use of 3.92 AF/yr for domestic use, half (1.96 AF/yr) returns to groundwater via the septic tanks (Table 1, Part B). This return will be discontinued with removal of the current residences and septic systems. With development of the proposed project, sewage will drain to sewer laterals connected to the existing sewer main in Sill Road, which will be collected by the Pajaro County Sanitation District, treated and discharged to the ocean. Therefore, groundwater recharge from sanitary sewage percolation will become zero (Table 2, Part B).

Current property irrigation for residential landscape use and irrigated fields is estimated at 0.20 and 58.67 AF/yr respectively (Table 1, Part B). Return to the aquifer by infiltration is estimated at 21.81 (0.10+21.71) AF/yr. For the proposed project, agricultural irrigation will cease, but landscape irrigation may increase somewhat. As a result, irrigation water use will be reduced to 2.61 (2.61+0) AF/yr of which 1.30 AF/yr will be returned to the aquifer (Table 2, Part B).

Pre-development runoff has been calculated at 4.81 cubic feet per second (cfs), while post development runoff has been estimated at 22.61 cfs. These estimates were based on the 10 year rainfall data in the Monterey County Standard Detail (Lefaver, 1985).

Storm water runoff generated by the project will come from residential and commercial development (buildings) and paving (onsite private and public roads). Runoff water will be directed to culverts and storm sewers that will drain to two storm water detention ponds. These, in turn, will drain to a 36-inch existing culvert that traverses below Hall Road eventually emptying to Los Carneros Creek.

Current property runoff is estimated at 1.18 AF/yr (Table 1, Part C) because the property is primarily cropland and pastureland. Upon development, runoff from the property is estimated to increase to 24.6 AF/yr (Table 2, Part C). Because of the increase in covered surfaces, much of the runoff will be captured by the detention pond system. It is estimated that 50% of the proposed project runoff will infiltrate to the aquifer via the detention pond system. However, water passing through the ponds to Los Carneros Creek is assumed lost to Elkhorn Slough and the Ocean.

The adjacent property to the north, currently discharges runoff on to the Rancho Los Robles property via culverts under Sill Road. Measurements from and aerial photograph indicate that discharges 6.91 AF/yr of runoff of which 2.38 AF/yr is

estimated to infiltrate to the aquifer (Table 1, Part D). Because of the increase in cover by pavement for the proposed project, runoff infiltrating to the aquifer will increase to an estimated 3.16 AF/yr (Table 2, Part D).

### ***Evaluation of Changes in Water Demand with Conversion of Irrigated Lands***

Existing total water use for the current 33.7 acre site, based on five residences, plus landscaping and agricultural irrigation (Heritage Western Communities, Ltd., 2002) is estimated at 62.59 AF/yr (Table 1, Part E).

With project development, the current five rural residences and associated septic tanks will be removed and pasture and strawberry cultivation will be discontinued. Project water usage for 101 residences is estimated by CWSC at 17 million gallons per year (gpy) or 52.17 AF/yr (approximately 461 gpd per du). Outside landscaping demands will be minimal because the project will be left in native oaks and will be planted in housing areas with drought-tolerant plants which require little to no irrigation. Therefore, water demand will be reduced from the current 62.54 AF/yr to 52.17 AF/yr (Table 2, Part E).

### ***Evaluation of Proposed Water Supply from California Water Service Company (CWSC)***

Domestic water on adjacent properties to the north and west are currently supplied by CWSC. The Monterey County Code, Chapter 15.04 requires that a proposed domestic water system shall not be issued a permit if water services for the proposed system are available from an existing permitted water system (Monterey County, 1997; MCWRA and EDAW, Inc., 2002). This existing system is the CWSC. No other alternative water services are currently in the property's immediate vicinity and no alternative Highlands North water supply sources are known. Future alternative sources are included in the North County Comprehensive Water Resources Management Plan (MCWRA) and EDAW, Inc., 2002), but these alternatives presently involve the Highlands South and Granite Ridge subareas.

CWSC has four in-place wells in the Los Lomas Division service area that currently pump 102 million gpy (375.9 AF/yr) and has indicated that they will supply treated potable water to the project (CWSC, 1996). Total water usage to the property for the project is estimated at approximately 52 AF/yr. Water will be supplied from one of three existing three wells in the Rancho Los Robles area with the well pumping at 55 gallons per minute instantaneous for a maximum day demand. Peak hour demand will be met from storage (CWSC, 2002).

### ***Evaluation of Potential Impacts on the Water Balance***

Fugro's (1995) report indicated that groundwater levels in the Highlands subareas had been consistently declining since 1979. Since that date, several pumping troughs had developed, with groundwater levels falling below -40 feet MSL in some areas. One pronounced pumping trough was centered in the Los Lomas area with groundwater levels below -25 feet MSL. As of 1995, overdrafts on the North Highlands aquifer were estimated at 2,701 AF/yr.

Present groundwater demands in the area currently exceed recharge, particularly in the shallow Aromas Red Sand aquifer. As of 1995, overdraft on the North Highlands aquifer was estimated at 2,701 AF/yr. This is 17% of the total overdraft for North Monterey County (Fugro, 1995; MCWRA and EDAW, Inc., 2002).

The current property is estimated to use 62.59 AF/yr. Of that amount, 34.56 AF/yr returns to the aquifer, leaving a net draft on the aquifer of 28 AF/yr (Table 1, Part E). This will increase to a net overdraft of approximately 33 AF/yr (Table 2, Part E). Although the water demands of the proposed project are reduced, the losses due to runoff are increased. This is a potentially significant impact both on a project level and as a cumulative impact, given the existence of a chronic overdraft condition in the Highlands North subarea. Conversion of agriculture to residential and commercial land uses, as proposed in this project, is beneficial in terms of reducing water demands. However, the remaining water demand "hardens," in other words, becomes less amenable to reduction during drought or in the face of chronic overdraft.

### ***Nitrate Impacts on Water Quality***

Based on the a 1988 water quality report, groundwater from the site exceeded drinking water standards for nitrate, conductivity, TDS, and coliform bacteria (Table 3). Because nitrate concentrations exceeded these drinking water standards, well head water treatment should be required for any use of onsite wells. However, such water treatment would require a system that would create waste brine. The Monterey County Department of Health Services (MCDHS) has indicated that the California State Water Resources Control Board will not approve of installations of such treatment systems because they violate local waste discharge requirements (MCDH, 2000a).

Net nitrogen loading from nitrate deposited from livestock (approximately 30 horses), septic systems, and landscaping on the property is current estimated to range from 1,964.73 to 2,715.76 pounds per year (lbs/yr) (Table 4). Fertilizer for strawberry cultivation was not included because the property owner indicted that current strawberry cultivation is by organic farming (Heritage Western Communities, Ltd., 2002). For the proposed project, net nitrogen loading for the proposed project is estimated at only 8.23 to 21.73 lbs/yr. This represents a reduction ranging from 99.20 to 99.58% (Tables 4 and 5), a significant beneficial impact.

## **MITIGATION MEASURES**

### **Water Impact Fee**

The Monterey County Planning & Building Inspection Department (MCPBID) will require that the applicant pay the appropriate Water Impact Fee in accordance with Monterey County Ordinance #3496 (as amended by Ordinance #4005) and Monterey County Code 18.51.

### ***Property Drainage***

The project will initially use an estimated 52 AF/yr of water to be supplied by the CWSC from existing wells in the Las Lomas Division area. Following domestic use, most of the water will be exported via the sanitary sewer to the PCSD. Therefore, most of the water used on the property will not be returned to the aquifer.

The project plans indicate that two storm water detention ponds will be constructed on the south-central property boundary at or near the lowest elevations. The purpose of these ponds is to retain excess storm water runoff and prevent sediment from reaching Los Carneros Creek. The ponds will be connected so that storm water from the furthest down gradient pond will drain to an existing 36-inch culvert that traverses under Hall Road emptying into an existing 20-inch wide storm drainage easement. This system should minimize sediment impacts on downgradient wetlands (Ifland Engineers, Inc., 2000). Expansion of the detention pond system with infiltration wells could serve as a mitigation measure. The recharge efficiency of the ponds (now estimated to percolate 50% of the runoff) would have to be improved. In addition, appropriate design and regular inspection and maintenance would be needed to maintain recharge rates. This would likely involve institutional arrangements with a responsible agency. Without analysis of such a dedicated recharge system, the efficiency in reversing the property overdraft is in doubt.



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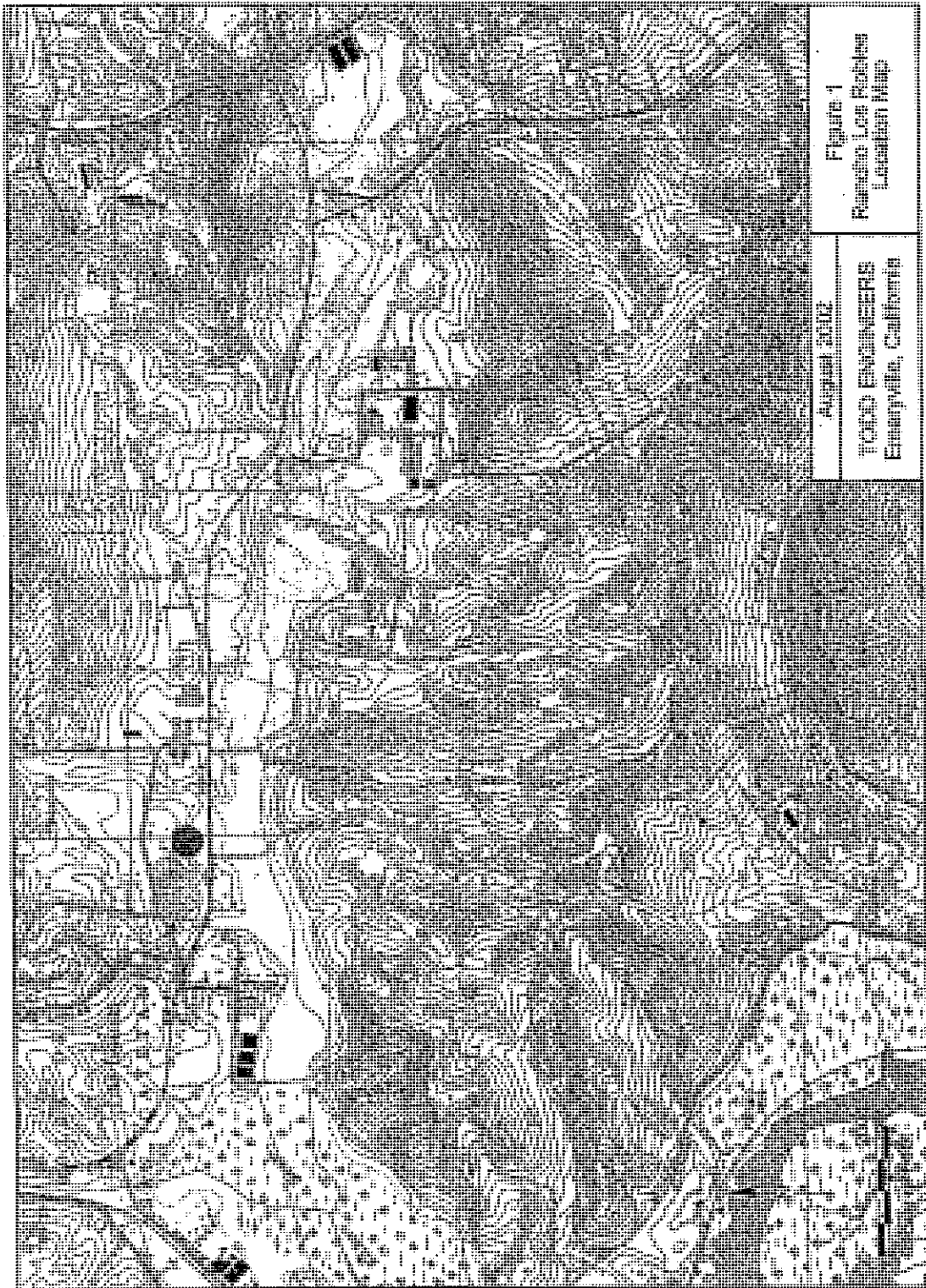


Figure 1  
Rancho Los Robles  
Location Map

August 2012  
TODD ENGINEERS  
Emeryville, California

TABLE 1

## RANCHO LOS ROBLES: CURRENT PROPERTY WATER BUDGET

## PART A. ANNUAL PRECIPITATION

Source	Inches/yr	No. Acres	No. Acres/yr	% Infiltration
On-site Precipitation	18.5	33	55.23	
Evapotranspiration (est.)	18.5	33	45.65	
Net Infiltration			7.57	40
Subtotal				3.59

## PART B. CURRENT SITE WATER USE

Source	Estimated Rural Residential Flow (gpd/day/du)	No. DU	Flow (gpd/day)	AFYr	% Infiltration
RESIDENTIAL WATER USE:	720	5	3,500	1,270,375	50
Source	Total Irrigated Area (acres)	% Area Irrigated	Flow (gpd/day)	AFYr	% Infiltration
IRRIGATION LANDSCAPE USE:	2	15	175	63,918	50
Source	Estimated Daily Water Use (1999)	Estimated Current Water Use			
	gpd/day	No. Acres	gpd/day	AFYr	% Infiltration
AGRICULTURAL IRRIGATION:	74,400	11,605,400	4,19	15,116,424	37
Subtotal				87,50	23.77

## PART C. RESIDENTIAL RUNOFF:

Impermeable Surface	AFYr	No. du	Total No. Acres	Precipitation (inches/yr)	Runoff (inches/yr)	% Infiltration
Buildings	5,000	5	25,000	18.5	1.83	37
Paved Roads	2,000	5	10,000	18.5	1.83	37
Total Runoff					20	0.00
Total Infiltration					1.18	0.43

## PART D. OFFSITE TO ONSITE RESIDENTIAL RUNOFF:

Impermeable Surface	AFYr	No. du	Total No. Acres	Precipitation (inches/yr)	Runoff (inches/yr)	% Infiltration
Buildings	5,000	25	125,000	18.5	1.83	37
Paved Roads	2,000	25	50,000	18.5	1.83	37
Total Runoff					20	0.21
Total Infiltration					6.91	2.38

PART E. TOTAL WATER USAGE	AFYr
TOTAL WATER USAGE	61.59
NET DRAFT ON ADJACENT	30.37
	31.02

AFYr = acre-feet per year.  
 gpd/day/du = gallons per day per dwelling unit.  
 Precipitation (est.) from San Joaquin and Napa (1999).  
 AFYr = square feet per dwelling unit.  
 % Evap = percent evaporation.  
 % Infiltration rate estimates from Applied Sciences and Engineering, Inc. (2007).  
 On-site property acreage, number of houses, and paved roads based on measurements from aerial photographs.

TABLE 2  
RANCHO LOS ROBLES: PROJECT WATER BUDGET

Part A. ANNUAL PRECIPITATION					
Source	Inches/yr	Feet/yr	No. Acres	No. Acres/yr	% Irrigation
Oroville Precipitation	19.5	1.63	16.5	26.81	
Export/Transpiration (est)	10.6	1.30	10.5	22.63	
Net Irrigation				3.99	50
					1.53

Part B. PROJECTED ONSITE WATER USE:									
Source	Estimated Urban Residential Flow feet <sup>3</sup> /day/lot	Estimated Urban Residential Flow feet <sup>3</sup> /day/lot	H.C. DU	Flow (gpcd)	gallons	AFYr	% Infiltration	AFYr	% Infiltration
RESIDENTIAL WATER USE:									
	480.83		101	48,944	17,000,134	52.17	0	52.17	0
Source			Total Impervious Area (acres)	Flow (gpcd)	gallons	AFYr	% Infiltration	AFYr	% Infiltration
			5	2,327	850,207	2.61	50	2.61	50
RESIDENTIAL IRRIGATION:									
Source			No. Acres	Flow (gpcd)	AFYr	AFYr	% Infiltration	AFYr	% Infiltration
			1.5	5,171	188,870.75	6.8	50	6.8	50
COMMUNITY PARK									
Source			No. Square Feet		AFYr	AFYr	% Infiltration	AFYr	% Infiltration
			6,000		0.0002	0.0002	0	0.0002	0
COMMERCIAL HIGH USE									
Source			No. Square Feet		AFYr	AFYr	% Infiltration	AFYr	% Infiltration
			12,000		0.0007	0.0007	0	0.0007	0
COMMERCIAL LOW USE									
Source			No. Square Feet		AFYr	AFYr	% Infiltration	AFYr	% Infiltration
					0.0002	0.0002	0	0.0002	0
TOTAL									
						62.62		62.62	4.20

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PART 0. OFFSITE TO ONSITE RESIDENTIAL RUNOFF									
Impervious Surfaces	R <sub>o</sub> (in)	No. of	Total ft <sup>2</sup>	Percolation			Runoff		
				Total No. Inches	ft/yr	% Evap.	A <sub>FT</sub>	% Infiltration	
Imp. Roads	5.00	25	125,000	2.07	13.5	1.83	10	430	0
Paved Sidewalks	2.00	25	50,000	1.18	13.5	1.63	16	245	0
Paved Roads			15,000	0.34	13.5	1.21	27	65	0
Total Runoff								542	50

PART 1. TOTAL WATER USAGE		ASHT	
TOTAL WATER USAGE		62.02	21.44
TOTAL WATER USAGE			40.94

Note: See explanations on Table VA.  
Estimated urban water usage based on estimate from California water service company at approximately 17 million gallons per year.  
Project will convert to local sanitary sewer system; therefore, there will be no net infiltration from used water.  
Commercial use flows added by EMC Planning Group but based on Monterey County Water Resources Agency

TABLE 3

## GROUNDWATER CHEMISTRY - RANCHO LOS ROBLES PROPERTY

Well Identification	Oaktree Ranch, Domestic Well SC1603	Oaktree Ranch, Ag Well SC1603	Drinking Water Standards	
Date Sample Received	3/11/88	3/11/88		
Date Sample Analyzed	3/23/88	3/23/88		
MAJOR CATIONS:				
calcium	94	66	**	
magnesium	51	41	**	
sodium	100	547	**	
potassium	10	5	**	
MAJOR ANIONS:				
chloride	280	76	250	s
sulfate	92	58	250	s
bicarbonate	220	140	**	
MINOR IONS:				
iron (total)	0.088	0.36	0.3	s
manganese	*	0.03	0.05	s
fluoride	0.10	0.14	2.0	p
nitrate as NO <sub>3</sub>	98	150	45	p
nitrite as NO <sub>2</sub>	*		1.0	p
PHYSICAL PROPERTIES:				
color (Co/Pl units)	<3	5	15	s
conductivity (micromohs/cm)	1,530	940	900	s
odor (threshold number)	<1	<1	3	s
total alkalinity (as CaCO <sub>3</sub> )	69.0	140.0	**	
total dissolved solids	980.0	600.0	500	s
total hardness (as CaCO <sub>3</sub> )	450.0	330.0	**	
turbidity (NTU)	0.13	0.78	5	s
pH units	6.7	7.0	6.5-8.5	s***
TRACE IONS:				
aluminum	-	-	1.0	p
antimony	*	-	0.006	p
arsenic	*	*	0.01	p***
barium	*	*	1.0	p
beryllium	-	-	0.004	p
boron	0.3	*	1.0	AL
cadmium	*	*	0.005	p
chromium	*	*	0.050	p
copper	*	*	1.0	s
cyanide	*	*	0.2	p
lead	*	*	0.015	p
mercury	*	*	0.002	p
nickel	-	-	0.1	p
selenium	*	*	0.050	p
silver	*	*	0.1	s
thallium	-	-	0.002	s
zinc	*	*	5.0	s

TABLE 3

## GROUNDWATER CHEMISTRY - RANCHO LOS ROBLES PROPERTY

Well Identification	Oaktree Ranch, Domestic Well SC1603	Oaktree Ranch, Ag Well SC1603	Drinking Water Standards	
OTHER:				
MBAS (Surfactants)	0.03		0.6	s
BACTERIOLOGICAL:				
total coliforms	2.2	*	2.2	p
E. coli	-	-		

**Notes:**

All concentrations in parts per million (ppm) except where noted.

\* Analyzed and below the detection limit.

\*\* No current primary or secondary drinking water standards.

\*\*\* For pH: secondary drinking water standard by USEPA; for arsenic new USEPA primary drinking water standard.

- = analyte not tested.

p = Primary drinking water standard.

s = Secondary drinking water standard.

AL = Advisory action level for boron set at 1.0 ppm by California DHS.

Boron is an unregulated chemical requiring monitoring.

Current California DHS drinking water criteria from Marshack (2000 and 2001 updates).

Samples analyzed by Soil Control Lab, Watsonville, CA, report nos. 56003 and 75242-2-1398 to Heritage Western Communities, Watsonville, CA.

TABLE 4

## RANCHO LOS ROBLES: CURRENT SITE - NET NITROGEN LOADING (SOURCES AND LOSSES)

Source	Estimated Residential Flow (gals/day/du)	No. DU	Flow (gals/day)	galyr	Nitrate Concentration (mg/L)	Total N Loading (lbs/yr)	% N Loss	Net N loading (lbs/yr)
<b>SEPTIC TANK LEACHATE:</b>								
High Estimate	300	5	1,500	547,875	40	182.77	0	182.77
Low Estimate	225	5	1,125	410,906	30	102.81	0	102.81
Source						Total N Loading Horses (lbs/yr)	% N Loss	Net N loading Horses (lbs/yr)
<b>LIVESTOCK:</b>								
Ammonia Volatilization:					110.3	3,309.00		
High Loss						3,309.00	25	2,481.75
Low Loss						3,309.00	15	2,812.65
Source						Net N Loading Horses (lbs/yr)	% N Loss	
<b>Soil Denitrification (% of remaining N after other losses):</b>								
High Loss						2,481.75	25	1,861.31
Low Loss						2,812.65	10	2,531.39
Source						Total N Loading (lbs/yr)	% N Loss	Net N loading Lawns (lbs/yr)
<b>RESIDENTIAL LANDSCAPE FERTILIZATION:</b>								
Plant Uptake:		1	5	0.05	65	3.25		
High Loss						3.25	78	0.81
Low Loss						3.25	45	1.79
Source						Net N Loading - Lawn (lbs/yr)	% N Loss	
<b>Soil Denitrification (% of remaining N after other losses):</b>								
High Loss						0.81	25	0.61
Low Loss						1.79	10	1.61
Source								
<b>TOTAL NITROGEN LOADING (SOURCES AND LOSSES):</b>								
High Estimate								2,716.76
Low Estimate								1,964.73

TODD ENGINEERS



TABLE 5

## RANCHO LOS ROBLES: PROJECT SITE - NET NITROGEN LOADING (SOURCES AND LOSSES)

Source	Estimated Residential Flow (gals/day/du)	No. DU	Flow (gals/day)	gal/yr	Nitrate Concentration (mg/L)	Total N Loading (lbs/yr)	% N Loss	Net N loading (lbs/yr)
<b>SEPTIC TANK LEACHATE:</b>								
High Estimate	0	101	0	0	40	0.00	0	0.00
Low Estimate	0	101	0	0	30	0.00	0	0.00
Source					lbs/horse/yr	Total N Loading - Horses (lbs/yr)	% N Loss	Net N loading Horses (lbs/yr)
<b>LIVESTOCK:</b>								
Ammonia Volatilization:					110.3	0.00		
High Loss						0.00	25	0.00
Low Loss						0.00	15	0.00
<b>Soil Denitrification (% of remaining N after other losses):</b>								
High Loss						Net N Loading Horses (lbs/yr)	% N Loss	
Low Loss						0.00	25	0.00
Source						Total N Loading (lbs/yr)	% N Loss	Net N loading Lawns (lbs/yr)
<b>RESIDENTIAL LANDSCAPE FERTILIZATION:</b>								
Plant Uptake:						43.88		
High Loss						43.88	75	10.97
Low Loss						43.88	45	24.13
<b>Soil Denitrification (% of remaining N after other losses):</b>								
High Loss						Net N Loading - Lawn (lbs/yr)	% N Loss	
Low Loss						10.97	25	8.23
						24.13	10	21.72
<b>TOTAL NITROGEN LOADING (lbs/yr):</b>								
Total High Estimate:								21.72
Total Low Estimate:								8.23

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TABLE 6

RANCHO LOS ROBLES: NET CHANGE IN NITROGEN LOADING

Estimate	Current Net N Loading (lb/yr)	Estimated Project Net N Loading (lb/yr)	Net change	
			lbs/yr	%
High	2,715.76	21.72	2,694.05	99.20
Low	1,984.73	8.23	1,956.50	99.58

TODD ENGINEERS

TABLE 7

## NITROGEN LOSSES

NITROGEN LOSSES FOR SEPTIC SYSTEMS, LIVESTOCK, LAWNS, AND STRAWBERRIES

Types of Nitrogen Losses	Percent (%) of Nitrogen Lost		
	Septic Tank	Livestock	Lawn Fertilization
Crop Uptake			
High Loss	0	0	75
Low Loss	0	0	45
Ammonia Volatilization			
High Loss	0	25	0
Low Loss	0	15	0
Soil Denitrification (% of remaining N after other losses)			
High Loss	0	25	25
Low Loss	0	10	10

## STRAWBERRIES: PERCENTAGE OF NITROGEN LOSS:

Plant Content (mg/kg)	Plant content (lbs N/kg)	Weight of Plant (lb/plant)	Weight of Plant (kg)	Plants per Acre	Mass of Plants per Acre (kg/acre)	Uptake (lbs/acre)	Unit Loading (lbs/acre)	% N Loss
3,000	0.0066	1.0000	0.4536	22,500	10,206	67.4	225	29.9
	0.0066	2.5000	1.1340	22,500	25,515	168.4	225	74.8
	0.0066	5.0000	2.2680	22,500	51,030	336.8	225	149.7
3,500	0.0077	1.0000	0.4536	22,500	10,206	78.6	225	34.9
	0.0077	2.5000	1.1340	22,500	25,515	195.5	225	83.3
	0.0077	5.0000	2.2680	22,500	51,030	392.9	225	174.6
4,000	0.0088	1.0000	0.4536	22,500	10,206	89.8	225	39.9
	0.0088	2.5000	1.1340	22,500	25,515	224.5	225	99.8
	0.0088	5.0000	2.2680	22,500	51,030	449.1	225	199.6

# Enclosure 2 of Exhibit B

**COPY**

Project No. M8941  
26 July 2005

MR. CHUCK ALLEN  
Landmark Real Estate Company  
563 Auto Center Drive  
Watsonville, California 95076

Subject: Soil Profile and Percolation Tests Recreation Area

Reference: Rancho Los Robles  
Off Sill Road  
Las Lomas Unincorporated Area  
Monterey County, California

Dear Mr. Allen:

This report provides an overview of the in-situ soils encountered in seven (7) bore holes dug within the proposed recreational area of Rancho Los Robles. Given the results of the geotechnical study for the subdivision and potential geologic hazards, we recommend storm water retention be located in the lower flat area of the property. To establish groundwater recharge in the upper terrace will likely increase the groundwater regime and pore water pressure at localized areas along the south facing slope, an issue that can impact the long term stability of the hillside.

On 14 July, HKA with the subtier drilling contractor drilled seven (7) bore holes at four locations of the recreation area. Due to the on-going equestrian operation the test sites were located on the eastern half of the recreational area. This is considered satisfactory as typical subsoil conditions over the flat area are relatively uniform.

At each location one of the bore holes was fitted with perforated pipe to establish open-end piezometers. At three locations the 10 foot deep bore holes were set up for percolation testing. These latter bore holes were fitted with perforated pipe and gravel was placed within the annular space between the pipe and bore hole side wall. These bore holes were pre-wetted 24 hours prior to percolation testing.

During the field drilling operations the spoils were field (visually) classified. Bulk samples were retrieved at select depths. These samples were taken back to the laboratory for testing. Select samples were processed to determine percent passing the number 200 sieve to determine the fines content while others were processed to determine the full grain size distribution. The results of the data are included in the Logs of Test Borings or shown graphically.

Mr. Chuck Allen  
Project No. M8941  
Rancho Los Robles  
26 July 2005  
Page 2

In review of the data the soil profile can be illustrated as follows:

0-5 Feet: Black/grey fine grain sand with clay.

5-7 Feet: Yellow brown-grey brown sandy clay

7-20 Feet: Reddish to orange brown fine to medium grain  
sand with a few fines.

12-20 Feet: Intermittent orange brown sandy clay and orange  
brown medium to coarse sand with some binder.  
Layers vary between borings.

Groundwater was generally encountered at a depth of  $12 \pm$  feet at the lowest site elevation explored. Given, information developed by other investigators at this property it appears the groundwater level is relatively stable at 12 feet (elevation -1.0 feet as defined by the topographic plan prepared by Ifland Engineers).

In summary, the typical subsurface soil profile and results of the percolation tests indicate the subsoils can absorb water. The designers may be required to design a filtration system (i.e. sand bed) to remove solids prior to injection into a tank/absorption field.

Attached are a summary of the field and laboratory test results for your and the designers review. If there are any questions regarding the findings please call us at 831-722-4175.

It was a pleasure proving this service to you and we look forward to continuing to work with you and the designers.

Very truly yours,

  
KASUNICH AND ASSOCIATES INC.

Joseph A. Kasunich  
C.E. 28506

JAH/sq  
Attachments

Copies: 4 to Addressee  
1 to Ifland Engineers, Inc.

[illegible]

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## READ WIDENING EDUCATION

S.S.M.H. #1  
RIM- 15.4  
INV.- (E) MAINZ

**DATE REC'D** 7-6  
**RECEIVED** 39.50  
**INV.** 27.50

288-AMT  
584-442  
584-HYS

55154. 47  
R284- 23.50  
INV.- 18.50

RM- 6525  
W- 6525

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12,819 5  
#51

Future  
Commerce

102,882 S.F., 12.36



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 6" BORING NO. B-1

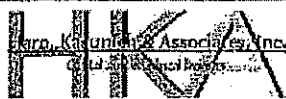
Depth, ft	Sample No. and type Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - Ts.f. penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0		Black grey fine SAND of Clay	SC					
5		Coarse grey Sand						
		Reddish brown Clayey SAND (medium grain)	SC					
10		Water first encountered						
15		Yellow brown Sandy CLAY, stiff, moist	SC					
20		Orange brown SAND with fines, moist	SW					
		Boring terminated at 20 feet						
25								
30								
35								

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 2





# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 6" BORING NO. B-2

Depth, ft.	Sample No. and type and Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft. - lbs.	Qu - tsf. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0		Black grey fine SAND with Clay (10% +)	SC					
5	2-1 (B)	Grey brown SAND with Clay (20% +)					11.1	% Passing No. 200 = 35.0%
10		Boring terminated at 10 feet						
15								
20								
25								
30								
35								

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 3



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 5" BORING NO. B-3

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - tsf Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black/grey fine SAND with Clay	SC					
3-1 (B)			Orange brown Sandy CLAY	SC				21.0	% Passing No. 200 = 49.7
3-1 (B)			Reddish brown Clayey SAND, very moist	SC				19.5	% Passing No. 200 = 13.5
3-1 (B)			Coarse grain					24.8	% Passing No. 200 = 7.3
3-4 (B)			Yellow brown and green Sandy Clay	SC				26.2	% Passing No. 200 = 8.1
20			Boring terminated at 20 feet.						

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 4



# Rancho Los Robles

PROJECT NO. M8941

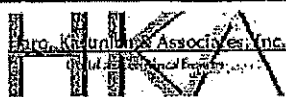
LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 6" BORING NO. B-4

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - ts.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black/grey fine SAND with Clay	SC					
4-1 (B)								8.2	% Passing No. 200 = 25.0
5									
4-2 (B)			Brown Sandy CLAY, stiff	SC				14.4	% Passing No. 200 = 43.3
10			Boring terminated at 10 feet						
15									
20									
25									
30									
35									

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 5



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

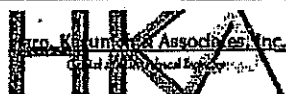
BORING NO. B-5

Depth, ft.	Sample No. and type Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 360 ft - lbs.	Qu - tsf. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0		Black-grey SAND with Clay, loose	SC					
5	5-1 (B)	Grey fine Sand					9.8	% Passing No. 200 = 24.1
		Grey brown Sandy CLAY, stiff	SC					
10	5-2 (B)	Orange brown medium coarse grain SAND	SP				15.8	% Passing No. 200 = 54.2
15	5-3 (B)	Water first encountered					20.3	% Passing No. 200 = 12.9
20	5-4 (B)	Boring terminated at 20 feet					25.8	% Passing No. 200 = 9.3
25								
30								
35								

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 6



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

BORING NO. B-6

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - tsf Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black grey fine SAND with Clay, loose, damp	SC					
5			Reddish brown SAND, moist to wet	SC					
10			Orange brown SAND with some Clay. Boring terminated at 10 feet	SC					
15									
20									
25									
30									
35									

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 7



# Rancho Los Robles

PROJECT NO. M8941

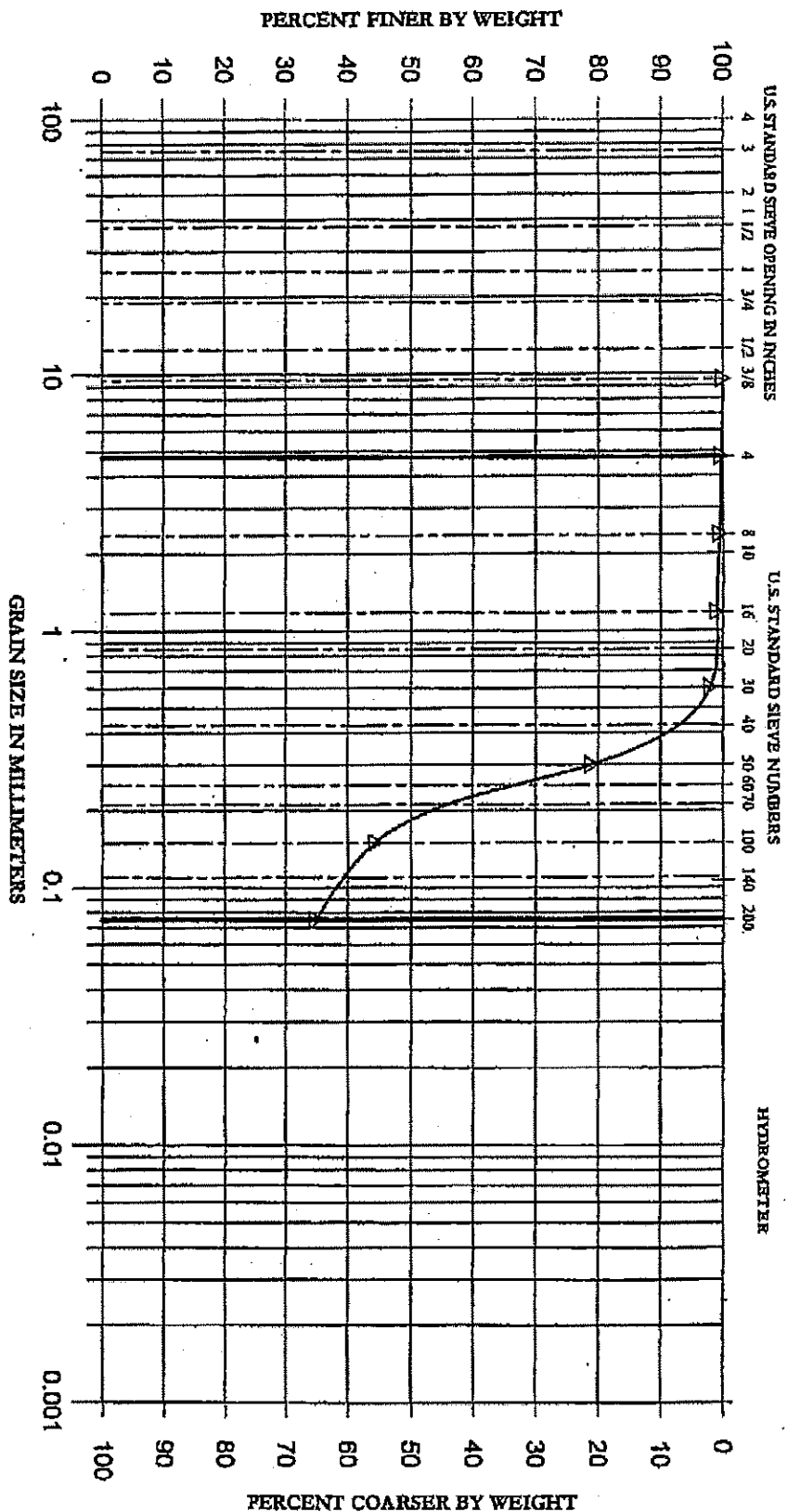
LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 6" BORING NO. B-7

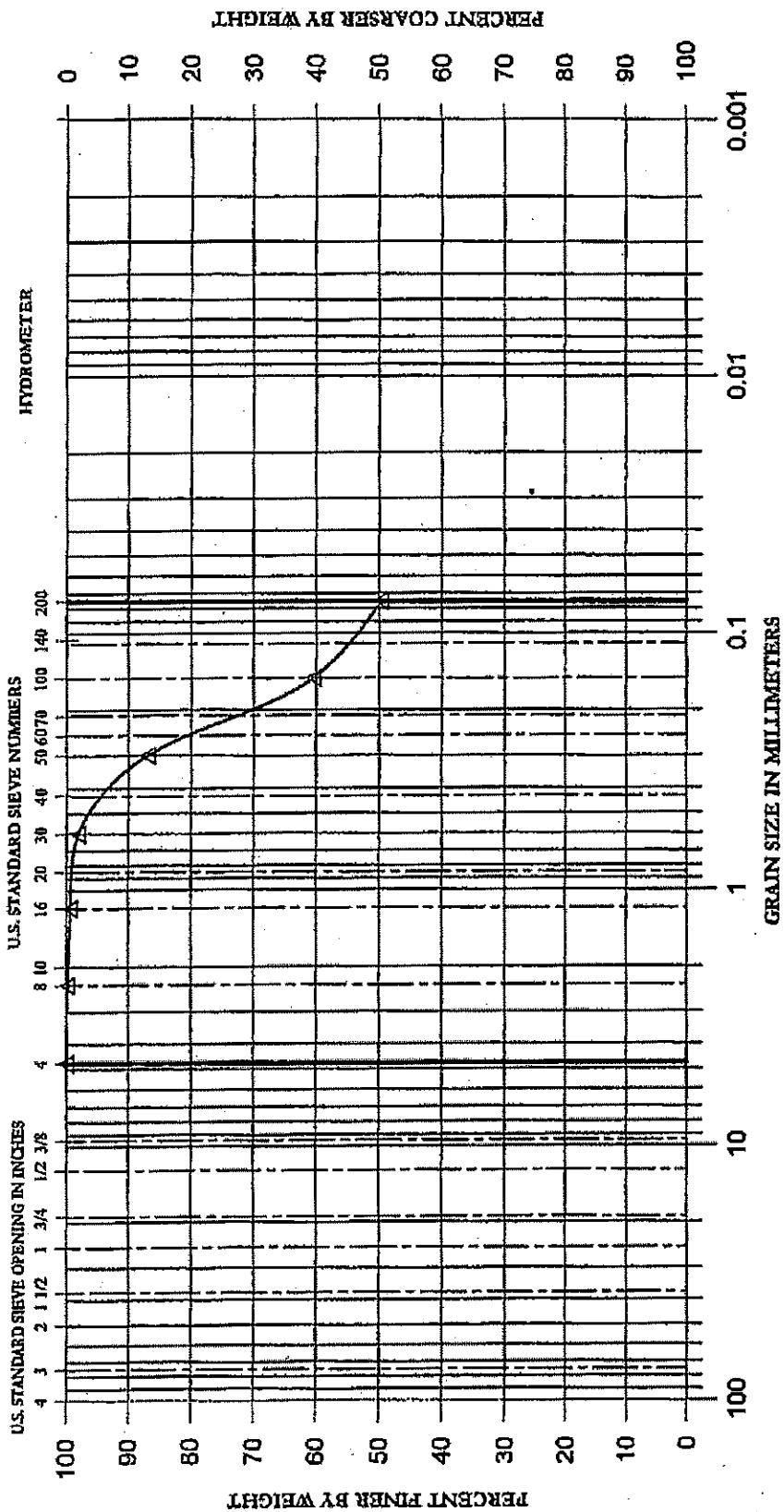
Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - ts.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black/grey fine SAND with Clay - loose	SC					
			Grey brown Sandy Clay - stiff, damp to moist	SC					
5	7-1 (B)		Reddish brown SAND, moist to wet	SC				21.0	% Passing No. 200 = 41.9
10	7-2 (B)		Yellow brown Sandy CLAY	SC				32.9	% Passing No. 200 = 42.8
15	7-3 (B)		Orange brown SAND with some Clay	SC				27.1	% Passing No. 200 = 65.6
20			Clay	CL					
20			Boring terminated at 20 feet						
25									
30									
35									

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 8





GRAVEL		SAND		SILT AND CLAY
COARSE	FINE	COARSE	FINE	

GRAVEL CONTENT: 0.0%

SAND CONTENT: 50.3%

FINES CONTENT: 49.7%

Boring No. 3, Sample 3@ 5'

HARO, KASUNICH AND  
ASSOCIATES, INC.

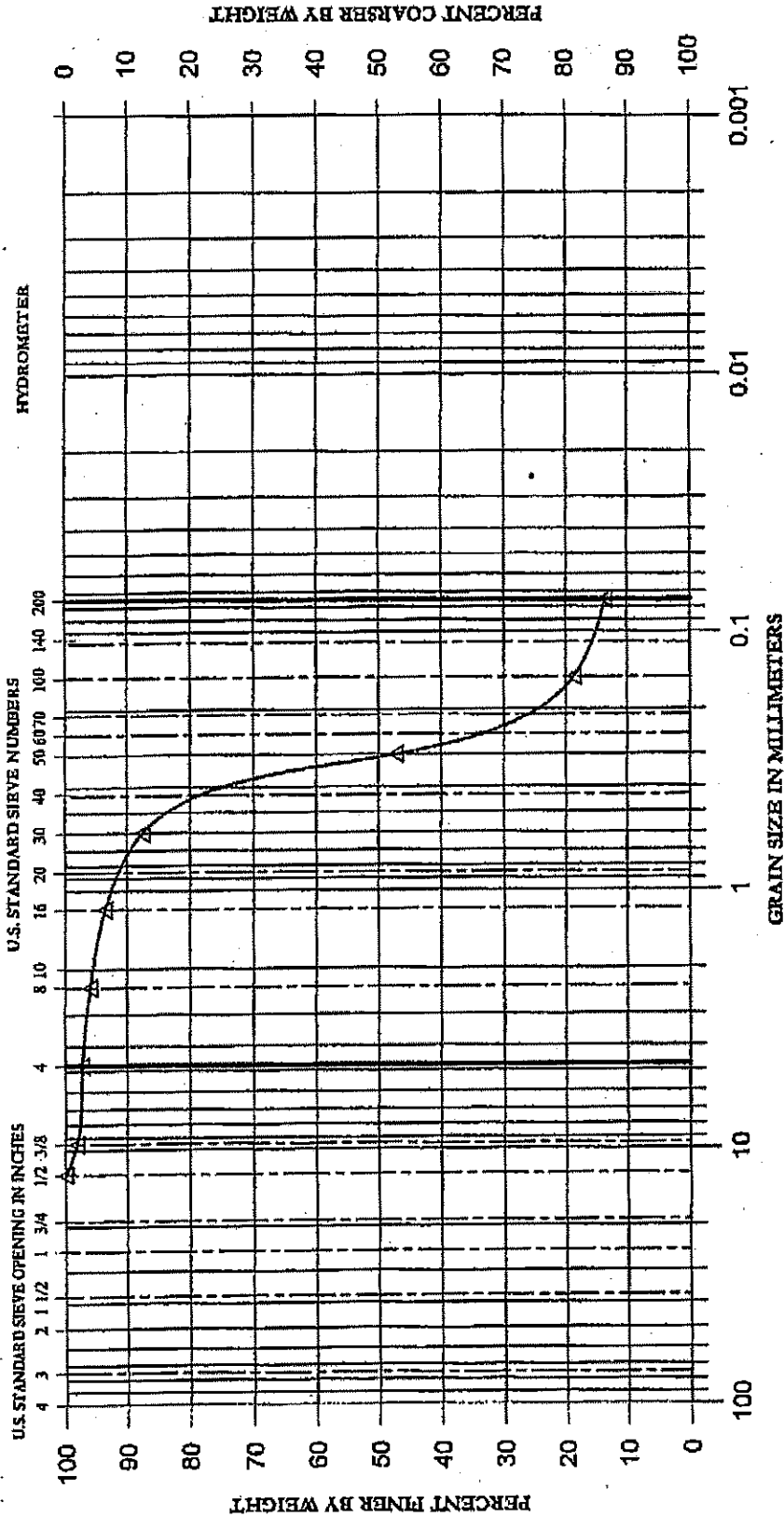
GRAIN SIZE DISTRIBUTION  
RANCHO LOS ROBLES

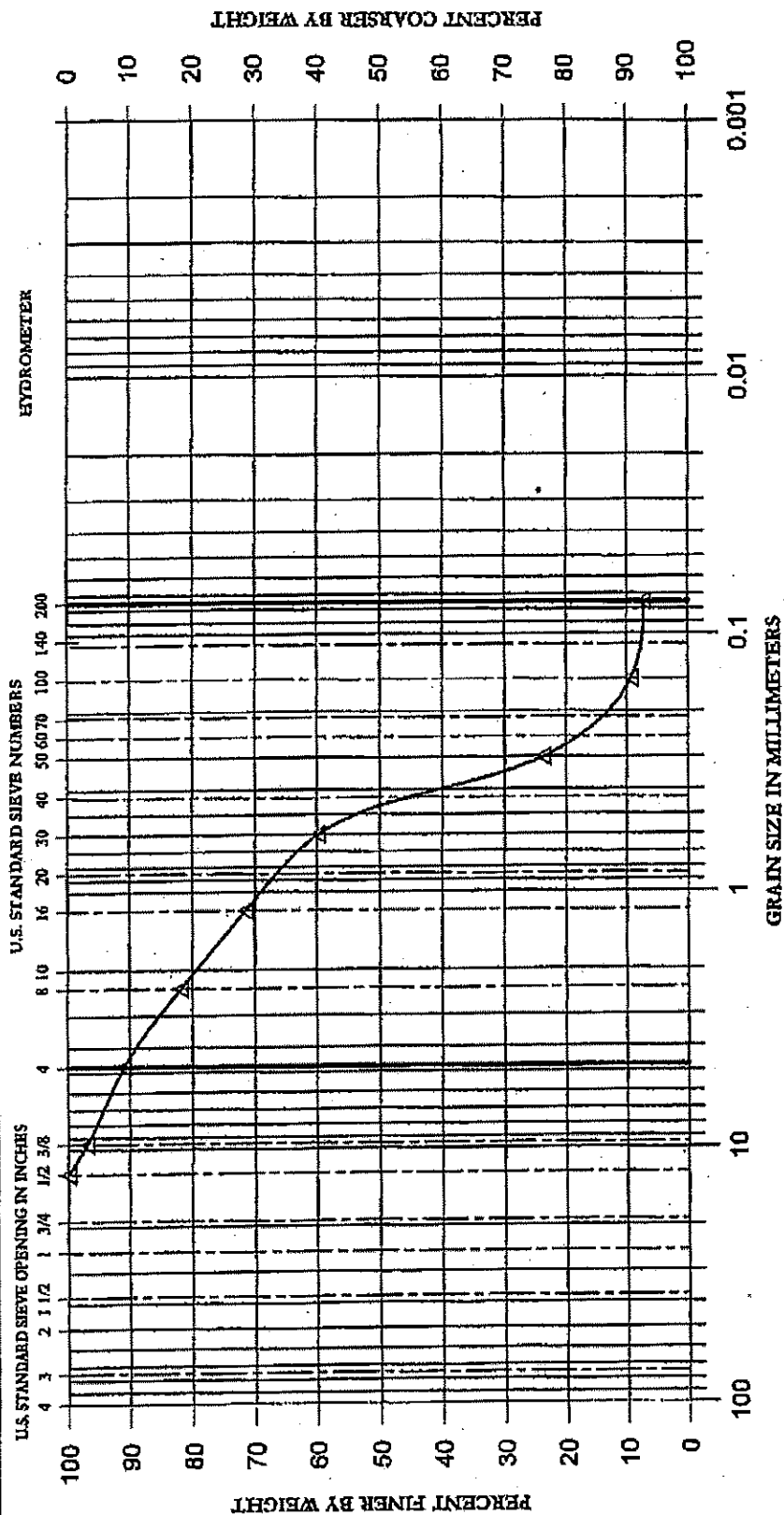
PROJECT NO. M8941  
JULY, 2005

PREPARED BY:  
AG

FIGURE  
No. 10







GRAVEL		SAND		SILT AND CLAY
COARSE	FINE	COARSE	FINE	

GRAVEL CONTENT: 9.1%

SAND CONTENT: 83.6%

FINES CONTENT: 7.3%

Boring No. 3, Sample 3@15'

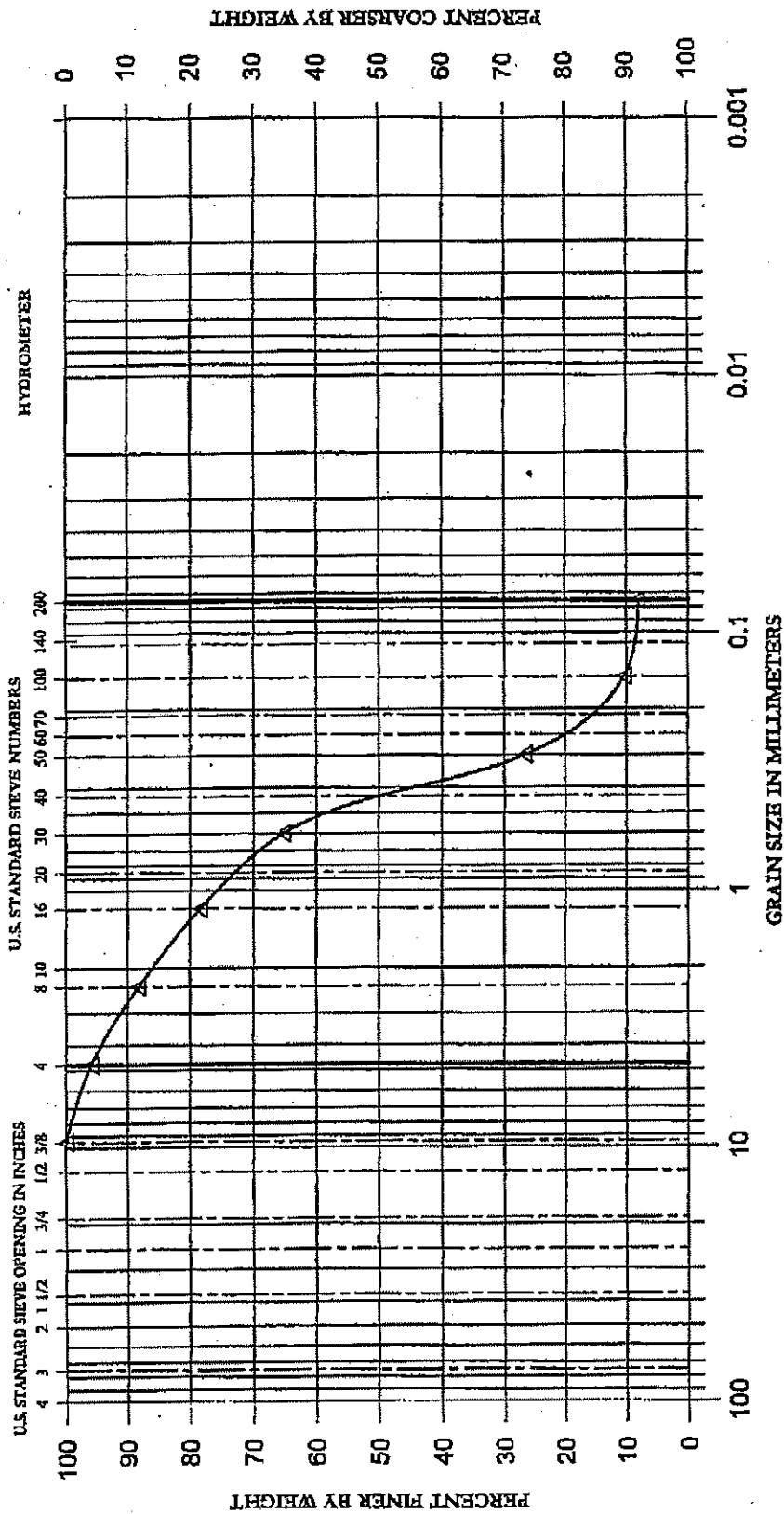
HARO, KASUNICH AND  
ASSOCIATES, INC.

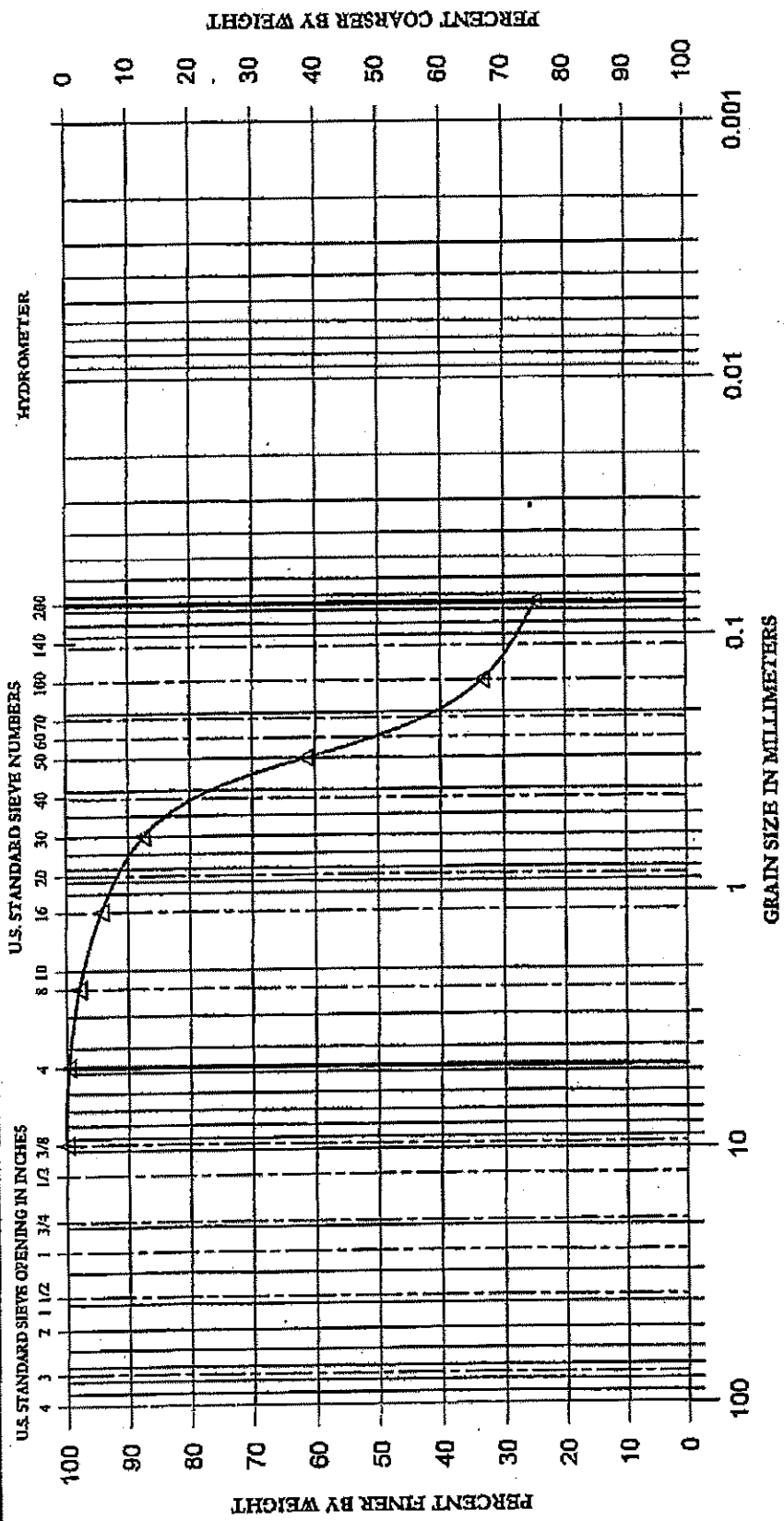
GRAIN SIZE DISTRIBUTION  
RANCHO LOS ROBLES

PROJECT NO. M8941  
JULY, 2005

PREPARED BY:  
AG

FIGURE  
No. 12





GRAVEL	SAND			SILT AND CLAY
COARSE	FINE	COARSE	MEDIUM	FINE

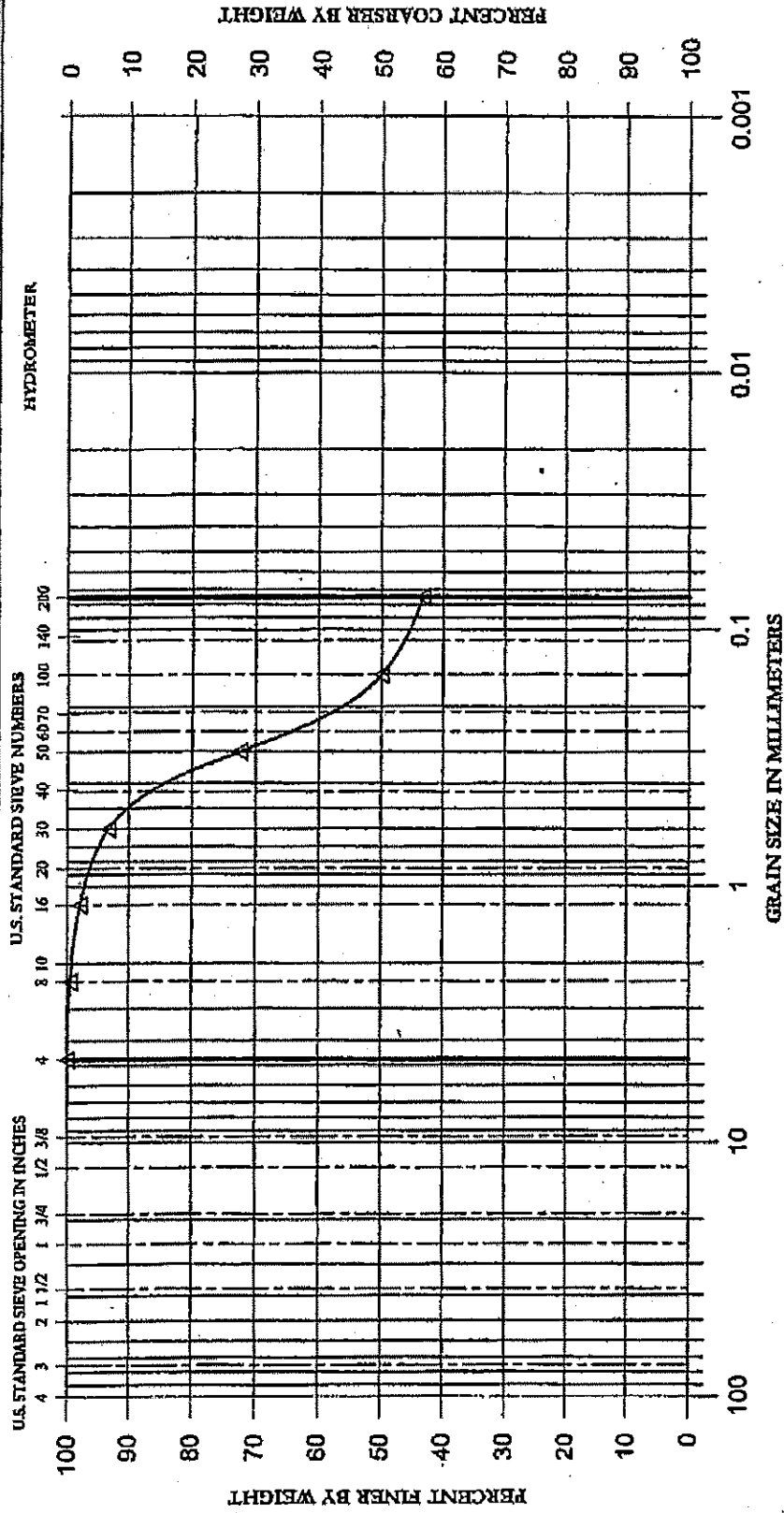
GRAVEL CONTENT: 0.3%

SAND CONTENT: 74.7%

FINES CONTENT: 25.0%

Boring No. 4, Sample 4@ 3'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT NO. M8941 JULY, 2005	PREPARED BY: AG	FIGURE NO. 14
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GRAVEL		SAND		SILT AND CLAY
COARSE	FINE	COARSE	FINE	

GRAVEL CONTENT: 0.0%

SAND CONTENT: 56.7%

FINES CONTENT: 43.3%

Boring No. 4, Sample 4@ 7'

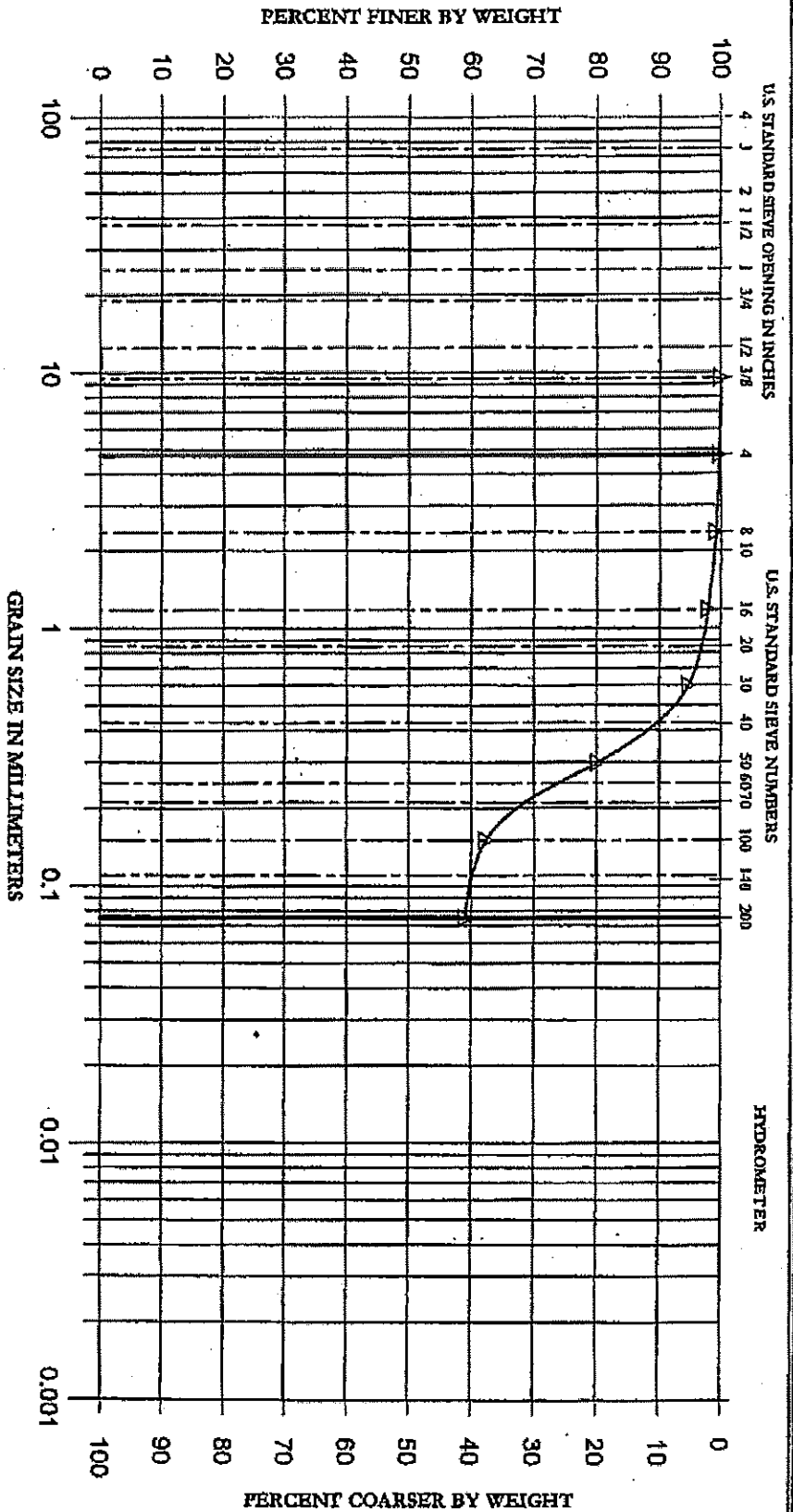
HARO, KASUNICH AND  
ASSOCIATES, INC.

GRAIN SIZE DISTRIBUTION  
RANCHO LOS ROBLES

PROJECT NO. M8941  
JULY, 2005

PREPARED BY:  
AG

FIGURE  
No. 15



GRAVEL	COARSE	FINE	COARSE	MEDIUM	FINE	SILT AND CLAY
GRAVEL						

GRAVEL CONTENT: 0.2%

SAND CONTENT: 40.6%

FINES CONTENT: 59.2%

Boring No. 5, Sample 5@ 10'

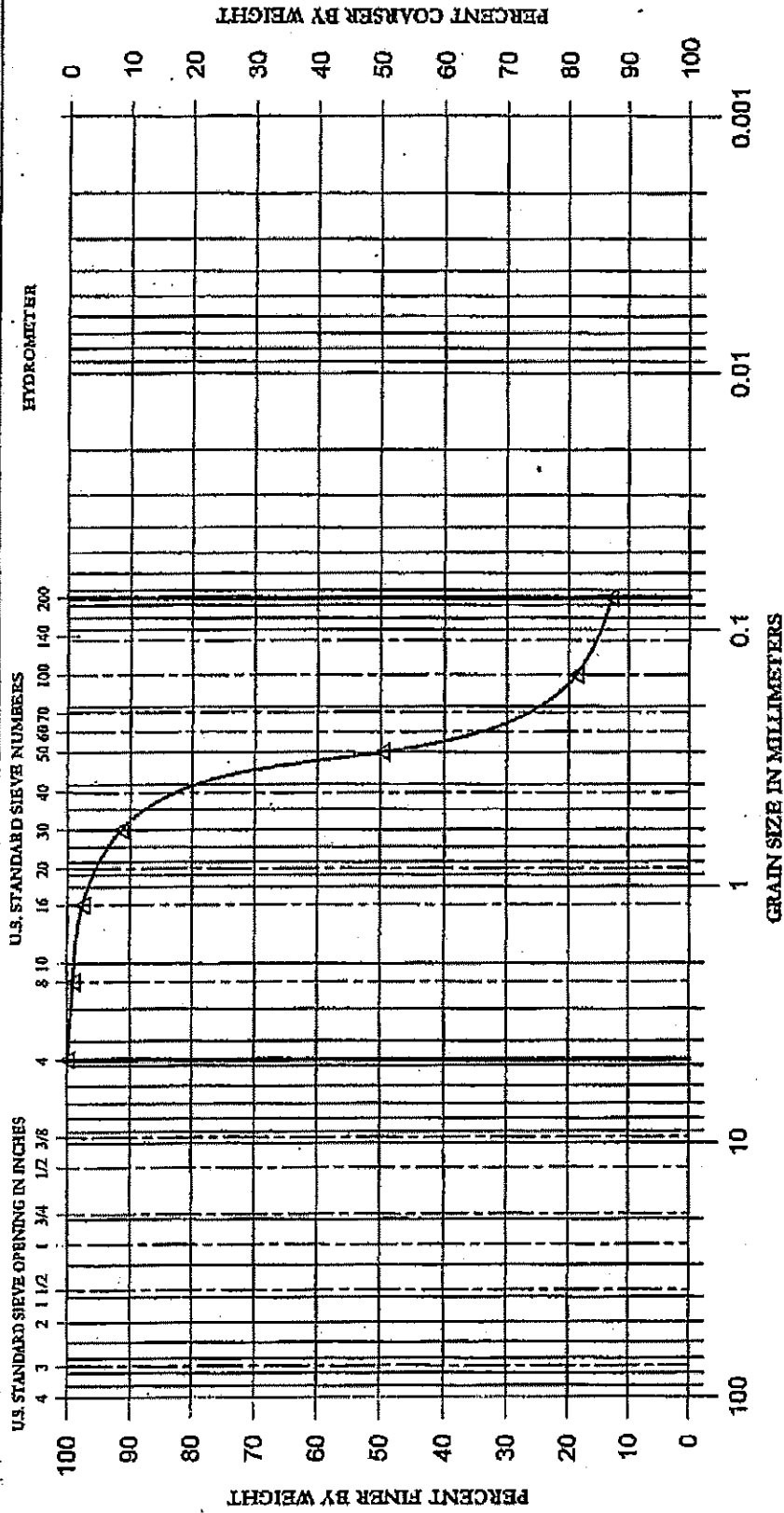
HARO, KASUNICH AND ASSOCIATES, INC.

GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES

PROJECT NO. M8941 JULY, 2005

PREPARED BY: AG

FIGURE NO. 16



GRAVEL CONTENT: 0.0%

SAND CONTENT: 87.1%

FINES CONTENT: 12.9%

Boring No. 5, Sample 5@15'

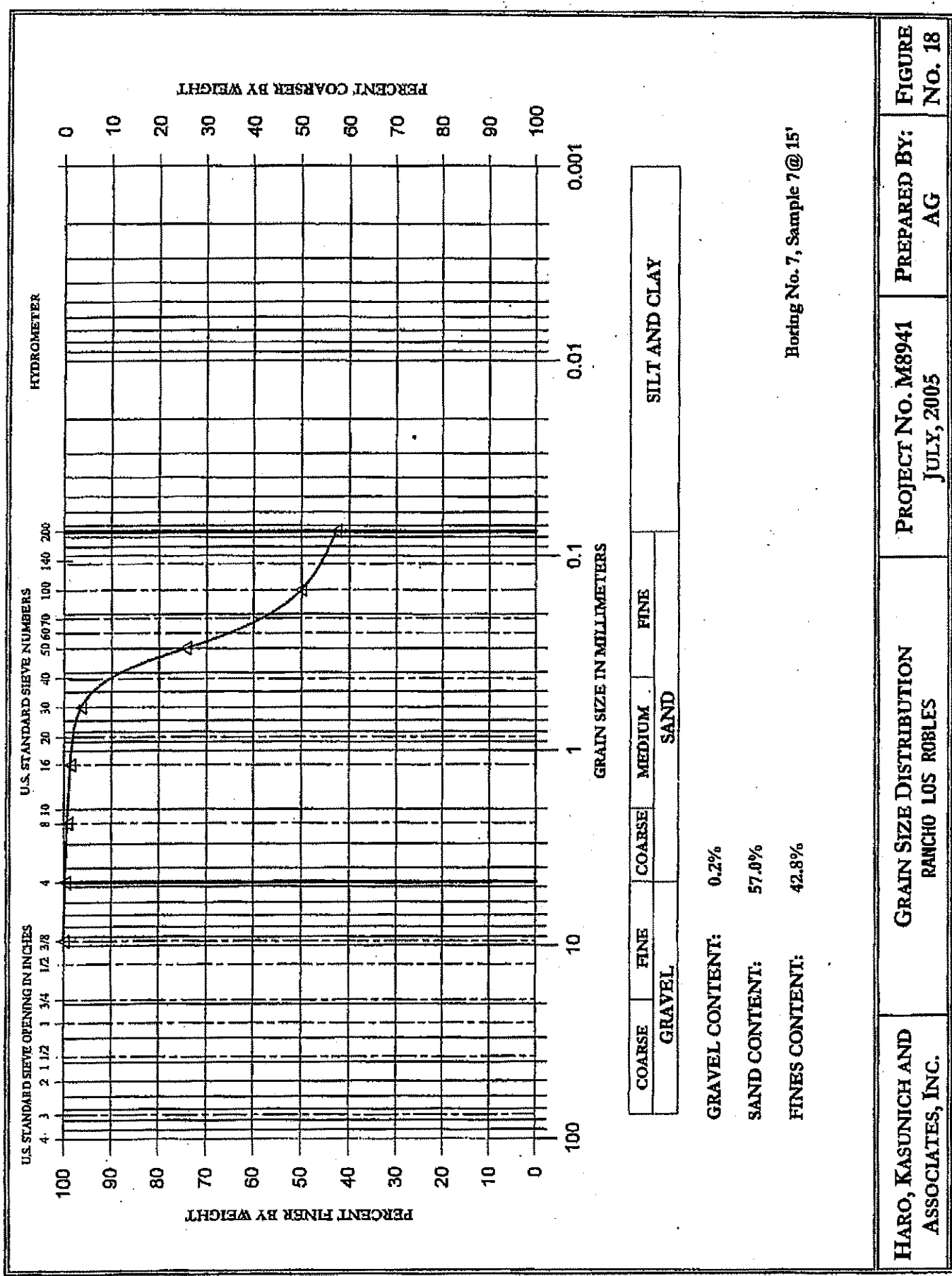
HARO, KASUNICH AND  
ASSOCIATES, INC.

GRAIN SIZE DISTRIBUTION  
RANCHO LOS ROBLES

PROJECT NO. M8941  
JULY, 2005

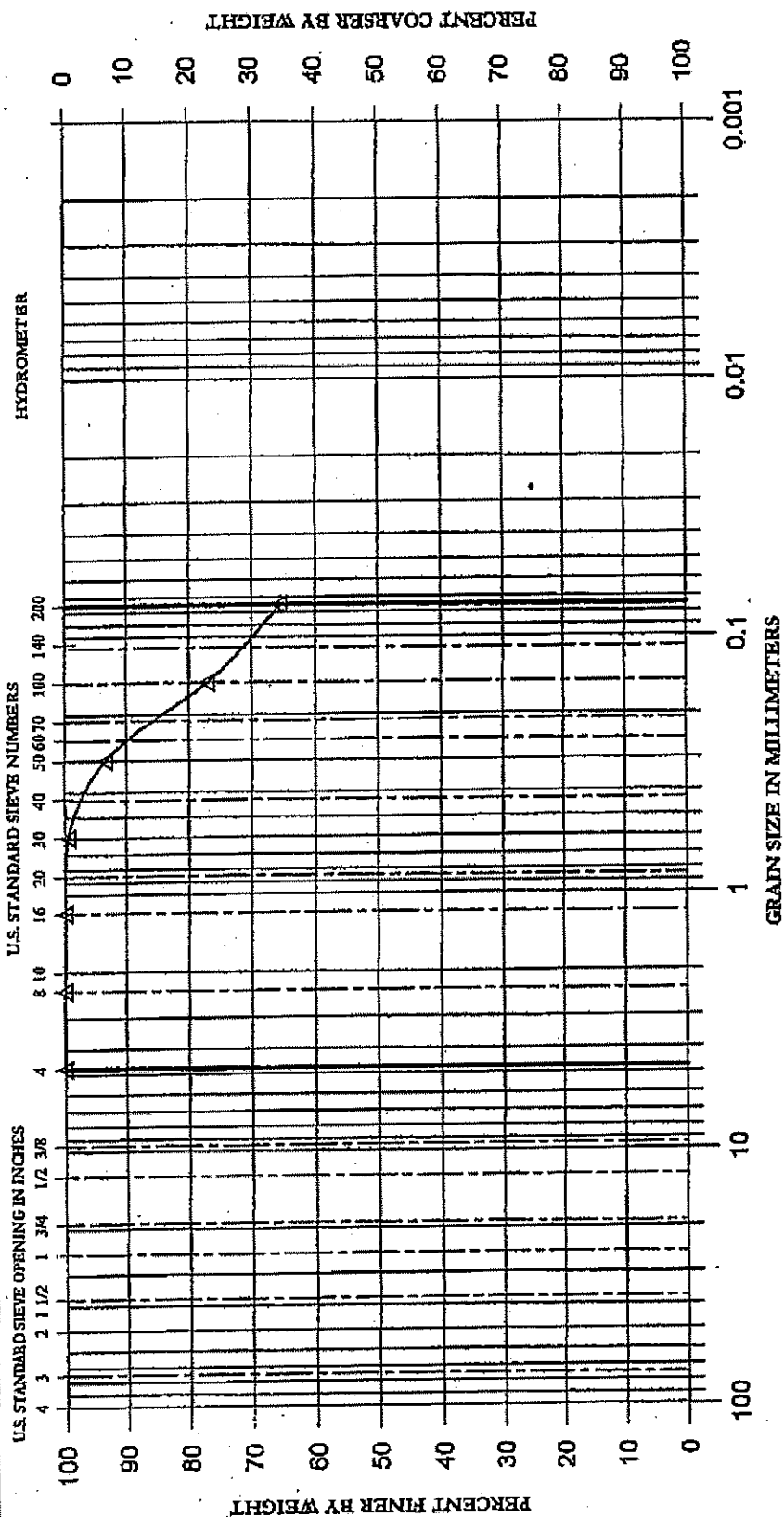
PREPARED BY:  
AG

FIGURE  
No. 17



HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES		PROJECT NO. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 18





GRAVEL CONTENT: 0.0%

SAND CONTENT: 34.4%

FINES CONTENT: 65.6%

Boring No. 2, Sample 7-20

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 19
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PROJECT NAME: Rancho Los Robles  
 PROJECT NUMBER: M8941  
 DATE: 7/21/2005  
 BY: BILL S.

BORING NUMBER: B-2		BORING DEPTH: 10ft	DATE DRILLED: 7/14/2005
Initial Water Depth: 6ft		DATE PRE-SOAKED: 7/14/2005	DATE TESTED: 7/15/2005
WATER LEVEL (in)	CHANGE IN WATER LEVEL(in)	TIME (min)	PERCOLATION RATE (in/hr)
25.4	0.0	0	0.0
34.0	8.6	30	17.2
43.0	9.0	60	18.0
49.9	6.9	90	13.8
54.3	4.4	120	8.8
58.8	4.5	150	9.0
63.5	4.7	180	9.4
63.8	0.1	210	0.2
69.4	5.8	240	11.8

BORING NUMBER: B-4		BORING DEPTH: 10ft		DATE DRILLED: 7/14/2005	
Initial Water Level: 0ft		DATE PRE-SOAKED: 7/14/2005		DATE TESTED: 7/15/2005	
WATER LEVEL (in)		CHANGE IN WATER LEVEL(in)		TIME (min)	
				PERCOLATION RATE (in/hr)	
49.8		0.0		0	
64.3		14.5		30	
69.1		4.8		60	
72.0		2.9		90	
75.0		3.0		120	
75.3		0.3		150	
75.8		0.5		180	
77.9		2.1		210	
81.0		3.1		240	

<b>BORING NUMBER:</b> B-6	<b>BORING DEPTH:</b> 10ft	<b>DATE DRILLED:</b> 7/14/2005	
<b>Initial Water Level:</b> 7.9ft	<b>DATE PRE-SOAKED:</b> 7/14/2005	<b>DATE TESTED:</b> 7/15/2005	
<b>WATER LEVEL (in)</b>	<b>CHANGE IN WATER LEVEL(in)</b>	<b>TIME (min)</b>	<b>PERCOLATION RATE (in/hr)</b>
26.2	0.0	0	0.0
52.2	26.0	30	52.0
64.3	12.1	60	24.2
81.6	17.3	90	34.8
87.4	5.8	120	11.6
88.4	1.0	150	2.0
89.2	0.8	180	1.6
89.6	0.4	210	0.8
90.8	1.2	240	2.4

FIGURE NO. 20

PERCOLATION RESULTS FOR RANCHO LOS ROBLES

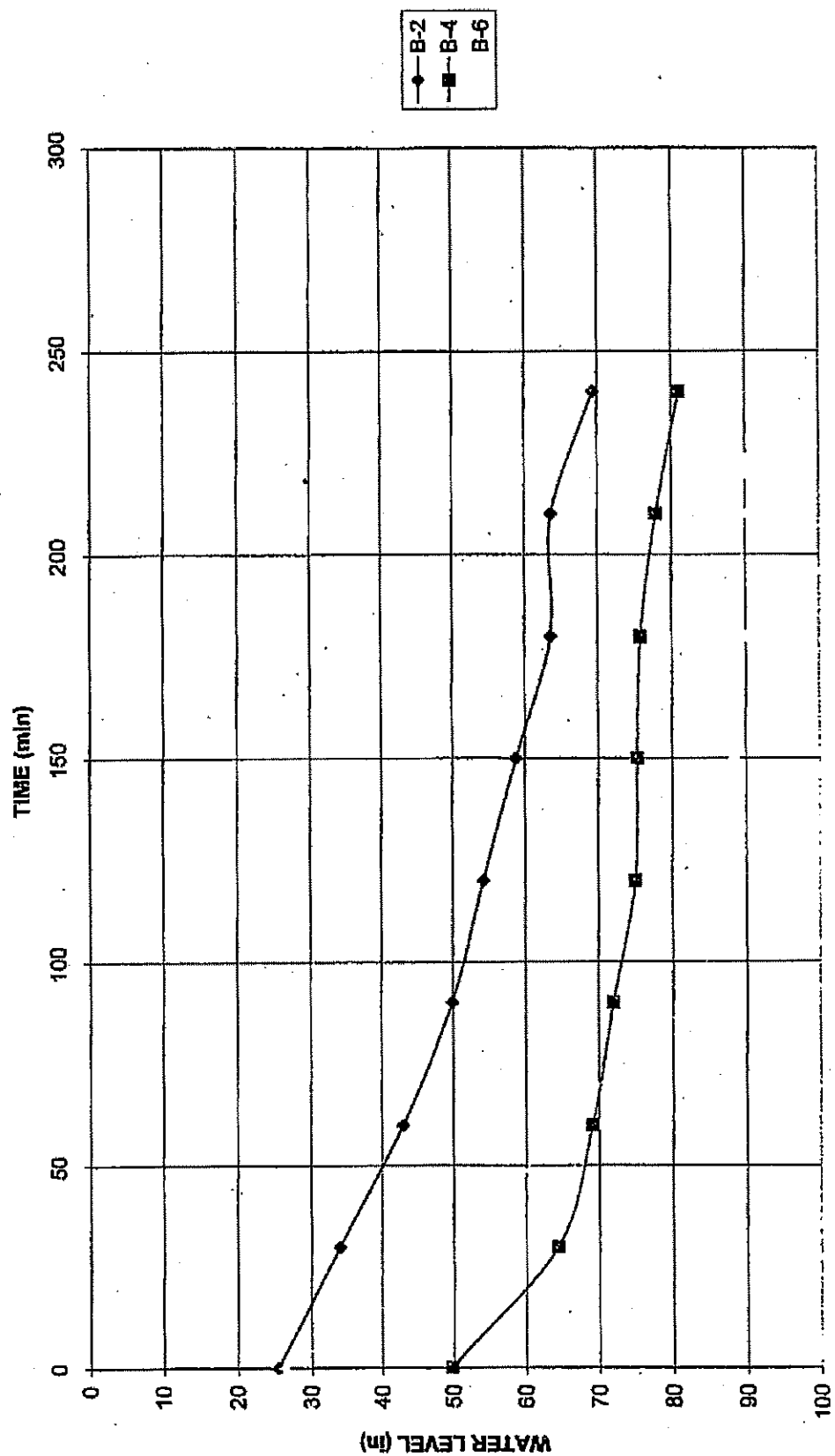


FIGURE NO. 21

# Enclosure 3 of Exhibit B

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# **Project Specific Water Balance Study**

**Draft – for Discussion Purposes Only**



## **Rancho Los Robles**

### **Water Balance Study**

**Ifland Engineers, Inc.**  
1100 Water Street  
Santa Cruz, California 95062  
831.426.5313  
831.426.1763  
[www.iflandengineers.com](http://www.iflandengineers.com)

October 21, 2005



1100 WATER STREET, SUITE 2 • SANTA CRUZ, CA 95062 • 831.426.5313 • FAX 831.426.1763 •  
[WWW.IFLANDENGINEERS.COM](http://WWW.IFLANDENGINEERS.COM)

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# Table of Contents

Introduction.....	1
Scope of Study.....	2
Methodology.....	2
Hydrology .....	3
Scenario 1 - Water Balance with all residences connected to the reclamation plant .....	5
Onsite precipitation .....	5
Onsite Water Use .....	6
Residential irrigation .....	7
Community Park .....	7
Commercial Uses .....	7
Onsite Residential Runoff.....	7
Offsite to Onsite Residential Runoff.....	8
Scenario 2 – Measures needed to achieve a zero or better aquifer draw down.....	8
Conclusion.....	10

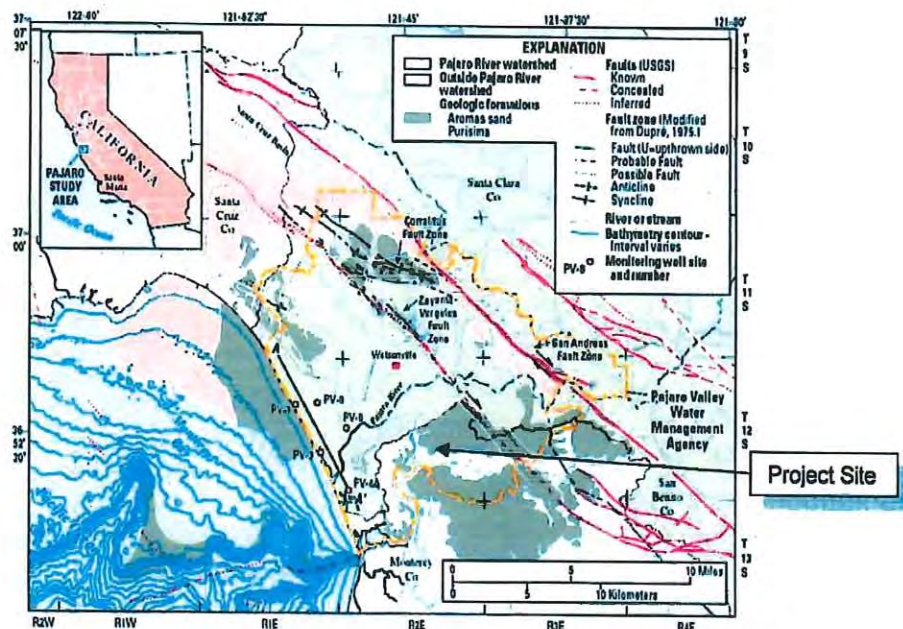
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# Project Specific Water Balance Study

## Rancho Los Robles

### Introduction

This Project Specific Water Balance Study has been prepared for the subdivision and development of 101 single-family lots and a commercial parcel on a 33.7 acre site in Las Lomas<sup>1</sup>, North Monterey County, known as the Rancho Los Robles Project (Project). As



part the Monterey County Planning and Building Inspection Department's (MCPBID) assessment of the proposed development, Todd Engineers prepared a draft technical memorandum of the hydrologic assessment (Technical Memorandum), which is dated October 4, 2002. The Technical Memorandum identifies groundwater as an issue of known controversy. The north Monterey County hydrogeologic area is currently in the state of overdraft, and reductions in groundwater pumping are necessary to restore balance. The Technical Memorandum concluded that the conversion of agriculture to residential and commercial land uses, as proposed by this development, would reduce the water demands, which will decrease the net overdraft on the North Highlands aquifer.

<sup>1</sup> Source for Figure 1 - USGS Fact Sheet 044-03

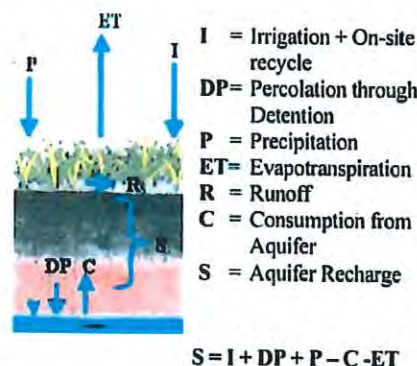


## Scope of Study

This study investigates the water balance taking into account the results of recent field infiltration investigations (Appendix 1), including a detailed land use analysis, and proposes civil engineering design requirements for effective water resource management. Measures to mitigate the negative impact on the aquifer have been studied and these are outlined and their effectiveness examined herein. The conclusions and recommendations of this report are primarily based on information presented in the Technical Memorandum, which is believed to be reliable.

## Methodology

At this stage of the project development process, a simplified approach to the water balance has been adopted to ascertain the characteristics of the site and the potential to carry out sustainable design practices. Planning, negotiations and funding arrangements for the long term management of water resources in the area are currently taking place. Notwithstanding this, it is understood that the site will be supplied with water by the California Water Service Company from local wells within the North Highland aquifer. Under these circumstances, the proposed approach is considered appropriate because the soil strata underlying the project site is directly connected to same aquifer from which supply is withdrawn.



• Figure 2: Simplified Water Balance Approach

Using site specific parameters, the volume of water available for aquifer recharge has been determined using the relationship between rainfall, water usage on site, runoff and percolation as outlined herein. Rainfall is the principal means for replenishment of moisture in the soil water system and recharge to ground water. Moisture movement in the unsaturated zone is controlled by capillary pressure and hydraulic conductivity. The amount of moisture that will eventually reach the water table is defined as natural ground water recharge. The amount of this recharge depends upon the rate and duration of rainfall, atmospheric conditions which determine evapotranspiration, runoff rather than penetration, the subsequent conditions at the upper boundary, the antecedent soil moisture conditions, the water table depth and the soil type.

As shown on Figure 2, an analysis was conducted of vertical inflow and outflow in the groundwater budget equation to develop alternatives to enhance groundwater recharge to the aquifer. The analysis consisted of modeling the rainfall-runoff-groundwater flow processes and evaluating subsurface flows based on site specific hydrogeologic and soil data. Based on this analysis, two post construction alternatives were developed and these are detailed below.

The first alternative estimates the amount of water available to recharge the North Highlands Aquifer based on the development of 101 residential dwellings and a commercial building with the sewers connected to the Watsonville Recycled Water Treatment Facility, which is scheduled to be on-line in 2007. The second alternative investigates the use of on-site wastewater plant, which will tertiary treat the wastewater,

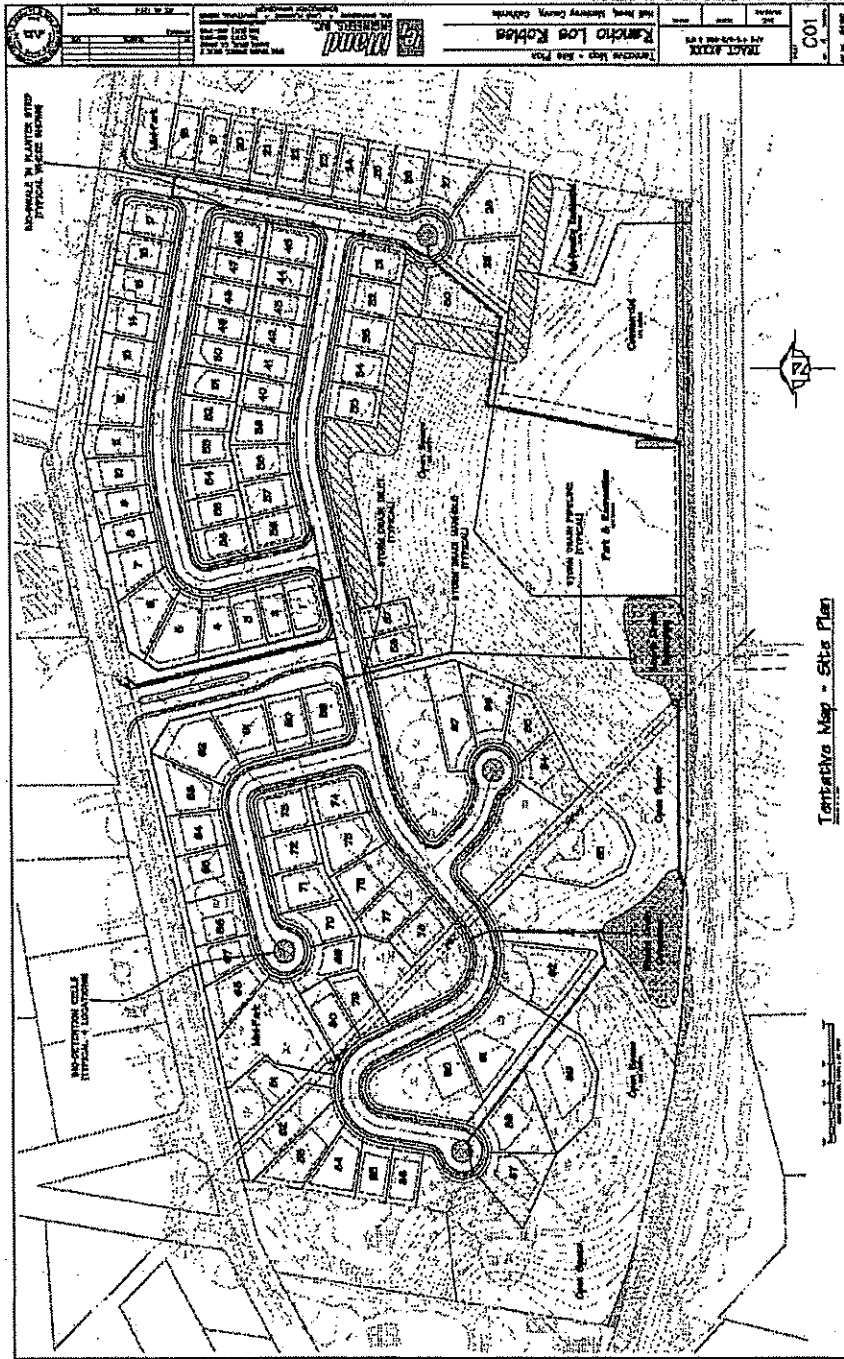


and infiltration galleries, which will direct the treated water to the aquifer, in order for there to be a zero net drawdown on the aquifer. Both alternatives include the use of storm water diversion structures including gutters, drains, swales, and underground pipeline for the collection and diversion of stormwater runoff to detention ponds located at low points along Hall Road, which is then released to a recharge system located beneath the Project's community park.

## **Hydrology**

The hydrological characteristics of the site have been covered at length by the Technical Memorandum. In addition to the Technical Memorandum, a supplementary report entitled Soil Profile and Percolation dated July 26, 2005, has been prepared by Haro Kasunich and Associates to determine the most suitable infiltration system for the site. This report is presented as Appendix 1 of this report.

The soil profile and percolation study for the project site finds that the typical subsurface soil profile can absorb water. The study concludes with a recommendation that runoff retention and aquifer recharge facilities be located in the lower flat area of the property along Hall Road where infiltration rates as high as 16 inches per hour were recorded. In this lower flat area, the groundwater level was found to be relatively stable and was generally encountered at a depth of 12 feet below ground surface. These subsurface characteristics imply that there is significant capacity on site to recharge the underlying aquifer with detained surface runoff.



• Figure 3: Site Plan

It is important to also note that it is necessary to drain all water to the low lying land adjacent to Hall Road because increasing the ground water regimen in the upper terrace will likely increase pore water pressure in localized areas of the south facing slope impacting the long term stability of the hillside.

### **Scenario 1 - Water Balance with all residences connected to the reclamation plant**

This scenario is based on all surface water being collected by a system of channels and pipes to a detention basin on the southern boundary of the property at the low point adjacent to Hall Road with annual average surface runoff volumes being limited to pre-development levels and peak flows limited to 10% probability (10 year return period) levels under predevelopment land use conditions. Under this scenario all residential and commercial units will be connected to the Pajaro County Sanitation District system (PCSDS) with the necessary modifications to the Los Lomas pump station that discharges to the to the Watsonville Recycled Water Treatment Facility.

#### **Onsite precipitation**

Under this scenario, the development will result in 2.7 AF/yr of groundwater recharge as derived in Table 1 – Part A. This estimate is based on the assumption made in the Technical Memorandum that 50% of the annual precipitation that is not taken up by the atmosphere through evapotranspiration will infiltrate into the soil from the areas of the site that have permeable surfaces. The remainder will run off the site through the project channels which drains to a swale located on the southeastern portion of the property and then flows to an existing culvert which drains under Hall Road to Los Cameros Creek before the water is discharged into Elkhorn Slough.

**Table 1**

**Estimated Water Balance**

**Part A. Annual Precipitation on Open Spaces**

Source	in/yr	feet/yr	No. Acres	No. Acres ft/yr	% infiltration	Infiltration to Aquifer (AF/yr)
On site Precipitation	19.5	1.63	21.59	35.19		
Evap/Transpiration (est)	16.6	1.36	21.59	29.79		
Net Infiltration				5.40	50%	2.70

**Part B. Projected Onsite Water Use**

Source	Gallons per day per capita	Capital per household	No. DU	Flow (gal/day)	Gals/yr	AF/yr	% infiltration	Infiltration to Aquifer (AF/yr)
Residential Water Use	74	2.93	101	21,698.82	7,993,069	24.53	25%	6.13

Source	Total Residential Acres	% Irrigated Area	Total Irrigated Area Ac	Demand Gals/day/Ac	Gals/yr	AF/yr	% infiltration	Infiltration to Aquifer (AF/yr)
Residential Irrigation	11.69	6%	0.58	2,327	492,337.32	1.51	70%	1.06

Source	No. Acres	Demand Gals/day/Ac	AF/yr	% infiltration	Infiltration to Aquifer (AF/yr)
Community Park	1.89	3,450	7.30	70%	5.11

Source	ft <sup>2</sup>	AF/yr	% infiltration	Infiltration to Aquifer (AF/yr)	
Commercial High Use	5,700	0.0002	1.14	25%	0.29
Commercial Low Use	11,300	0.0007	0.791	25%	0.20

**Part C. Onsite Residential Runoff**

Impermeable Surfaces	ft <sup>2</sup>	Acres	in/yr	Precipitation feet/yr	ft/yr	% evap	Runoff AF/yr	% infiltration	Infiltration to Aquifer
Residential Buildings	181,240	4.16	19.5	1.625	6.76	10%	6.09		
Patios and Sidewalks	41,450	0.95	19.5	1.625	1.55	10%	1.39		
Paved Roads	124,350	2.85	19.5	1.625	4.64	20%	3.71		
Total Runoff							11.19		
Total Infiltration								65%	9.51

**Part D OffSite to on Site Residential Runoff**

Impermeable Surfaces	ft <sup>2</sup> /du	No. du	ft <sup>2</sup>	Acres	in/yr	Precipitation feet/yr	ft/yr	% evap	Runoff AF/yr	% infiltration	Infiltration to Aquifer
Residential Buildings	5,000	25	125,000	2.87	19.5	1.625	4.66	10%	4.20		
Patios and Sidewalks	2,000	25	50,000	1.15	19.5	1.625	1.87	10%	1.68		
Paved Roads			15,000	0.34	19.5	1.625	0.56	20%	0.45		
Total Runoff									6.32		
Total Infiltration										80%	5.06

**Part E. Total Water Usage Prior to the Operation of the Watsonville Treatment Plant**

	AF/yr	Infiltration to Aquifer (AF/yr)	Net Draft on Aquifer (AF/yr)
Total Water Usage	34.48	30.05	
Net draft on Aquifer			-4.42

## **Onsite Water Use**

Water use by the households on site has been estimated using California Water Service Company's recent study on the average per capita demand for inside uses in a relatively recent subdivision development in the City of Salinas which determined a demand of 74 gallons per capita per day. This study is considered applicable to Rancho Los Robles because its density is equivalent to that in the Salinas study area and has been used as a foundation for calculating water demand in other subdivisions approved for development within similarly dense unincorporated areas of Monterey County (e.g., Rancho San Juan). The figure for average persons per household in a single family dwelling of 2.93 was obtained from a January 1, 2005 CA Department of Finance, Demographic Research Unit's City/County Population and Housing Estimates for the unincorporated areas of the Monterey County. These assumptions lead to a water demand by the 101 proposed residential dwellings of 24.53 AF/yr. If the wastewater from the residential dwellings is collected for treatment and subsequent recycling at the Watsonville Recycled Water Treatment Facility and the recycled water is applied to agricultural fields in the North County area, the Technical Memorandum estimates a 25% return or an estimated 6.13 AF/yr recharge to the aquifer.

### **Residential Irrigation**

The subdivision plan provides for 11.59 acres of residential development within the project site, with 5% of this being irrigated at a rate of 2,327 gals/day, in accordance with the Technical Memorandum. This leads to an estimated demand on the North Highlands aquifer of 1.51 AF/yr. An infiltration rate of 70% was assumed based on the site soil type and permeability, which yields an estimated 1.06 AF/yr return to the aquifer.

### **Community Park**

The subdivision plan provides for a 1.89 acre community park at the southerly portion of the site, near Hall Road, being irrigated at a rate of 3,450 gals/day, in accordance with the Technical Memorandum. This leads to an estimated demand on the North Highlands aquifer of 7.30 AF/yr. An infiltration rate of 70% was assumed based on the site soil type and permeability, which yields an estimated 5.11 AF/yr return to the aquifer.

### **Commercial Uses**

Located at the southeasterly corner of the project site is an area set aside for commercial use. The Technical Memorandum assumes a 18,000-square foot commercial building would be constructed as part of this project, and the water use would be split between high and low water use tenants. The Project actually proposes a commercial building which would cover about 12,000 to 17,000 square feet. The calculations for water demand for the commercial building were revised to reflect the smaller proposed commercial building. Using the same proportion of high and low water use as assumed in the Technical Memorandum and assuming a development of a 17,000-square foot commercial building, the estimated water demand for the commercial building is 1.93 AF/yr. Twenty five percent (25%) of the wastewater generated from the commercial building is assumed to return to the aquifer after the wastewater is treated and recycled at the Watsonville Recycled Water Treatment Facility, which yields an estimated 0.49 AF/yr. return to the aquifer.

### **Onsite Residential Runoff**

As part of this assessment, the footprints of the residential and commercial buildings were measured off the project plan. Based on this measurement, the project will result in

approximately 347,040 sq ft of impermeable surfaces such as buildings, sidewalks and roadways. The Technical Memorandum assumes an annual precipitation of 19.5 in/yr, which results in gross runoff of 12.95 AF/yr. However, this is reduced through evaporation to 11.19 AF/yr. net runoff. By utilizing drainage structures and a series of underground pipes to collect and discharge runoff from the residential portion of the site, runoff can be conveyed first to detention ponds located at low points along Hall Road, then released to a recharge system located beneath the community park. Under this scenario, 85% infiltration could be achieved, resulting in 9.51 AF/yr being returned to the aquifer.

#### **Offsite to Onsite Residential Runoff**

The watershed of the project area is such that 6.32 AF/yr of runoff is directed through the site from offsite properties to the north of Sill Road. The subdivision plan provides for collection of this runoff in the proposed storm drain system as outlined in the paragraph above. Under this scenario, 80% infiltration of the off-site runoff could be achieved, resulting in 5.06 AF/yr being returned to the aquifer.

### **Scenario 2 – Measures achieves a zero aquifer draw down**

This scenario is identical to Scenario 1 with respect to the management of stormwater runoff. However, for waste water disposal, instead of connecting all properties to the Pajaro County Sanitation District system (PCSDS), waste water would be treated onsite through the use of an on site treatment plant with solids and sludge being pumped to the PCSDS for full treatment at the Watsonville Recycled Water Treatment Facility. In this way, three significant benefits can accrue:

- Less material will have to be pumped away to Watsonville Recycled Water Treatment facility for full treatment;
- The pollution load will be afforded the most effective treatment possible without risk of contamination to the local aquifer; and
- Water will be available onsite for return to the North Highlands aquifer such that the project will not contribute to a drawdown of the aquifer in any way.

Under this scenario, greater than 50% of the water used on the site can be returned to the aquifer, providing, at a minimum, an additional 2.1 AF/yr for mitigation of drawdown from other uses while programs for the long term sustainability for the aquifer are being implemented.

#### **Management Measures**

In both scenarios, it is proposed that the final design of the run off management scheme incorporate measures to (1) assure reliability of the recharge facilities; (2) control discharge that mimic natural flow regimes which permit the receiving environment to remain sustainable; and (3) protect the long term stability of the hillside. These objectives will be achieved by conducting additional hydrologic/geotechnical investigation of the Project site and by fine-tuning the engineering alternatives best suited for recharging the aquifer based on further characterization of the site.

Both scenarios propose infiltration basin designs to include fore bays for sedimentation control as well as flow control structures that permit data logging and mechanisms to limit flow as required by the regulating agencies. Indigenous vegetation is proposed as part of the design to prevent erosion, maintain water quality and provide habitat to retain the quality of the environment in and around the facilities. A periodic maintenance schedule is also proposed to assist in the long term upkeep of the runoff management system. The responsibility for safety and maintenance will have to be vested in a legally competent

authority such as a Community Services District. Initial discussions with the Pajaro Sunny Mesa have proved to be encouraging..

**Table 2**

**Estimated Water Balance**

**Part A. Annual Precipitation on Open Spaces**

Source	In/yr	feet/yr	No. Acres	No. Acres ft/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
On site Precipitation	19.5	1.83	21.59	35.19		
Evap/Transpiration (est)	16.8	1.38	21.59	29.79		
Net Infiltration				5.40	50%	2.70

**Part B. Projected Onsite Water Use**

Source	Gallons per day per capita	Capital per household	No. DU	Flow (gal/day)	Gals/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Water Use	74	2.93	101	21,868.82	7,983,069	24.53	50%	12.26

Source	Total Residential Acres	% Irrigated Area	Total Irrigated Area Ac	Demand Gals/day/Ac	Gals/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Irrigation	11.59	5%	0.58	2,327	482,337.32	1.51	70%	1.06

Source	No. Acres	Demand Gals/day/Ac	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Community Park	1.89	3,450	7.30	70%	5.11

Source	n <sup>2</sup>	AF/yr/n <sup>2</sup>	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Commercial High Use	5,700	0.0002	1.14	25%	0.29
Commercial Low Use	11,300	0.00007	0.791	25%	0.20

**Part C. Onsite Residential Runoff**

Impermeable Surfaces	n <sup>2</sup>	Acres	In/yr	Precipitation feet/yr	AF/yr	% evap	Runoff AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Buildings	181,240	4.18	19.5	1.625	8.76	10%	8.09		
Pavies and Sidewalks	41,450	0.95	19.5	1.625	1.55	10%	1.39		
Paved Roads	124,350	2.85	19.5	1.625	4.64	20%	3.71		
Total Runoff							11.19		
Total Infiltration								85%	9.61

**Part D. Offsite to on Site Residential Runoff**

Impermeable Surfaces	n <sup>2</sup> /du	No. du	n <sup>2</sup>	Acres	In/yr	Precipitation feet/yr	AF/yr	% evap	Runoff AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Buildings	5,000	25	125,000	2.87	19.5	1.625	4.66	10%	4.20		
Pavies and Sidewalks	2,000	25	50,000	1.15	19.5	1.625	1.67	10%	1.68		
Paved Roads			15,000	0.34	19.5	1.625	0.56	20%	0.45		
Total Runoff									6.32		
Total Infiltration										60%	5.06

**Part E. Total Water Usage Prior to the Operation of the Watsonville Treatment Plant**

	AF/yr	Infiltration to Aquifer (AF/yr)	Net Draft on Aquifer (AF/yr)
Total Water Usage	34.48	38.18	
Net draft on Aquifer			1.71



## Conclusion

A summary of the net drawdown of the North Highlands aquifer as a result of the possible development options is provided in Table 3. The study shows that the project would increase net available recharge to the aquifer by 15.85 AF/yr over existing conditions with the implementation of the first alternative and could result in positive water balance with the implementation of the second alternative if water reuse and infiltration facilities are provided on site.

The establishment of a long term water supply to the North Monterey County area is in a state of evolution and it is not clear when full resolution of the issues at hand will be made. This investigation of the local hydrographic characteristics, water use and water reuse alternatives shows that it is possible for the project consisting of 101 residential dwellings and a commercial unit on the project site to be self sustaining with respect to water and not generate a demand for which long term sustainable demand for water cannot be assured.

Table 3: Summary of Net Aquifer Recharge

Scenario	Withdrawals AF/yr	Infiltration AF/yr	Net Recharge AF/yr
Historic Water Consumption	87.23 <sup>2</sup>	67.36 <sup>3</sup>	-20.27
Subdivision as proposed with onsite storm runoff management and off site water recycle and reuse	34.48	30.05	-4.42
Subdivision as proposed with onsite storm runoff management and onsite water treatment and reuse	34.48	36.18	+1.71

<sup>2</sup> Based on annual average water consumption for the property for the years 1979 to 2004. The historic water consumption data were obtained from past tenants of the property and from water meter reading data provided by the Pajaro Valley Water Management District.

<sup>3</sup> The total current on-site infiltration is calculated to be 67.36 acre-ft/year based on the following assumptions:  
 Infiltration from annual precipitation = 3.99 AF/yr (Source: Technical Memorandum);  
 Infiltration from residential water use = 1.98 AF/yr (Source: Technical Memorandum);  
 Infiltration from residential irrigation landscape use = 0.10 AF/yr (Source: Technical Memorandum);  
 Infiltration from agricultural irrigation (70% infiltration based on site soil profile assessment as discussed in this report) = 58.5 AF/yr;  
 Infiltration from onsite residential runoff = 0.43 AF/yr per acre (Source: Technical Memorandum); and  
 Infiltration from offsite to onsite residential runoff = 2.38 AF/yr (Source: Technical Memorandum).

**COPY**

Project No. M8941  
26 July 2005

MR. CHUCK ALLEN  
Landmark Real Estate Company  
563 Auto Center Drive  
Watsonville, California 95076

Subject: Soil Profile and Percolation Tests Recreation Area

Reference: Rancho Los Robles  
Off Sill Road  
Las Lomas Unincorporated Area  
Monterey County, California

Dear Mr. Allen:

This report provides an overview of the in-situ soils encountered in seven (7) bore holes dug within the proposed recreational area of Rancho Los Robles. Given the results of the geotechnical study for the subdivision and potential geologic hazards, we recommend storm water retention be located in the lower flat area of the property. To establish groundwater recharge in the upper terrace will likely increase the groundwater regime and pore water pressure at localized areas along the south facing slope, an issue that can impact the long term stability of the hillside.

On 14 July, HKA with the subtier drilling contractor drilled seven (7) bore holes at four locations of the recreation area. Due to the on-going equestrian operation the test sites were located on the eastern half of the recreational area. This is considered satisfactory as typical subsoil conditions over the flat area are relatively uniform.

At each location one of the bore holes was fitted with perforated pipe to establish open-end piezometers. At three locations the 10 foot deep bore holes were set up for percolation testing. These latter bore holes were fitted with perforated pipe and gravel was placed within the annular space between the pipe and bore hole side wall. These bore holes were pre-wetted 24 hours prior to percolation testing.

During the field drilling operations the spoils were field (visually) classified. Bulk samples were retrieved at select depths. These samples were taken back to the laboratory for testing. Select samples were processed to determine percent passing the number 200 sieve to determine the fines content while others were processed to determine the full grain size distribution. The results of the data are included in the Logs of Test Borings or shown graphically.

Mr. Chuck Allen  
Project No. M8941  
Rancho Los Robles  
26 July 2005  
Page 2

In review of the data the soil profile can be illustrated as follows:

0-5 Feet: Black/grey fine grain sand with clay.

5-7 Feet: Yellow brown-grey brown sandy clay

7-20 Feet: Reddish to orange brown fine to medium grain  
sand with a few fines.

12-20 Feet: Intermittent orange brown sandy clay and orange  
brown medium to coarse sand with some binder.  
Layers vary between borings.

Groundwater was generally encountered at a depth of  $12 \pm$  feet at the lowest site elevation explored. Given, information developed by other investigators at this property it appears the groundwater level is relatively stable at 12 feet (elevation -1.0 feet as defined by the topographic plan prepared by Ifland Engineers).

In summary, the typical subsurface soil profile and results of the percolation tests indicate the subsoils can absorb water. The designers may be required to design a filtration system (i.e. sand bed) to remove solids prior to injection into a tank/absorption field.

Attached are a summary of the field and laboratory test results for your and the designers review. If there are any questions regarding the findings please call us at 831-722-4175.

It was a pleasure proving this service to you and we look forward to continuing to work with you and the designers.

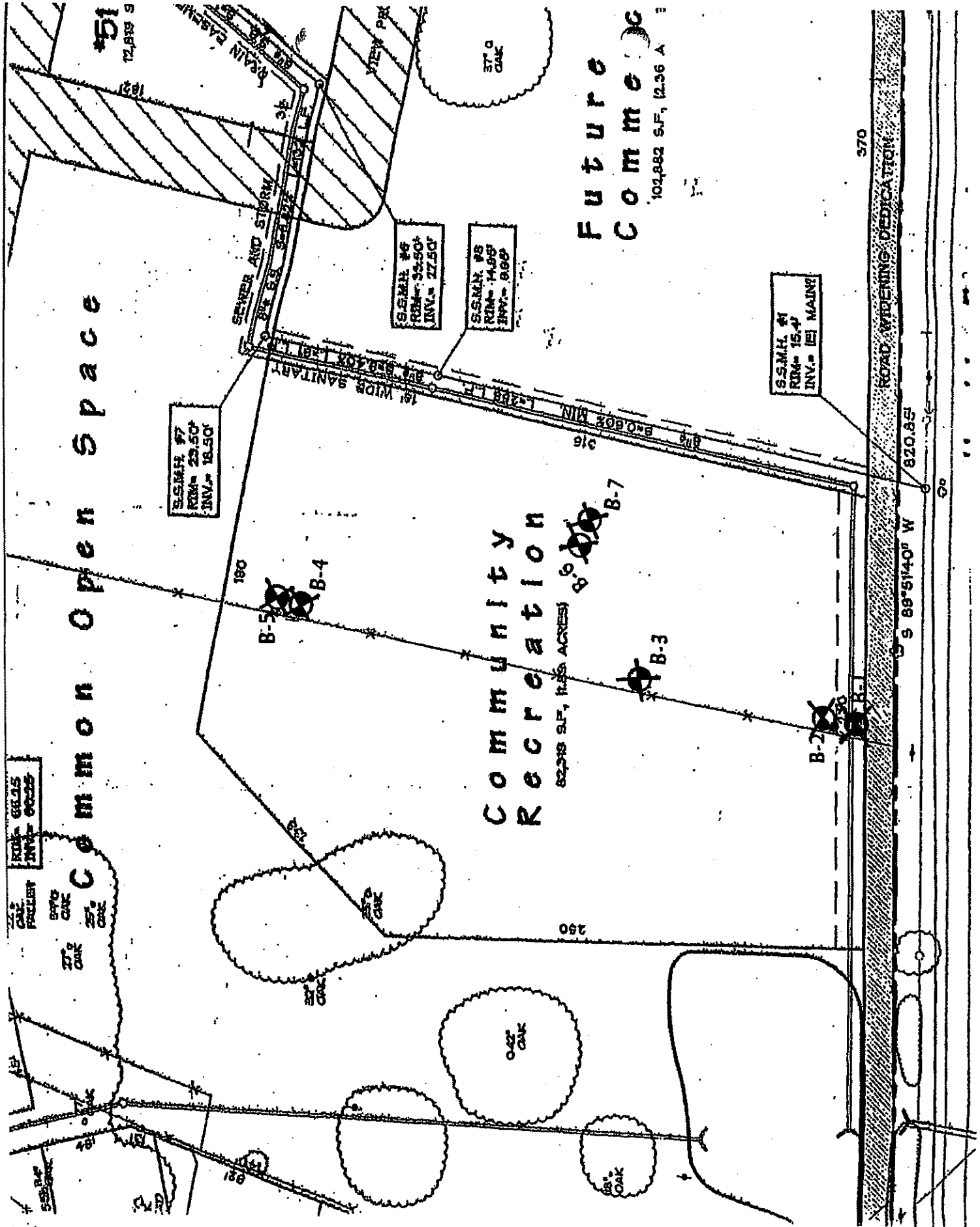
Very truly yours,

**KARO, KASUNICH AND ASSOCIATES INC.**

Joseph A. Karo  
C.E. 28506

JAH/sq  
Attachments

Copies: 4 to Addressee  
1 to Ifland Engineers, Inc.



51  
12,819.9

Future  
Common  
102,882 S.F., 2.36 A

S.S.M.H. #7  
RIM= 23.50'  
INV.= 18.50'

S.S.M.H. #6  
RIM= 33.50'  
INV.= 27.50'

S.S.M.H. #8  
RIM= 14.88'  
INV.= 9.88'

S.S.M.H. #1  
RIM= 15.4'  
INV.= 10.1' MAIN

RIM= 68.15  
INV.= 62.25

27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK

37' OAK  
27' OAK  
25' OAK  
18' OAK



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

BORING NO. B-1

SuperLog CivilTech Software, USA www.civiltech.com File: C:\Superlog\HARALOGS\M8941.log Date: 10/24/2005

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 360 ft - lbs.	Qu - ts.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black grey fine SAND of Clay	SC					
5			Coarse grey Sand						
			Reddish brown Clayey SAND (medium grain)	SC					
10			Water first encountered						
15			Yellow brown Sandy CLAY, stiff, moist	SC					
20			Orange brown SAND with fines, moist	SW					
			Boring terminated at 20 feet						
25									
30									
35									

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 2



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

BORING NO. B-2

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 30 ft - lbs.	Qu - ts.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black gray fine SAND with Clay (10% +)	SC					
5	2-1 (B)		Gray brown SAND with Clay (20% +)					11.1	% Passing No. 200 = 35.0%
10			Boring terminated at 10 feet						
15									
20									
25									
30									
35									

SuperLog ChitTech Software, USA www.chittech.com File: C:\SuperLog\HUKALOGS\M8941.Jog Date: 10/24/2005

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 3



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

BORING NO. B-3

SuperLog CIVITech Software, USA www.civitech.com File: C:\SuperLog\NURVAL\LOGS\M8941.log Date: 10/24/2008

Depth, ft	Sample No. and type Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 360 ft - lbs.	Qu - ts, f Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0		Black/gray fine SAND with Clay	SC					
3-1 (B)		Orange brown Sandy CLAY	SC				21.0	% Passing No. 200 = 49.7
3-1 (B)		Reddish brown Clayey SAND, very moist	SC				19.5	% Passing No. 200 = 13.6
3-1 (B)		Coarse grain					24.8	% Passing No. 200 = 7.3
3-4 (B)		Yellow brown and green Sandy Clay	SC				26.2	% Passing No. 200 = 8.1
20		Boring terminated at 20 feet						
25								
30								
35								

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

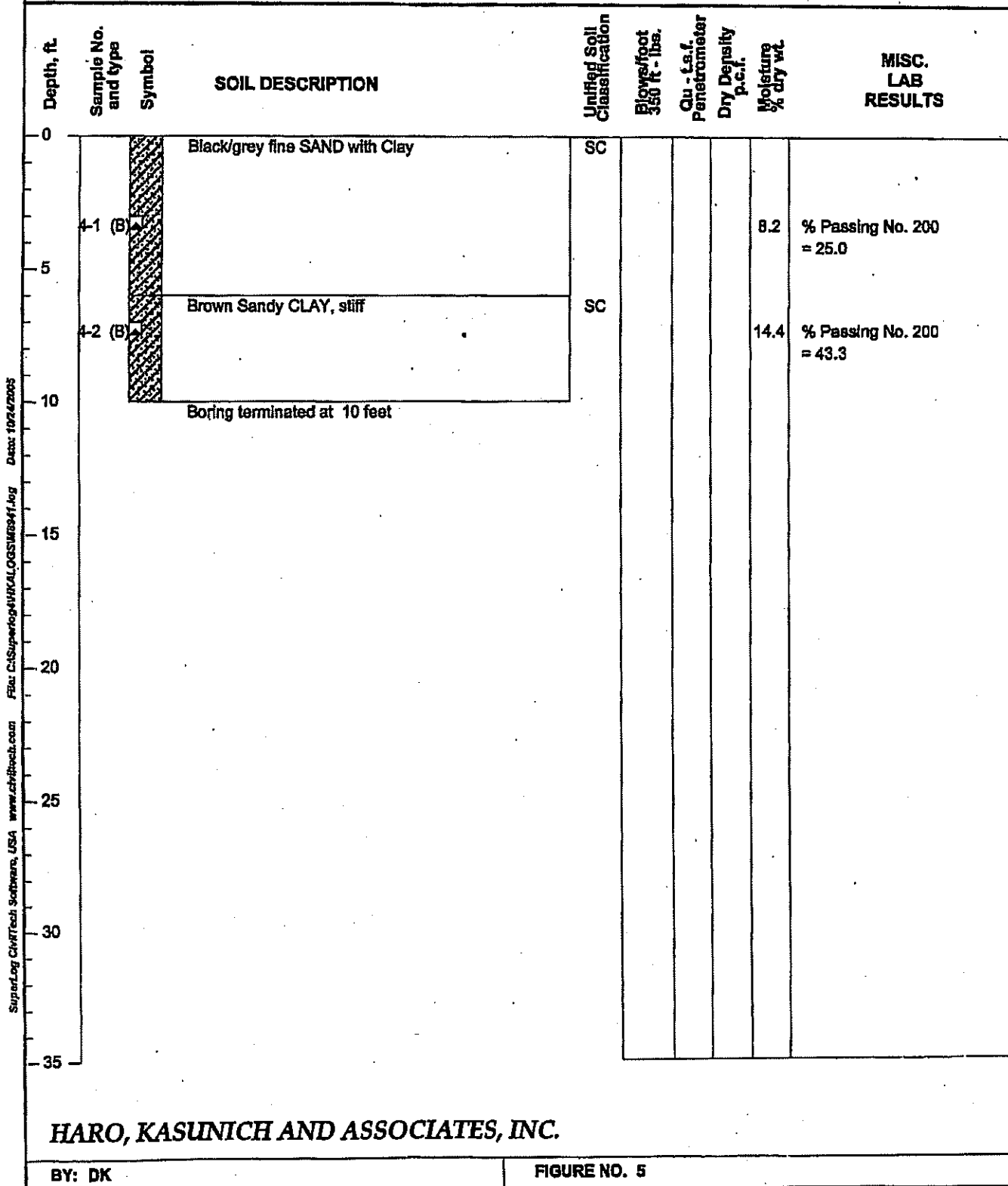
FIGURE NO. 4



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 6" BORING NO. B-4







# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH DATE DRILLED July 14, 2005 BORING DIAMETER 8" BORING NO. B-5

SuperLog CMTech Software, USA www.cmttech.com File: C:\SuperLog\HARAL\OBS\M8941 Log Date: 10/24/2005

Depth, ft.	Sample No. and type Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blow/foot 360 ft - lbs.	Qu - t.e.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0		Black-grey SAND with Clay, loose	SC					
5	5-1 (B)	Grey fine Sand					9.8	% Passing No. 200 = 24.1
		Grey brown Sandy CLAY, stiff	SC					
10	5-2 (B)	Orange brown medium coarse grain SAND	SP				15.8	% Passing No. 200 = 54.2
15	5-3 (B)	Water first encountered					20.3	% Passing No. 200 = 12.9
20	5-4 (B)	Boring terminated at 20 feet					25.8	% Passing No. 200 = 9.3
25								
30								
35								

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 8



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 6"

BORING NO. B-6

Depth, ft	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t.s.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt	MISC. LAB RESULTS
0			Black grey fine SAND with Clay, loose, damp	SC					
5			Reddish brown SAND, moist to wet	SC					
10			Orange brown SAND with some Clay. Boring terminated at 10 feet	SC					
15									
20									
25									
30									
35									

SuperLog ChitTech Software, USA www.chittech.com File: C:\SuperLog\HKA\LOGS\M8941.log Date: 10/24/2005

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 7



# Rancho Los Robles

PROJECT NO. M8941

LOGGED BY JAH

DATE DRILLED July 14, 2005

BORING DIAMETER 8"

BORING NO. B-7

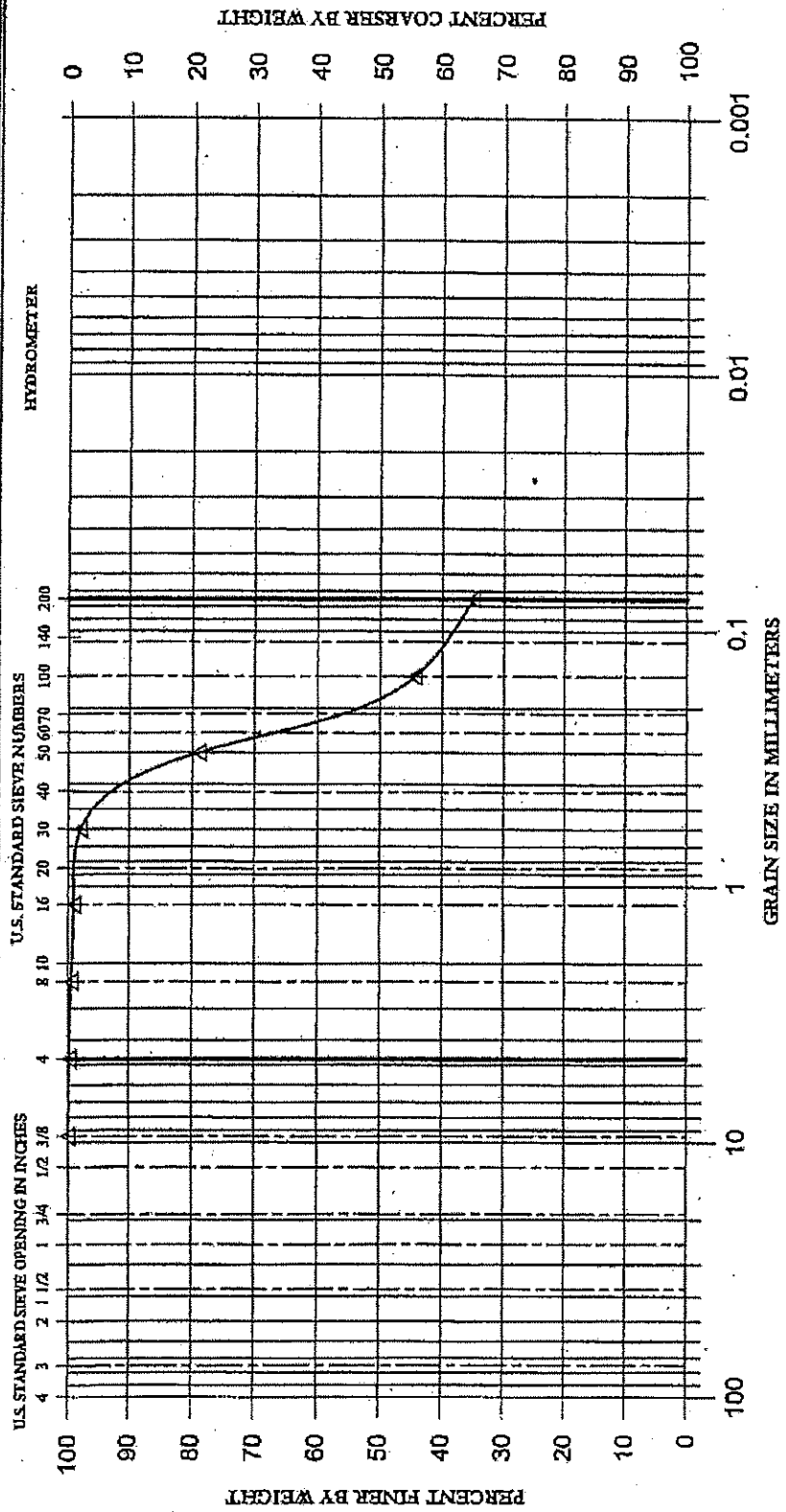
SuperLog ChitTech Software, USA www.chittech.com File: C:\SuperLog\HAR\ALOGS\M8941.log Date: 10/26/2005

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 300 ft - lbs.	Qu - ts.f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
0			Black/gray fine SAND with Clay - loose	SC					
			Gray brown Sandy Clay - stiff, damp to moist	SC					
5	7-1 (B)		Reddish brown SAND, moist to wet	SC				21.0	% Passing No. 200 = 41.9
10	7-2 (B)		Yellow brown Sandy CLAY	SC				32.9	% Passing No. 200 = 42.8
15	7-3 (B)		Orange brown SAND with some Clay	SC				27.1	% Passing No. 200 = 65.8
20			Clay	CL					
20			Boring terminated at 20 feet						
25									
30									
35									

HARO, KASUNICH AND ASSOCIATES, INC.

BY: DK

FIGURE NO. 8



GRAVEL	SAND	SILT AND CLAY
COARSE	MEDIUM	FINE
FINE		

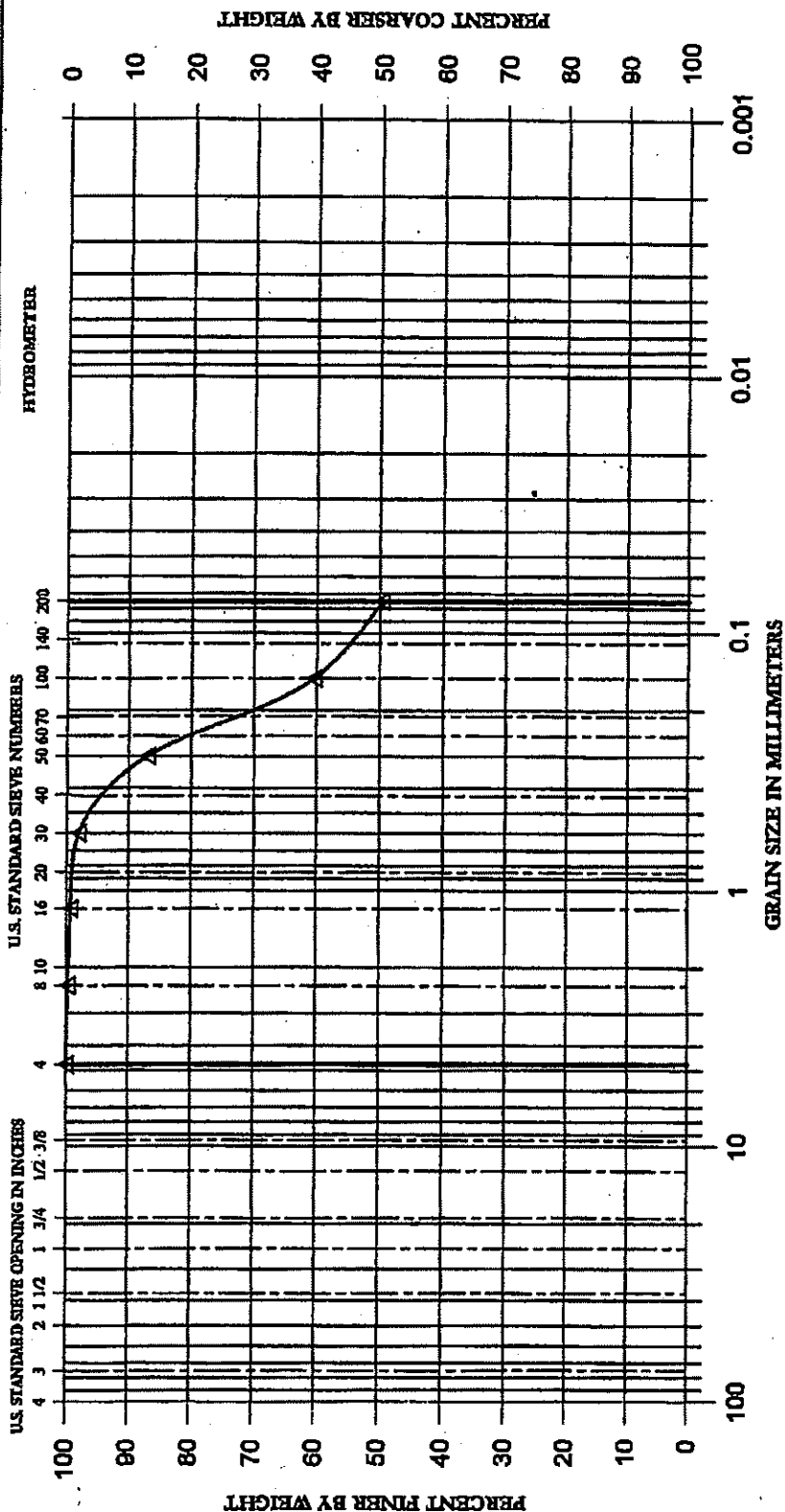
GRAVEL CONTENT: 0.2%

SAND CONTENT: 64.8%

FINES CONTENT: 35.0%

Boring No. 2, Sample 2@ 5'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 9
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GRAVEL CONTENT: 0.0%

SAND CONTENT: 50.3%

FINES CONTENT: 49.7%

Boring No. 3, Sample 3@ 5'

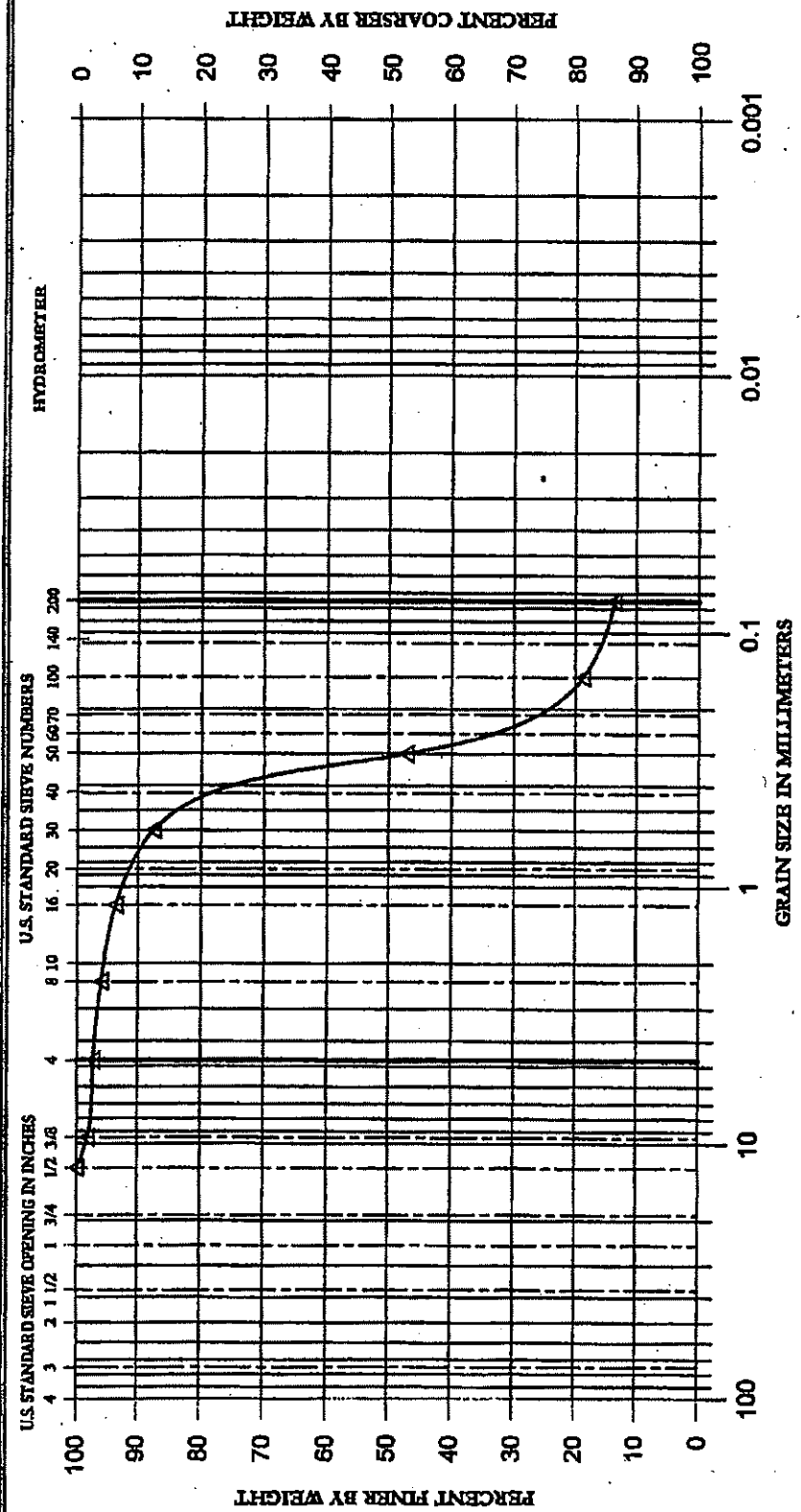
HARO, KASUNICH AND  
ASSOCIATES, INC.

GRAIN SIZE DISTRIBUTION  
RANCHO LOS ROBLES

PROJECT No. M8941  
JULY, 2005

PREPARED BY:  
AG

FIGURE  
No. 10



GRAVEL	COARSE	FINE	COARSE	MEDIUM	FINE	SILT AND CLAY

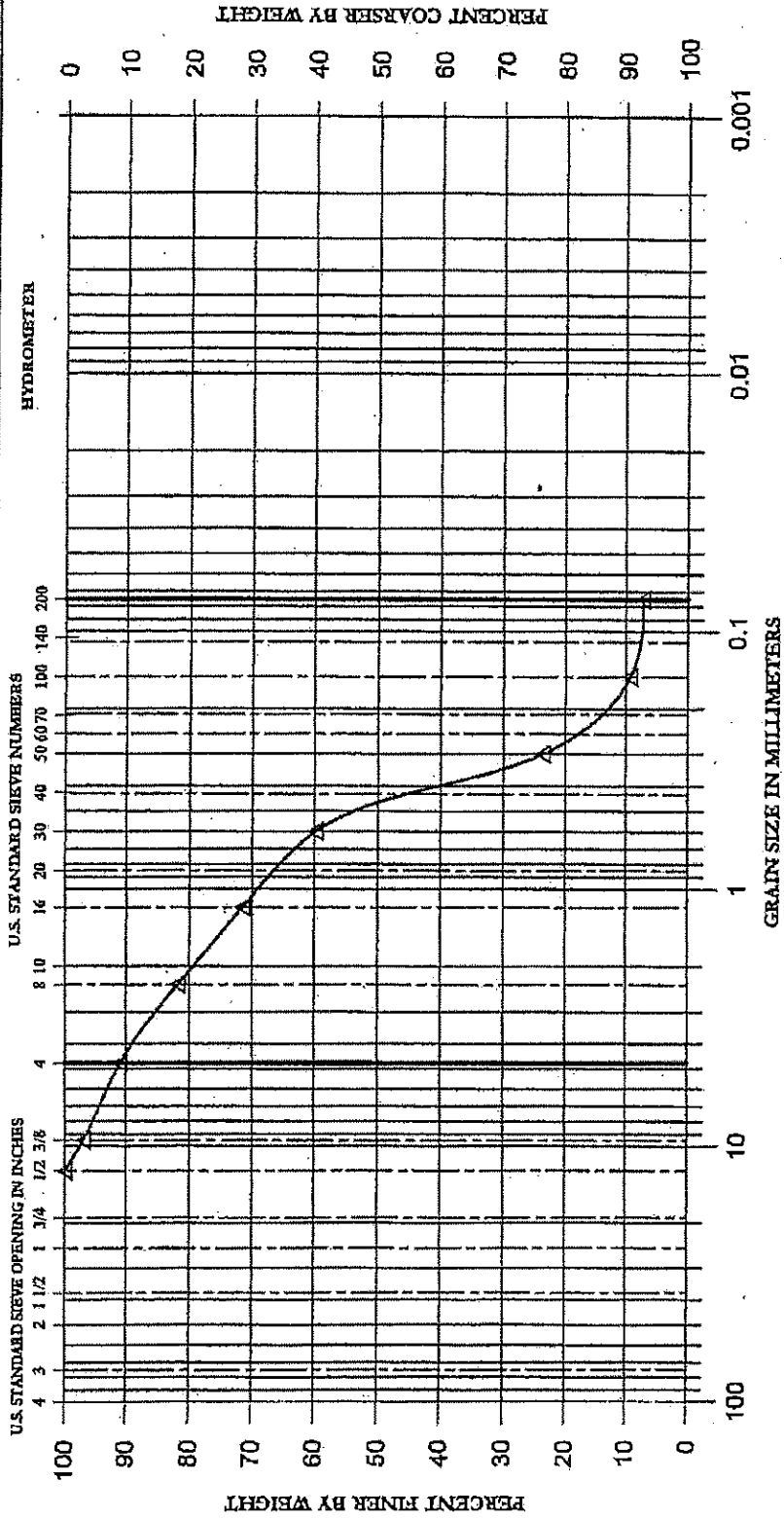
GRAVEL CONTENT: 2.7%

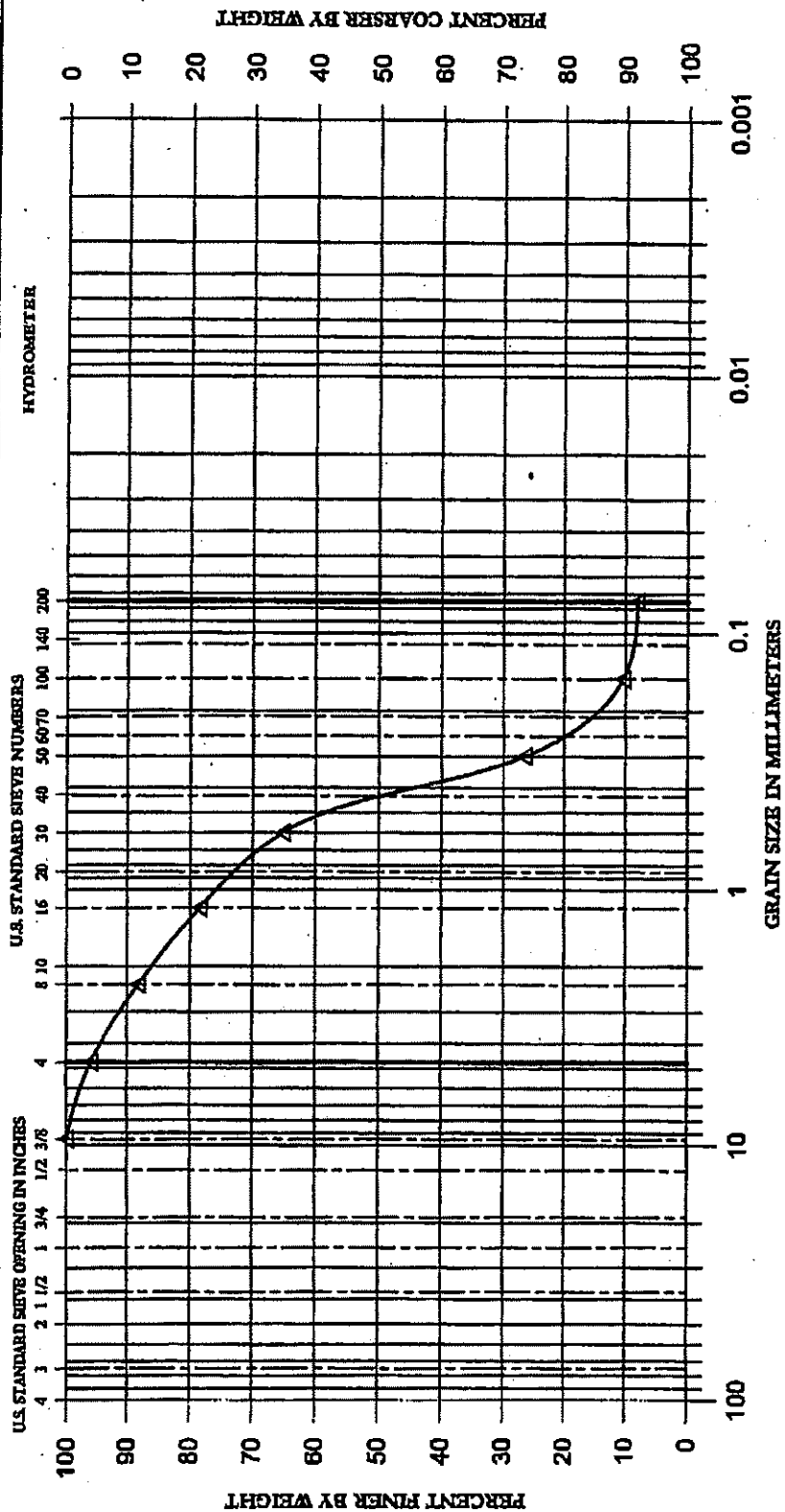
SAND CONTENT: 83.7%

FINES CONTENT: 13.6%

Boring No. 3, Sample 3@10'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT NO. M8941 JULY, 2005	PREPARED BY: AG	FIGURE NO. 11
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COARSE	FINE	COARSE	MEDIUM	FINE	SILT AND CLAY
GRAVEL		SAND			

GRAVEL CONTENT: 4.0%

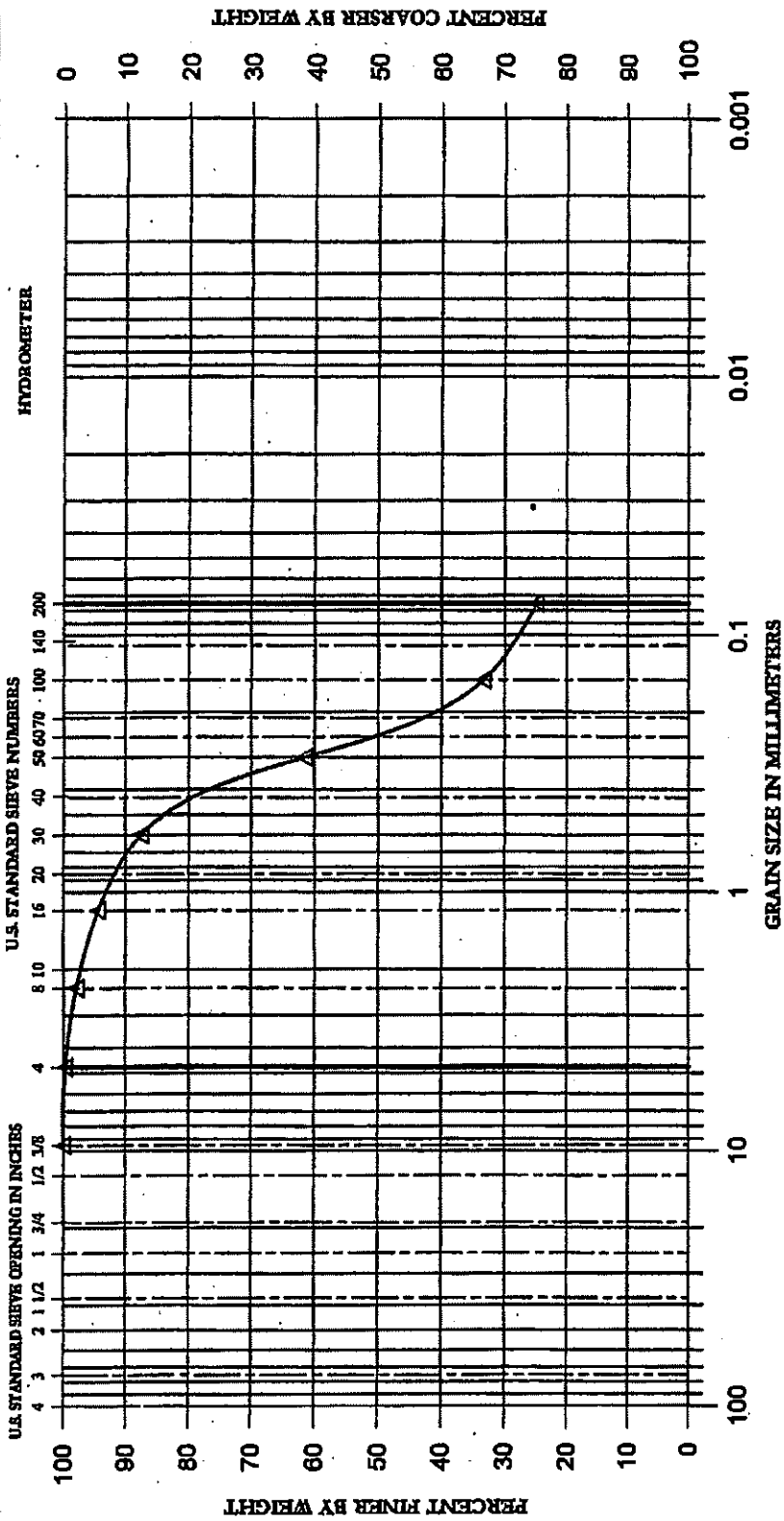
SAND CONTENT: 87.9%

FINES CONTENT: 8.1%

Boring No. 3, Sample 3@ 20'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT NO. M8941 JULY, 2005	PREPARED BY: AG	FIGURE NO. 13
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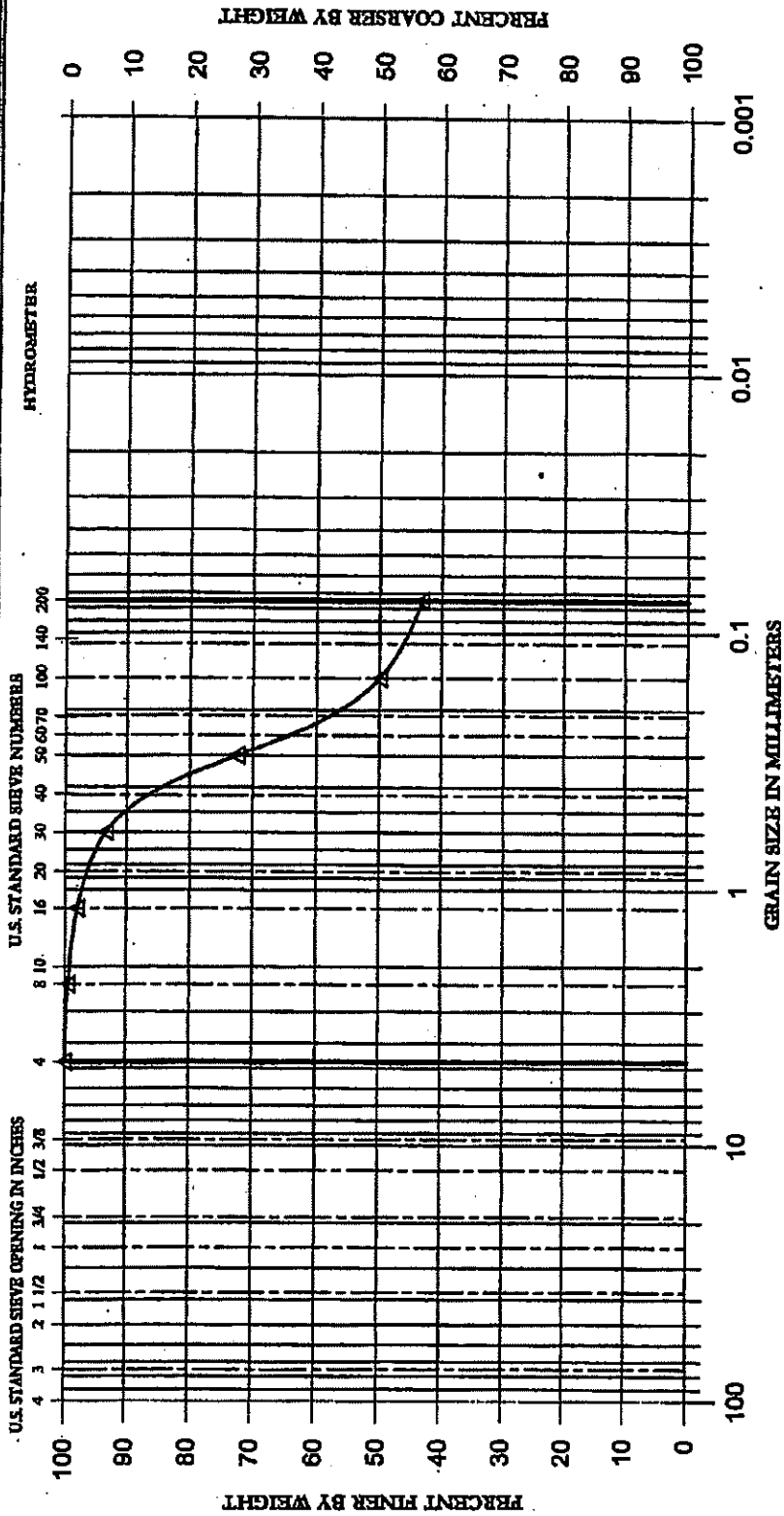
GRAVEL CONTENT: 0.3%

SAND CONTENT: 74.7%

FINES CONTENT: 25.0%

Boring No. 4, Sample 4@3'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 14
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GRAVEL	COARSE	FINE	SAND			SILT AND CLAY
			COARSE	MEDIUM	FINE	

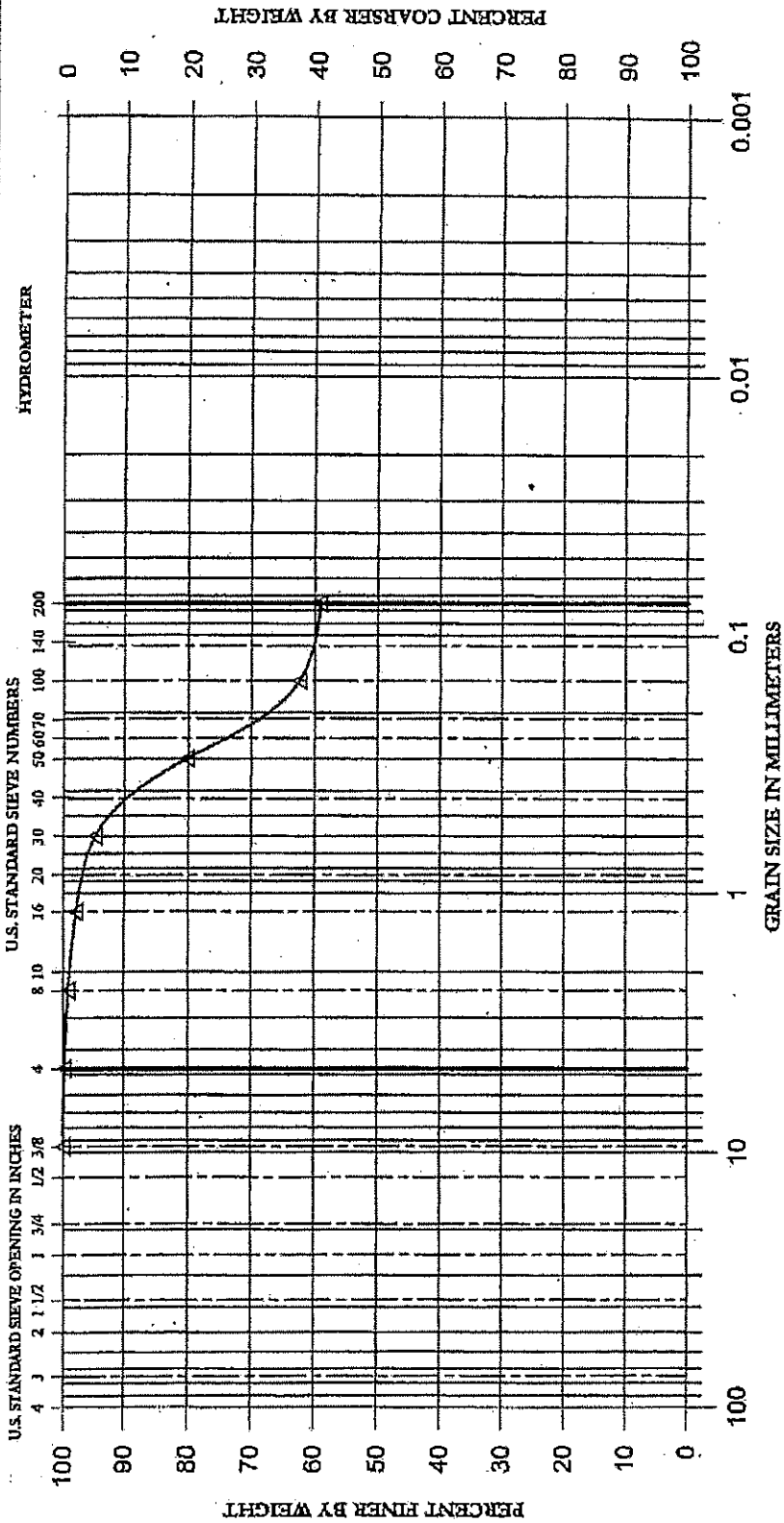
GRAVEL CONTENT: 0.0%

SAND CONTENT: 56.7%

FINES CONTENT: 43.3%

Boring No. 4, Sample 4@ 7'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 15
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GRAVEL		SAND		SILT AND CLAY	
COARSE	FINE	COARSE	FINE		

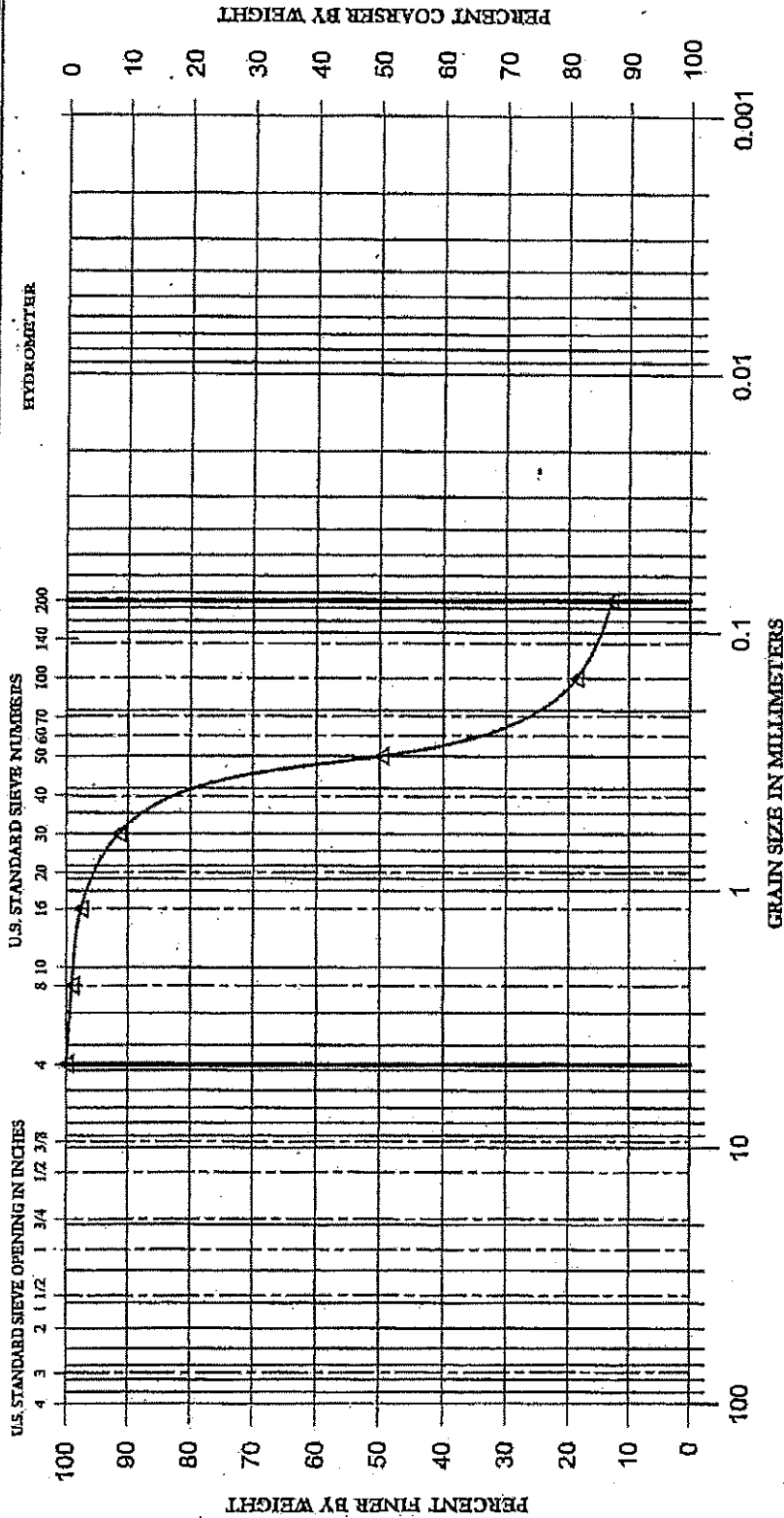
GRAVEL CONTENT: 0.2%

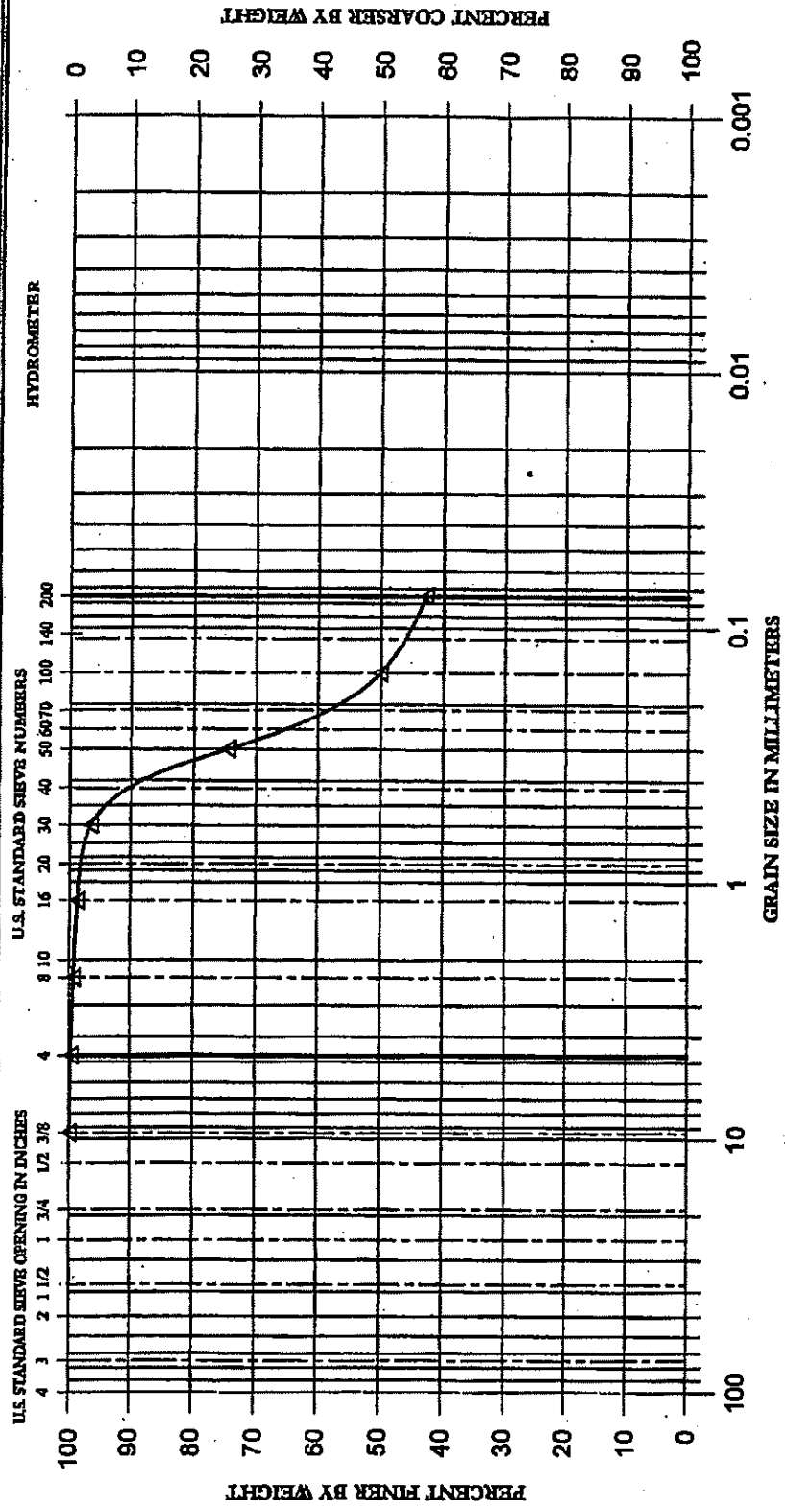
SAND CONTENT: 40.6%

FINES CONTENT: 59.2%

Boring No. 5, Sample 5@10'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION	PROJECT No. M8941	PREPARED BY:	FIGURE
	RANCHO LOS ROBLES	JULY, 2005	AG	No. 16





GRAVEL		SAND		SILT AND CLAY
COARSE	FINE	COARSE	FINE	

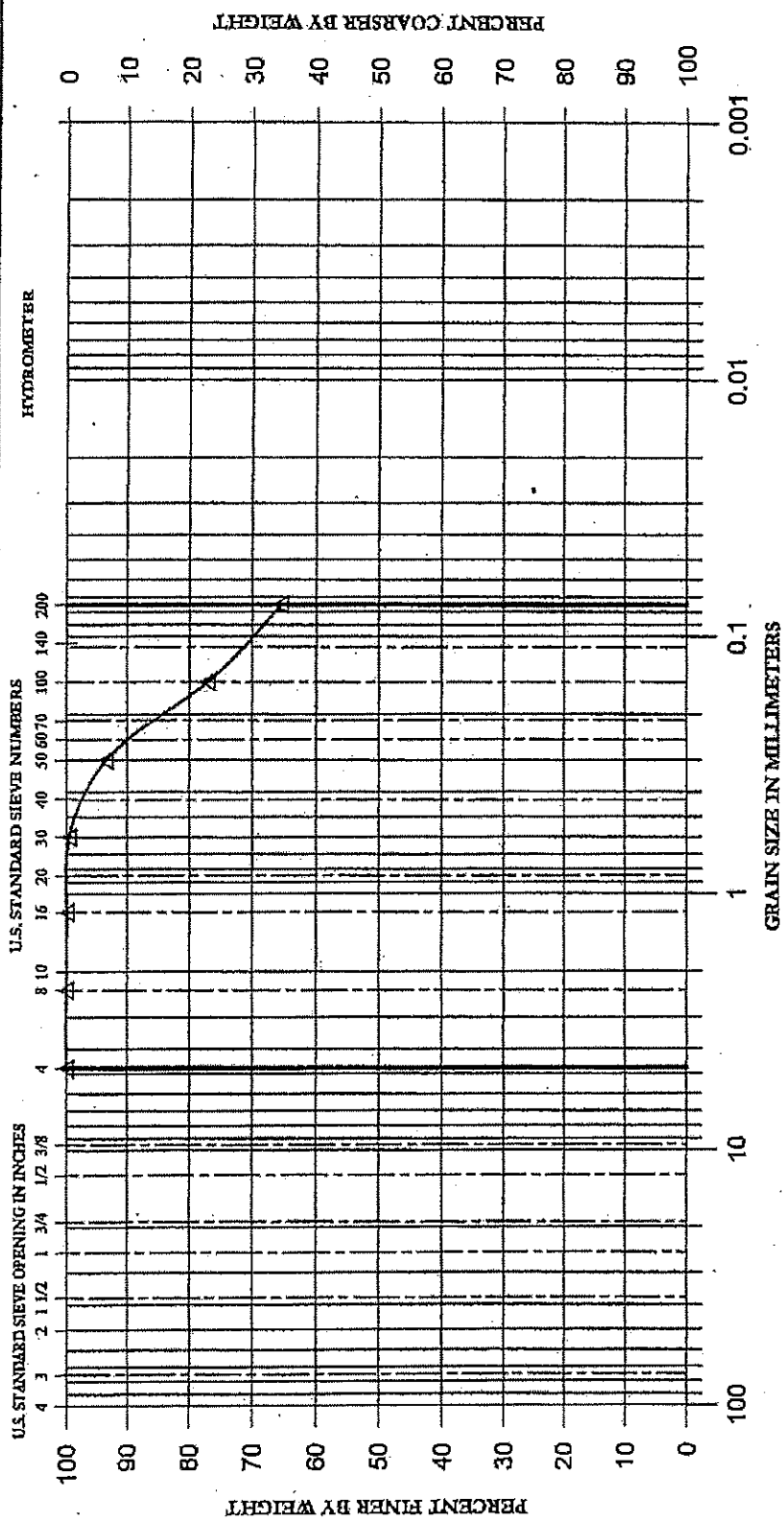
GRAVEL CONTENT: 0.2%

SAND CONTENT: 57.0%

FINES CONTENT: 42.8%

Boring No. 7, Sample 7@15'

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 18
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GRAVEL	SAND			SILT AND CLAY
	COARSE	FINE	COARSE	

GRAVEL CONTENT: 0.0%

SAND CONTENT: 34.4%

FINES CONTENT: 65.6%

Boring No. 2, Sample 7-20

HARO, KASUNICH AND ASSOCIATES, INC.	GRAIN SIZE DISTRIBUTION RANCHO LOS ROBLES	PROJECT No. M8941 JULY, 2005	PREPARED BY: AG	FIGURE No. 19
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PROJECT NAME: Rancho Los Robles  
 PROJECT NUMBER: M8841  
 DATE: 7/21/2005  
 BY: BILL S.

BORING NUMBER: B-2		BORING DEPTH: 10ft		DATE DRILLED: 7/14/2005	
Initial Water Depth: 6ft		DATE PRE-SOAKED: 7/14/2005		DATE TESTED: 7/15/2005	
WATER LEVEL (in)	CHANGE IN WATER LEVEL(in)	TIME (min)	PERCOLATION RATE (in/hr)		
25.4	0.0	0	0.0		
34.0	8.6	30	17.2		
43.0	9.0	60	18.0		
49.9	6.9	90	13.8		
54.3	4.4	120	8.8		
58.8	4.5	150	9.0		
63.5	4.7	180	9.4		
63.6	0.1	210	0.2		
69.4	5.8	240	11.6		

BORING NUMBER: B-4		BORING DEPTH: 10ft		DATE DRILLED: 7/14/2005	
Initial Water Level: 0ft		DATE PRE-SOAKED: 7/14/2005		DATE TESTED: 7/15/2005	
WATER LEVEL (in)		CHANGE IN WATER LEVEL(in)		TIME (min)	
PERCOLATION RATE (in/hr)					
49.8	0.0	0	0.0		
64.3	14.5	30	29.0		
69.1	4.8	60	9.6		
72.0	2.9	90	5.8		
75.0	3.0	120	6.0		
75.3	0.3	150	0.8		
75.8	0.5	180	1.0		
77.9	2.1	210	4.2		
81.0	3.1	240	6.2		

BORING NUMBER: B-6		BORING DEPTH: 10ft		DATE DRILLED: 7/14/2005	
Initial Water Level: 7.9ft		DATE PRE-SOAKED: 7/14/2005		DATE TESTED: 7/15/2005	
WATER LEVEL (in)		CHANGE IN WATER LEVEL(in)		TIME (min)	
PERCOLATION RATE (in/hr)					
26.2	0.0	0	0.0		
52.2	26.0	30	52.0		
64.3	12.1	60	24.2		
81.8	17.3	90	34.8		
87.4	5.8	120	11.6		
88.4	1.0	150	2.0		
89.2	0.8	180	1.6		
89.6	0.4	210	0.8		
90.8	1.2	240	2.4		

FIGURE NO. 20

PERCOLATION RESULTS FOR RANCHO LOS ROBLES

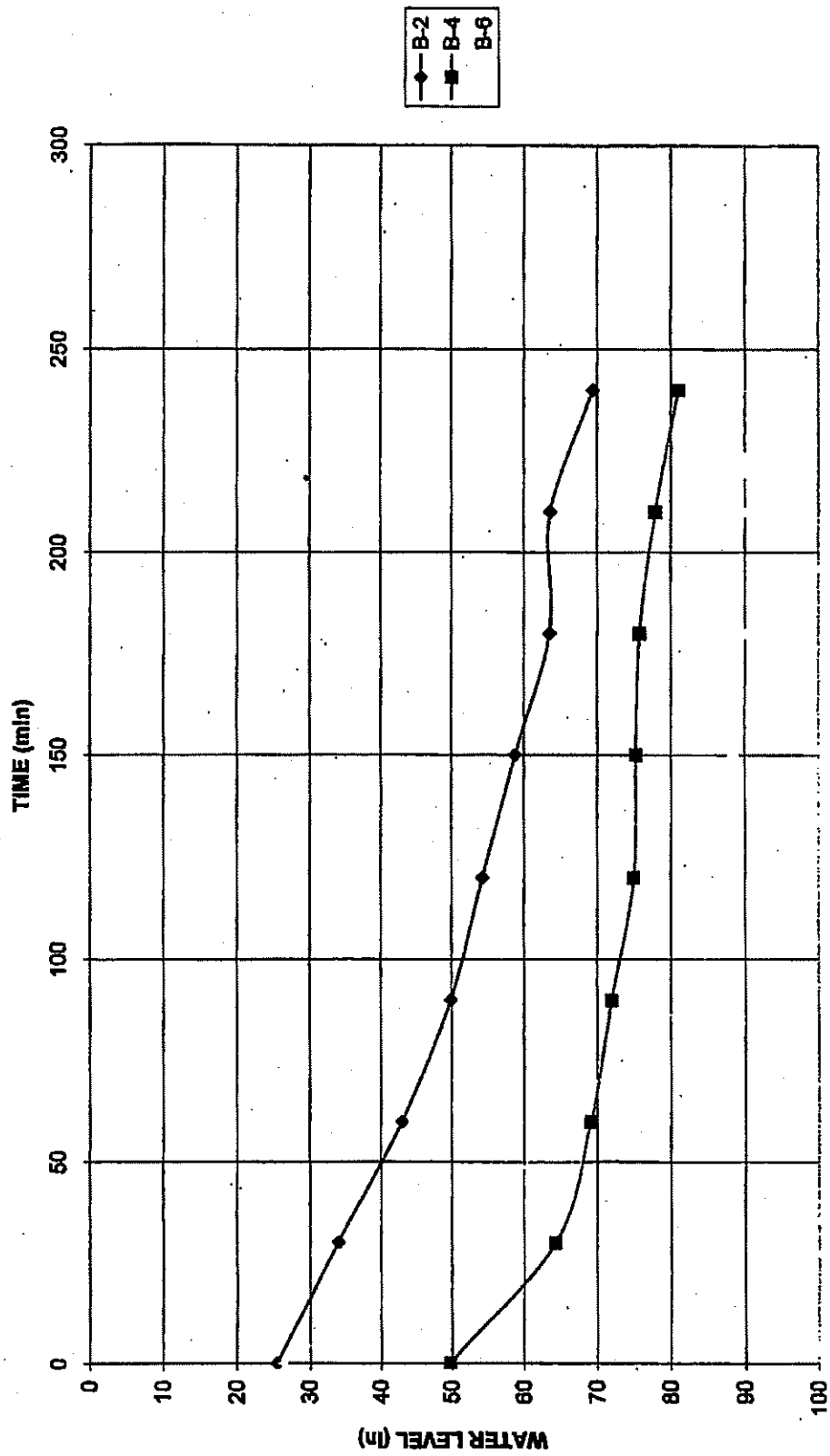


FIGURE NO. 21



# Enclosure 4 of Exhibit B

# TODD ENGINEERS

GROUNDWATER • WATER RESOURCES • HYDROGEOLOGY • ENVIRONMENTAL ENGINEERING

## DRAFT TECHNICAL MEMORANDUM

**Date:** October 11, 2006

**To:** Richard R. James  
Senior Planner  
EMC Planning Group, Inc.

**From:** William E. Motzer, Ph.D., P.G.  
Senior Geochemist

Kate White, P.E.  
Senior Engineer

**Re:** Peer Review Hydrologic Assessment  
Rancho Los Robles (Oaktree Ranch) DEIR  
Monterey County, California

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### Background

In an October 2002 memorandum to EMC Planning Group, Inc. (EMC), Todd Engineers conducted a water balance assessment for the Rancho Los Robles Project. We estimated that existing total water use for the current 33.7 acre site, based on five residences, plus landscaping and agricultural irrigation was 62.59 AF/yr. With project development, the current five rural residences and associated septic tanks would be removed and pasture and strawberry cultivation would be discontinued. Project water usage for 101 residences was estimated by the California Water Service Company (Cal Water) at 17 million gallons per year (gpy) or 52.17 AF/yr (approximately 461 gallons per day per dwelling unit). Outside landscaping demands would be minimal because the project would be left in native oaks and would be planted in housing areas with drought-tolerant plants which require little to no irrigation.

Therefore, water demand would be reduced from the current 62.59 AF/yr to 52.17 AF/yr. Of that amount, 34.58 AF/yr would be returned to the aquifer, leaving a net draft on the aquifer of 28 AF/yr. Although the water demands of the proposed project would be reduced from current demand, losses due to runoff were believed to increase because of onsite building and road cover. We concluded that conversion of agriculture to residential and commercial land uses, as proposed in this project, would be beneficial in terms of reducing water demands. However, the remaining water demand would "harden," or become less amenable to reduction during drought or in the face of chronic overdraft.

For this evaluation, Todd Engineers reviewed additional reports and documents submitted to us by EMC Planning (Attachment A) concerning the water balance at Rancho Los Robles. Reports and documents pertinent to the water balance are summarized below:

#### Observations by California Water Service Company (Cal Water)

On March 14, 2006, Cal Water issued a water supply assessment report for the Rancho Los Robles Project. Cal water is the designated water supplier for the project. It issued the report to determine if the proposed water supply for the Ranch Los Robles development and for the Los Lomas areas would meet the combined water demands during normal, single dry and multiple dry water years for the next 20 years following completion of the proposed development

Water balance calculations by Cal Water are summarized below.

#### Existing Water Use (Pre-Project):

Parameter	Calculations	AF/yr
1. Average amount of water pumped for past 20 years (1985 – 2005):		79.54
2. Pumped water used for irrigation of pasture, landscaping and strawberries:	$  \begin{array}{r}  79.54 \\  \text{indoor use: } -3.92 \\  \text{horses: } -1.00 \\  \hline  74.62  \end{array}  $	74.62
3. Estimate of pumped water infiltrated back to groundwater:	$  \begin{array}{r}  0.37 \times 74.62 = 27.61 \\  \text{septic tank overflow} = \\  \hline  -3.92 \\  \hline  23.69  \end{array}  $	-23.69
4. Net consumption of groundwater:		55.85

Note: based on Todd Engineers estimate.

#### Proposed Project:

Parameter	Calculations	AF/yr
1. Average total water demand at build out:		41.2
2. Average amount of water to be used for agricultural irrigation:	18.2	18.2
3. Community park irrigation infiltration:	$4.7 \times 0.25 = 1.17$	1.17
4. Residential landscaping irrigation infiltration:	$8.64 \times 0.25 = 2.16$	2.16
5. Sum of items 2, 3, and 4:	21.53	-21.53
6. Net consumption of groundwater		19.67
7. Net positive reduction of consumptive groundwater use	$55.85 - 19.67 = 36.18$	36.18

The conclusions reached by Cal Water were that:

- (1) The Rancho Los Robles development project would result in a net groundwater savings of 36.18 AF/yr;
- (2) currently, there was existing surplus well capacity in the Las Lomas area, and;
- (3) adequate water supplies were present to meet projected demands.

The statement on page 13: "Heritage Western Community Ltd Partnership has retained Todd Engineers to plan and design the required facilities." is incorrect. Todd Engineers has not been retained by Heritage Industries for any such project.

**Observations by Law Offices of Horan, Lloyd, Karachale, Dyer, Schwartz, Law and Cook**

In a December 21, 2005 letter, Pamela Silkwood noted that although SB 610 Water Supply Assessment did not apply to the Rancho Los Robles Project, the applicant requested that Monterey County authorize Cal Water to prepare a water supply assessment. As noted above, this assessment was completed by Cal Water in a March 2006 report. In a February 8, 2006 letter, Ms. Silkwood documented the historic water use and proposed project on-site residential water use. The letter included a water balance based on historic consumption data and also presented an estimated water balance based on Todd Engineers' Excel spreadsheet. A summary of water balance calculations were included, which are provided below.

**Summary of Net Aquifer Recharge for the Proposed Project:**

Scenario	Withdrawals AF/yr	Infiltration AF/yr	Net Recharge AF/yr
Historic Water Consumption	87.23	67.36	-20.27(-19.87)
Subdivision as proposed with onsite storm runoff management and site water recycle and reuse	34.48	30.05	- 4.42
Subdivision as proposed with onsite storm runoff management and onsite water treatment and reuse	34.48	36.18	1.71

Note: Values used as reported in Haro, Kasunich and Associates, Inc. (2006). Actual calculation in parenthesis is:  $67.36 - 87.23 = (-19.87)$ .

The water balance calculations are also based on geotechnical data by Haro, Kasunich and Associates, Inc. (2004) and project redesign by Ifland Engineers (2006a and 2006b).

## Conclusions

(1) The Cal Water evaluation indicates a net consumption of groundwater at 19.67 AF/yr.

(2) Redesign of onsite stormwater management and management of onsite water treatment and reuse will improve net recharge to the local aquifer. Silkwood (2006) shows this as a net recharge of 1.71 AF/yr. The Excel spreadsheet used to calculate indicates that this value was correctly calculated based on the assumptions used from project engineering redesign.

(3) Todd Engineers (2002) original water balance, that showed a net draft on the aquifer of 28 AF/yr, was based on information that existed at that time. Additional stormwater retention and information on site will result in greater net recharge to the aquifer. The additional recharge will fall between the Cal Water value of 19.67 AF/yr and the value calculated in Haro, Kasunich and Associates, Inc. (2006) at 1.71 AF/yr.

## ATTACHMENT A

### Documents Reviewed and References Cited

California Water Service Company, 2006, *Water Supply Assessment Report for Rancho Los Robles, Monterey County, California (DRAFT)*, 19 p.

Earth Metrics Incorporated, 1984, *Hydrology Report for the Oaktree Ranch North Monterey County, California*: Report prepared for Heritage Development Corporation, pp. 2-9, 2-10, and 4-1 only.

EMC Planning Group, Inc. (EMC), 2006, *Rancho Los Robles Subdivision Maps* (on diskette).

Horan, Lloyd, Karachale, Dyer, Swartz, Law & Cook, 2005, *Re: Rancho Los Robles Project – SB 610*, December 21 letter to Curtis Weeks, General Manager, Monterey County Water Resources Agency, 2 p.

Horan, Lloyd, Karachale, Dyer, Swartz, Law & Cook, 2006, *RE: Rancho Los Robles Project – Documentation for Proposed Revisions to the Historic Water Consumption and Projected Residential Water Use*: February 8 letter from Pamela H. Silkwood to Delinda Robinson, Monterey County Planning and Building Inspection Department, Salinas, CA 5 p. with exhibits.

Haro, Kasunich and Associates, Inc., 2004, *Preliminary Geotechnical Report for Oak Tree Ranch, A Residential Subdivision, Monterey County, California*: Report prepared for Pulte Homes, Monterey, California, 49 p. with figures.

Haro, Kasunich and Associates, Inc. 2006a, *Re: Rancho Los Robles Project – Water Issues*: March 8 letter from Pamela H. Silkwood to Curtis Weeks, General Manager, Monterey County Water resources Agency, Salina, CA, 9 p. with exhibits.

Haro, Kasunich and Associates, Inc. 2006b, *Technical Memorandum, Rancho Los Robles Project, Monterey County, California*: April 4 letter from J.A. Haro to Mr. Chuck Allen, Landmark Real Estate Company, Watsonville, CA, 9 p. with appendices.

Iland Engineers, Inc. (IEI), 2006a, *Revised Tentative Map, Preliminary Mass Grading Plan and Visual Analysis, Rancho Los Robles Subdivision*: May 18 letter to Delinda Robinson, Monterey County Planning and Building Inspection Department, Salinas, CA 3 p.

Iland Engineers, Inc. (IEI), 2006b, *Residential Irrigation Acreage Calculation, Rancho Los Robles Subdivision*: June 14 letter to Delina Robinson Monterey County Planning and Building Inspection Department, Salinas, CA 1 p.

Ilford Engineers, Inc. (IEI), 2006c, *Rancho Los Robles, Preliminary Drainage Analysis*: 7 p. with appendices.

Monterey County Water Resources Agency, 2006, *Re: Rancho Los Robles Subdivision - ADEIR Comments*: January 31 letter from Tom Moss, Senior Hydrologist, Floodplain Management and Development Review Section to Delinda Robinson, Monterey County planning and Building Inspection Department, Salinas, CA, 2 p.

Silkwood, P.H., 2006a, *RE: Rancho Los Robles - Water Balance Calculations*: May 5 letter to Ms. Delinda Robinson, County of Monterey from Law Offices of Horan, Lloyd, Karachale, Dyer, Schwartz, Law & Cook, Monterey, CA, 3 p. with exhibits.

Silkwood, P.H., 2006b, *RE: Ranch Los Lobles Project - Documentation for Proposed Revisions to the Historic Water Consumption and Projected Water Residential Use*: February 8 letter to Ms. Delinda Robinson, County of Monterey from Law Offices of Horan, Lloyd, Karachale, Dyer, Schwartz, Law & Cook, Monterey, CA, 5 p. with exhibits.

Todd Engineers (2002), *Technical Memorandum: Hydrologic Assessment, Rancho Los Robles (Oaktree Ranch) EIR*: October 2 memorandum prepared for Richard R. James, Senior Planner, EMC Planning Group, Inc., 11 p. with attachments.

# Enclosure 5 of Exhibit B





Estimated Water Balance (based on 52 lots and 1 commercial building)

Part A. Annual Precipitation on Open Spaces

Source	In/yr	feet/yr	No. Acres	No. Acres N/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
On site Precipitation	19.5	1.63	22.31	35.36		
Evap/Transpiration (est)	16.6	1.38	22.31	30.78		
Net Infiltration				5.58	50%	2.79

Part B. Projected Onsite Water Use

Source	Gallons per day per capita	Capital per household	No. DU	Flow (gal/day)	Gal/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Water Use	86.35	4.15	82	14,104.63	5,148,211	15.80	25%	3.95

Source	Total Residential Acres	% Irrigated Area	Total Irrigated Area, Ac	Demand Gals/day/Ac	Gal/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Irrigation	5.97	5%	0.30	2,327	253,480.60	0.78	70%	0.54

Source	No. Acres	Demand Gals/day/A	Infiltration to Aquifer (AF/yr)
Community Park	1.87	3,450	5.29

Source	ft <sup>2</sup>	AD, in <sup>2</sup>	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Commercial High Use	2,640	0.0002	0.628	25%	0.13
Commercial Low Use	5,360	0.00007	0.3762	25%	0.08

Part C. Onsite Residential Runoff

Source	ft <sup>2</sup>	Acres	In/yr	Precipitation feet/yr	AF/yr	Runoff % evap	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Impermeable Surfaces	88,040	2.25	19.5	1.625	3.66	10%	3.29		
Residential Buildings	26,000	0.68	19.5	1.625	1.07	10%	0.97		
Paved Roads	88,400	1.98	19.5	1.625	3.22	20%	2.58		
Total Runoff					6.94			85%	6.81

Part D. Onsite to OnSite Residential Runoff

Source	ft <sup>2</sup> /du	No. du	Acres	In/yr	Precipitation feet/yr	AF/yr	Runoff % evap	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Impermeable Surfaces	5,000	25	125,000	19.5	1.625	4.68	10%	4.20		
Residential Buildings	2,000	25	50,000	18.5	1.625	1.87	10%	1.69		
Paved Roads			15,000	19.5	1.625	0.56	20%	0.45		
Total Runoff						6.32			80%	5.06

Part E. Total Water Usage Prior to the Operation of the Watsonville Treatment Plant

Source	AF/yr	Infiltration to Aquifer (AF/yr)	Not Recharge to Aquifer (AF/yr)
Total Water Usage	22.77	22.03	-0.63
Net recharge to Aquifer			-0.63

# Enclosure 6 of Exhibit B

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# **Project Specific Water Balance Study**

## **Rancho los Robles**

**Revised May 2016**



5300 Soquel Avenue, Suite 101  
Santa Cruz, CA 95062  
T 831.426.5313  
F 831.426.1763  
[www.iflandengineers.com](http://www.iflandengineers.com)

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## Table of Contents

Introduction.....	2
Scope of Study.....	3
Methodology.....	3
Hydrology .....	4
Water Balance with all residences connected to the reclamation plant.....	5
Onsite precipitation .....	5
Onsite Water Use.....	5
Residential irrigation .....	5
Community Park .....	5
Commercial Uses .....	6
Onsite Residential Runoff.....	6
Offsite to Onsite Residential Runoff.....	6
Conclusion.....	9

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pumping are necessary to restore balance. The Technical Memorandum concluded that the conversion of agriculture to residential and commercial land uses, as proposed by the Original Project Application, would reduce the water demands, which will decrease the net overdraft on the North Highlands aquifer.

However, in December 10, 2007 comments on the Draft Environmental Impact Report (DEIR) for the Original Project Application, the California Coastal Commission (CCC) staff questioned the appropriateness of the Historical Water Consumption figures used in the Technical Memorandum. CCC staff reviewed on-site well data for the past several years and commented on the DEIR that a shorter historical water use baseline period and a resulting average annual water consumption of 17.72 AF/yr. was more appropriate. How this figure was derived is uncertain but the most recent data in the DEIR was from 2004 and a baseline period of 2002-2004 yields an annual average of 17.39 AF/yr. Therefore, we assume the 2007 baseline period consists of approximately 3 years of data through 2004.

While the applicant does not concur with the staff's specification of a three year baseline, that principle is never the less applied in this study for the sake of analysis. Accordingly, this study utilizes the average annual water consumption based on the most recent three year baseline period of 2013-2015. Annual consumption (domestic use + irrigation well) for these three years was 20.4 AF/yr., 15.5 AF/yr. and 21.3 AF/yr. respectively, resulting in an average annual water consumption figure of 19.1 AF/yr. ("Modified CCC Calculated Baseline").

Monterey County approved a Coastal Development Permit for the Original Project Application and certified a Final EIR. The CCC appealed the Coastal Development Permit. Thereafter, the applicant proposed the revisions comprising the current Project consisting of 52 single-family lots and a commercial parcel. Without waiving the applicant's position on the legally appropriate historical baseline water use, this revised report makes a comparison of the projected Project water consumption vs. the Modified CCC Calculated Baseline water consumption figure of 19.1 AF/yr.

### Scope of Study

This study investigates the water balance taking into account the results of recent field infiltration investigations (Appendix 1), including a detailed land use analysis, and proposes civil engineering design requirements for effective water resource management. Measures to mitigate potentially significant adverse impacts on the aquifer have been studied and these are outlined and their effectiveness examined herein. The conclusions and recommendations of this report are primarily based on information presented in the Technical Memorandum, which is believed to be reliable.

### Methodology

At this stage of the project development process, a simplified approach to the water balance has been adopted to ascertain the characteristics of the site and the potential to carry out sustainable design practices. Planning, negotiations and funding arrangements for the long term management of water resources in the area are currently taking place. Notwithstanding this, it is understood that the site will be supplied with water by the

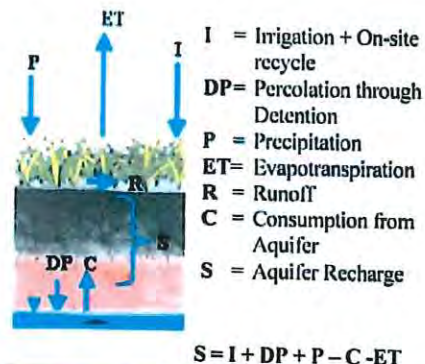


Figure 1: Simplified Water Balance Approach

California Water Service Company from local wells within the North Highland aquifer. Under these circumstances, the proposed approach is considered appropriate because the soil strata underlying the project site is directly connected to same aquifer from which supply is withdrawn.

Using site specific parameters, the volume of water available for aquifer recharge has been determined using the relationship between rainfall, water usage on site, runoff and percolation as outlined herein. Rainfall is the principal means for replenishment of moisture in the soil water system and recharge to ground water. Moisture movement in the unsaturated zone is controlled by capillary pressure and hydraulic conductivity. The amount of moisture that will eventually reach the water table is defined as natural ground water recharge. The amount of this recharge depends upon the rate and duration of rainfall, atmospheric conditions which determine evapotranspiration, runoff rather than penetration, the subsequent conditions at the upper boundary, the antecedent soil moisture conditions, the water table depth and the soil type.

As shown on Figure 1, an analysis was conducted of vertical inflow and outflow in the groundwater budget equation to develop alternatives to enhance groundwater recharge to the aquifer. The analysis consisted of modeling the rainfall-runoff-groundwater flow processes and evaluating subsurface flows based on site specific hydrogeologic and soil data. Based on this analysis, a post construction alternative was developed and is detailed below.

The analysis estimates the amount of water available to recharge the North Highlands Aquifer based on the development of 52 residential dwellings and a commercial building with the sewers connected to the Watsonville Recycled Water Treatment Facility. It includes the use of storm water diversion structures including gutters, drains, swales, and underground pipeline for the collection and diversion of stormwater runoff to a detention pond located along Hall Road, which is then released to a recharge system prior to discharge from the project site to an existing culvert under Hall Road.

## **Hydrology**

The hydrological characteristics of the site have been covered at length by the Technical Memorandum. In addition to the Technical Memorandum, a supplementary report entitled Soil Profile and Percolation dated July 26, 2005, has been prepared by Haro Kasunich and Associates to determine the most suitable infiltration system for the site. This report is presented as Appendix 1 of this report.

The soil profile and percolation study for the project site finds that the typical subsurface soil profile can absorb water. The study concludes with a recommendation that runoff retention and aquifer recharge facilities be located in the lower flat area of the property along Hall Road where infiltration rates as high as 16 inches per hour were recorded. In this lower flat area, the groundwater level was found to be relatively stable and was generally encountered at a depth of 12 feet below ground surface. These subsurface characteristics imply that there is significant capacity on site to recharge the underlying aquifer with detained surface runoff.

It is important to also note that it is necessary to drain all water to the low lying land adjacent to Hall Road because increasing the ground water regimen in the upper terrace will likely increase pore water pressure in localized areas of the south facing slope impacting the long term stability of the hillside (refer to July 2005 report).

## **Water Balance with All Residences Connected to the Reclamation Plant**

This analysis is based on all surface water being collected by a system of channels and pipes to a detention basin on the southern boundary of the property at the low point adjacent to Hall Road with annual average surface runoff volumes being limited to pre-development levels and peak flows limited to 10% probability (10 year return period) levels under predevelopment land use conditions. All residential and commercial units will be connected to the Pajaro County Sanitation District system (PCSDS) with the necessary modifications to the Las Lomas pump station that discharges to the Watsonville Recycled Water Treatment Facility.

### **Onsite Precipitation**

The Project will result in 2.79 AF/yr of net groundwater recharge as derived in Table 1 – Part A. This estimate is based on the assumption made in the Technical Memorandum that 50% of the annual precipitation that is not taken up by the atmosphere through evapotranspiration will infiltrate into the soil from the areas of the site that have permeable surfaces. The remainder will run off the site through the project channels which drains to a swale located on the southeastern portion of the property and then flows to an existing culvert which drains under Hall Road to Los Cameros Creek before the water is discharged into Elkhorn Slough.

### **Onsite Water Use**

#### **Residential Indoor Water Use**

Indoor water use by the households on site has been estimated using California Water Service Company's 2006 Water Supply Assessment which determined a demand of 65.36 gallons per capita per day based on the implementation of indoor water conservation measures which are included in the project proposal (low flush toilets, low flow showerheads, water conserving washing machines, etc.).

The figure for average persons per household in a single family dwelling of 2.93 was obtained from a January 1, 2005 CA Department of Finance, Demographic Research Unit's City/County Population and Housing Estimates for the unincorporated areas of the Monterey County. These assumptions lead to an indoor water demand by the 52 proposed residential dwellings of 11.15 AF/yr. If the wastewater from the residential dwellings is collected for treatment and subsequently recycled at the Watsonville Recycled Water Treatment Facility and the recycled water is applied to agricultural fields in the North County area, the 2006 CWSC Water Supply Assessment estimates a 65% return or an estimated 7.25 AF/yr recharge to the aquifer.

#### **Residential Irrigation**

The subdivision plan provides for 5.97 acres of residential development within the project site, with 5% of this being irrigated at a rate of 2,327 gals/day in accordance with the Technical Memorandum. This leads to an estimated demand on the North Highlands aquifer of 0.78 AF/yr. An infiltration rate of 70% was assumed based on the site soil type and permeability, which yields an estimated 0.54 AF/yr return to the aquifer.

#### **Community Park**

The subdivision plan provides for a 5.5 acre community park at the northeasterly portion of the site, near Hall Road, with an estimated 25% of the total area being irrigated at a rate of 3,450 gals/day, in accordance with the Technical Memorandum. This leads to an



estimated demand on the North Highlands aquifer of 5.29 AF/yr. An infiltration rate of 70% was assumed based on the site soil type and permeability, which yields an estimated 3.71 AF/yr return to the aquifer.

### **Commercial Uses**

Located at the northeasterly corner of the project site is an area set aside for commercial use. The Technical Memorandum assumes an 18,000-square foot commercial building would be constructed as part of this project, and the water use would be split between high and low water use tenants. The Project currently proposes a commercial building which would cover about 2,500 square feet. The calculations for water demand for the commercial building have been revised to reflect the smaller footprint. In addition, given the intended use all water use is considered "low", therefore there is no longer a need to split the use between "high" and "low" categories. The estimated water demand for the commercial building is 0.18 AF/yr. Sixty-five percent (65%) of the wastewater generated from the commercial building is assumed to return to the aquifer after the wastewater is treated and recycled at the Watsonville Recycled Water Treatment Facility, which yields an estimated 0.11 AF/yr return to the aquifer.

### **Onsite Residential Runoff**

As part of this assessment, the footprints of the residential and commercial buildings were measured from the project plan. Based on this measurement, the project will result in approximately 213,240 SF of impermeable surfaces such as buildings, roadways and sidewalks. The Technical Memorandum assumes an annual precipitation of 19.5 in/yr, which results in gross runoff of 7.95 AF/yr. However, this is reduced through evaporation to 6.84 AF/yr net runoff. By utilizing drainage structures and a series of underground pipes to collect and discharge runoff from the residential portion of the site, runoff can be conveyed first to detention ponds located at low points along Hall Road, then released to a recharge system prior to discharge from the site. Under this scenario, 85% infiltration could be achieved, resulting in 5.81 AF/yr being returned to the aquifer.

### **Offsite to Onsite Residential Runoff**

The watershed of the project area is such that 6.32 AF/yr of runoff is directed through the site from already developed offsite properties to the north of Sill Road. The subdivision plan provides for collection of this runoff in the proposed storm drain system as outlined in the paragraph above. Under this scenario, 80% infiltration of the off-site runoff could be achieved, resulting in 5.06 AF/yr being returned to the aquifer.



Table 1 - Estimated Water Balance (based on 52 lots and 1 house used for commercial use)

Part A. Annual Precipitation on Open Spaces

Source	in/yr	feet/yr	No. Acres	No. Acres ft/yr		% Infiltration	Infiltration to Aquifer (AF/yr)
On site Precipitation	19.5	1.63	22.31	36.36			
Evap/Transpiration (est)	16.6	1.38	22.31	30.78			
Net Infiltration				5.58		50%	2.79

Part B. Projected Onsite Water Use

Source	Gallons per day per capita	Capita per household	No. DU	Flow (gal/day)	Gals/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Indoor Water Use	66.38	2.93	52	9,956.25	3,634,761	11.15	65%	7.25

Source	Total Residential Acres	% Irrigated Area	Total Irrigated Area Ac	Demand Gals/day/Ac	Gals/yr	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Irrigation	5.97	5%	0.30	2,327	253,480.80	0.78	70%	0.54

Source	No. Acres	Demand Gals/day/Ac	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Community Park	1.37	3,450	5.29	70%	3.71

Source	n <sup>1</sup>	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Commercial High Use		0.0002	65%	
Commercial Low Use	2,500	0.00007	65%	0.11

Part C. Onsite Residential Runoff

Impermeable Surfaces	n <sup>2</sup>	Acres	in/yr	Precipitation feet/yr	AF/yr	% evap	Runoff AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Buildings	88,040	2.25	19.5	1.825	3.68	10%	3.29		
Patios and Sidewalks	28,800	0.68	19.5	1.825	1.07	10%	0.97		
Paved Roads	86,400	1.99	19.5	1.825	3.22	20%	2.58		
Total Runoff							6.84		
Total Infiltration								65%	5.81

Part D. OffSite to OnSite Residential Runoff

Impermeable Surfaces	n <sup>2</sup> du	No. du	ft <sup>2</sup>	Acres	in/yr	Precipitation feet/yr	AF/yr	% evap	Runoff AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Residential Buildings	5,000	25	125,000	2.87	19.5	1.825	4.68	10%	4.20		
Patios and Sidewalks	2,000	25	50,000	1.15	19.5	1.825	1.87	10%	1.68		
Paved Roads			15,000	0.34	19.5	1.825	0.58	20%	0.45		
Total Runoff									6.32		
Total Infiltration										80%	5.06

Part E. Total Water Usage

	AF/yr	Infiltration to Aquifer (AF/yr)	Net Recharge to Aquifer (AF/yr)
Total Water Usage	17.40	25.27	
Net recharge to Aquifer			7.87

### **Management Measures**

It is proposed that the final design of the run off management scheme incorporate measures to (1) assure reliability of the recharge facilities; (2) control discharge that mimic natural flow regimes which permit the receiving environment to remain sustainable; and (3) protect the long term stability of the hillside. These objectives will be achieved by conducting additional hydrologic/geotechnical investigation of the Project site and by fine-tuning the engineering alternatives best suited for recharging the aquifer based on further characterization of the site.

The proposed Project includes the use of pervious pavements, retention and detention facilities as well as flow control structures that permit data logging and mechanisms to limit flow as required by the regulating agencies. Native vegetation is proposed as part of the design to prevent erosion, maintain water quality and provide habitat to retain the quality of the environment in and around the facilities. A periodic maintenance schedule will be developed to assist in the long term upkeep of the runoff management system. The responsibility for safety and maintenance will have to be vested in a legally competent authority such as a Community Services District. Initial discussions with the Pajaro Sunny Mesa have proved to be encouraging.

## Conclusion

A summary of the net drawdown of the North Highlands aquifer as a result of the proposed development is provided in Table 2. The study shows that the Project would increase net available recharge to the aquifer by 5.14 AF/yr over existing conditions.

The establishment of a long term water supply to the North Monterey County area is in a state of evolution and it is not clear when full resolution of the issues at hand will be made. This investigation of the local hydrographic characteristics, water use and water reuse alternatives shows that it is possible for the project consisting of 52 residential dwellings and a commercial unit on the Project site to be self sustaining with respect to water and not generate a demand for which long term sustainable demand for water cannot be assured.

Table 2: Summary of Net Aquifer Recharge

Scenario		Withdrawals AF/yr	Infiltration AF/yr	Net Recharge (Draft) AF/yr
Historic	Water Consumption	19.1 <sup>1</sup>	20.45 <sup>2</sup>	+1.35
Subdivision	as proposed with onsite storm runoff management and off site water recycle and reuse	17.40	25.27	+7.87

1. Based on an average of the last three years of on-site irrigation well data plus estimate of domestic usage to determine the current average yearly water use (Source: California Coastal Commission December 10, 2007 comment letter on DEIR, page 3. This established the baseline period of approximately three years. Current baseline figure calculated using a baseline period of 2013-2015.)
2. The total current on-site infiltration is calculated to be 20.45 acre-ft/year based on the following assumptions:  
Infiltration from annual precipitation = 3.99 AF/yr (Source: Technical Memorandum);  
Infiltration from residential water use = 1.96 AF/yr (Source: Technical Memorandum);  
Infiltration from residential irrigation landscape use = 0.10 AF/yr (Source: Technical Memorandum);  
Infiltration from agricultural irrigation (70% infiltration based on site soil profile assessment as discussed in this report) = 11.59 AF/yr;  
Infiltration from onsite residential runoff = 0.43 AF/yr per acre (Source: Technical Memorandum); and  
Infiltration from offsite to onsite residential runoff = 2.38 AF/yr (Source: Technical Memorandum).

# Enclosure 7 of Exhibit B

**CALIFORNIA COASTAL COMMISSION**

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



December 10, 2007

David Greene  
Monterey County Planning and Building Inspection Department  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Subject: Rancho Los Robles Subdivision Draft Environmental Impact Report (SCH # 2002091010)

Dear Mr. Greene:

Thank you for sending the Draft EIR for the Rancho Los Robles Subdivision in Las Lomas to our office for review. This letter transmits our preliminary comments on the project and DEIR. Although we understand we have missed the extended CEQA comment deadline, please accept these comments on the project regardless, and please also accept them in terms of the CEQA review process. This subdivision is one of the largest to be proposed in the North Monterey County coastal zone in recent years and involves significant coastal resources. As you know, it is important that any coastal development permit (CDP) decisions in this matter be well-supported with clear and comprehensive evidence and analysis, and the CEQA process plays a critical role in this regard.

In light of this, we are concerned that some of the fundamental coastal resource issues raised by the project are not framed correctly thus far in the DEIR, and that this significantly compromises the utility of the document for purposes of coastal development permit decision making. In particular, we do not believe that the DEIR accurately analyzes the water supply, visual, ESHA, agricultural, and traffic issues associated with the project. Because the EIR will be used by the County for CDP decision making, we believe the process is better served by the County circulating a revised DEIR that is changed as described below. Therefore, our comments here are limited primarily to highlighting project LCP inconsistencies necessitating project redesign, and what we believe to be significant DEIR problems requiring correction.

**Water Supply**

1 As you know, new subdivisions in the North County area are highly problematic because of the severe water scarcity in this sub-region, including due to groundwater overdraft, seawater intrusion and the lack of an identifiable, available, long-term water supply. The DEIR correctly states that currently, the Highlands North sub-area does not have access to an adequate long-term water supply and that the aquifer is experiencing chronic overdraft. The most recent report evidencing these conditions, the North Monterey County Comprehensive Water Resources Management Plan 2002, estimated the overdraft of the Highlands North sub-area at 2,701 acre-feet per year. Within this context, we are concerned that this project represents an inappropriate intensification of water use. The residential and commercial development proposed represents a

permanent and relatively fixed demand for water, while the mostly agricultural use it would displace has been shown to have a much more variable water demand.

The DEIR states that based on current use the proposed project would result in an increase in water withdrawals (DEIR pg 2-99 bottom paragraph). It also states that the current mostly agricultural use is more flexible than the proposed residential use. The project as proposed would result in 97 residential parcels and related high-density residential development, each requiring a permanent commitment of potable water; such water is currently only available from the overdrafted basin. In addition, there would also be the demands of the commercial development and recreational landscaping; such uses will have a constant demand with little flexibility. The current agricultural demand is flexible and can be adaptively managed to increase efficiency (e.g., by crop rotation, fallowing or dry farming practices). It is also a Coastal Act and LCP priority use. The project would therefore result in an intensification of water use inconsistent with LCP policies, which require, among other things, that new development be limited to that that can be served by identifiable, available, long-term water supplies, and that groundwater use is limited to safe-yield levels and not committed beyond its safe long-term yields. The DEIR states that the Monterey County Water Resources Agency has determined that a zero net increase is necessary to protect North Monterey County aquifers from severe overdraft, and at this time, they do not consider a sustainable long-term water supply to be available (p. 2-85).

1  
continued

The LCP encourages priority coastal uses as much as possible, and protects groundwater supplies for coastal priority agricultural uses. The LCP favors continued water use for agriculture and a reduction in residential use if supplies are impaired. Groundwater overdraft, resulting water quality problems and the pressure to curtail agriculture to accommodate residential developments threaten agriculture in this region. Therefore, transferring water use from agriculture to residential development is inconsistent with the LCP. (The impacts to agriculture are discussed further in the agricultural section below.)

In order to determine if the proposed project would intensify water use, the DEIR includes a water balance study. We disagree that this method is sufficient to evaluate the impacts of the project to water resources (and uses and LCP priorities also need consideration), and it is important to note the following. The water balance study concludes that the project would result in a net recharge to the aquifer and would therefore help reduce the overdraft. This conclusion was made based on an average of available yearly water use data for the 20 years (1982-2001) prior to the report. We find this time period for analysis to be inappropriate, and potentially inconsistent with CEQA guidelines, which specifically state that the environmental setting of a project must be based in the environmental conditions in the vicinity of the project at the time the report is prepared (this environmental setting will normally constitute a 'baseline' by which a lead agency determines whether an impact is significant) (CEQA Guidelines Section 15125(a)). The Monterey County Subdivision Ordinance also relies on a comparison of the current water use to the proposed water use to determine whether a project would cause an increase in water use or any change in storage (19.03.015.L.3.C.8 and 9). Historic water use, while helpful to provide a context for the project, is not relevant for LCP demand or balance calculations.

The current water use setting includes 10 acres of irrigation for berry cultivation and residential water use for about five households. These land uses (and water uses) have remained the same over the past decade or so. It follows that the logical baseline to measure the proposed project against is an average of the last several years of well data to determine the current average yearly water use.

The DEIR water use baseline includes some data from the current use levels and some data from 20 years prior, during which time the pasture area was heavily irrigated. This irrigation ceased in 1997 because Monterey County staff informed the owner that the irrigation was harming the oak woodland on site and could constitute a violation. Including the years in which the pasture was irrigated is inaccurate to establish a water use baseline because 1) it is not based on the current land use pattern, 2) it has adverse impacts on the oak woodland habitat, and 3) this type of irrigation could constitute a violation of LCP policies subject to code enforcement action by the County.

The more appropriate water use baseline for the project (and the baseline against which to determine the change in storage) is the more recent use, especially in relation to current groundwater problems. By looking at an average of the water use for the last several years, in which land uses remained about the same as current conditions, a more appropriate baseline can be determined. The baseline in this case is determined to be about 17.72 acre-feet per year. The comparison between the existing environmental setting and the proposed setting shows the opposite conclusion to that made in the water balance study and in the DEIR. A comparison based on the corrected baseline appears in the table below:

	Withdrawals	Infiltration	Net Recharge
Current	17.72	unknown	-17.72
Project	41.61	7.12	-34.49
Change	+23.89	unknown	-16.77*

\* This number would increase by the amount of water that infiltrates under current conditions. The DEIR does not identify infiltration under current site conditions. Without the information an accurate estimation of the net recharge change cannot be made, therefore, the table assumes that none of the water used would infiltrate. The next revision of the DEIR must provide this information.

As the table demonstrates, the proposed project would result in an increase in withdrawals and a decrease in net recharge of, at a minimum, (i.e. assuming there is no current infiltration) 16.77 acre-feet per year. The water balance study, on which the DEIR analysis is based (and on which the coastal development permit analysis will rely), should be revised with accurate calculations that reflect current water use. The DEIR should subsequently be revised to indicate that the proposed project would have a significant and unavoidable impact on the local aquifer because it will result in a net deficit in aquifer volume and generate a water demand exceeding and adversely impacting the safe, long-term yield of the local aquifer, inconsistent with the LCP.



### Visual Resources

The visual impacts of the proposed project should be considered significant and unavoidable because they conflict with the LCP policies and provisions regarding visual resources. The key policy of the North County LUP states that "only low intensity development that can be sited, screened, or designed to minimize visual impacts, shall be allowed on scenic hills, slopes, and ridgelines" (emphasis added). The LCP (both the LUP and CIP) contains various other provisions that require the protection of scenic resources, including a provision in the CIP that specifically prohibits new subdivisions that will create building sites that result in ridgeline development (CIP Section 20.144.030.B.7). The CIP also contains a provision that requires subdivisions to minimize the visibility from public viewing areas through lot configurations which provide the highest potential for each lot's building site to be screened by existing topography and vegetation and clustering of structures, with wooded hills and ridges (CIP Section 20.144.030.B).

2 The introduction of a 97-unit subdivision with single-family residences, townhouses, and commercial uses on a mostly undeveloped 33.7-acre site that currently supports rural agricultural uses would permanently alter the rural character of the Hall Road corridor and surrounding area, and should be considered a significant and unavoidable impact of the project. Such impacts are not consistent with the LCP. The proposed project is not low intensity, and in fact can be considered maximum intensity given that it maxes out the allowable zoning density of the site and it does not utilize any of the methods described by the LCP to reduce its visual resource impacts. Mitigation measures that require design standards and fencing in the landscaping plan do not serve to reduce visual impacts to a less-than-significant level. The LUP requires that impacts to visual resources be minimized with careful siting and design of development. A more appropriate mitigation measure would be to redesign the project to make it more compatible with the character of the vicinity. Because of the configuration and prominence of the site in the viewshed, it appears that the only way to do this is to reduce the density and intensity of the project. Any redesign would need to utilize the existing natural surrounding topography and vegetation as screening.

In this respect, the recommended design standards are probably appropriate in a redesign context, but they cannot by themselves serve to lessen the out of character nature of the project because its bulk and density remain the key incompatible factor. Additionally, as discussed below under Biological Resources, the use of berms for visual resource protection and the placement of a drainage pond in wetland habitat area are inconsistent with visual resources and BSHA provisions of the LCP and with Title 19 of the Monterey County Code, which requires that drainage features avoid the use of artificial slopes.

In addition, the proposed subdivision would also result in 15 lots that constitute ridgeline development. The LCP prohibits new subdivisions that would result in such ridgeline development (CIP Section 20.144.030.B.7). The use of grading and landform alteration to screen potential ridgeline development is also inconsistent with the LCP, which requires that grading be minimized to the amount necessary for the construction of building sites and access roads (LUP

2  
continued  
Policy 2.2.2.5 and CIP Section 20.144.030.B.4). Moreover, Title 19 (Monterey County Code, subdivision ordinance) requires that grading plans include the maximum retention of natural landforms (rolling hills, ridgelines etc.). Landscaping is to be used to minimize visual impacts only after new subdivisions have been designed in a way to ensure that potential building areas are sited on the least visible portions of the property. The extent of landscaping proposed to screen the proposed development appears excessive, and would be unnecessary if LCP policies were better met. The project should be redesigned to eliminate all lots that create ridgeline development.

Finally, it appears incorrect to assert that the project would have a beneficial impact on visual resources because it would remove a barn on the ridgeline. The project instead appears to increase the potential for ridgeline development by creating 15 lots that, when developed, would constitute an increase in ridgeline development. In sum, the project would create a net increase in ridgeline development inconsistent with LCP policies.

#### Biological Resources

3  
The project proposes to fill the existing wetland area on site and create a bermed detention pond as part of the project drainage plan. The LCP explicitly prohibits non-resource dependent development and uses in wetlands, and requires a 100-foot setback from the landward edge of all coastal wetlands; both to be maintained in open space (LUP Policy 2.3.3.B.4 and IP Section 20.144.040.C.2.d). In sum, the LCP is clear that no inappropriate development is allowed in or within 100 feet of a wetland. The project must be redesigned to avoid wetlands and the area within 100 feet of them. In addition, in a CEQA sense the biological resources standards of significance, drawn from CEQA Guidelines, clearly state that the project will have a significant effect on the environment if it would conflict with any local policies or ordinances protecting biological resources. This project element directly conflicts with the LCP, and fill of a wetland, expressly prohibited by the LCP, should be considered a significant and unavoidable impact for which no mitigation, other than relocation of the proposed development, would reduce it to a less-than-significant level. The DEIR should be revised accordingly.

The project as proposed would also remove and disturb riparian vegetation, defined by the LCP as ESHA. LCP policies require a 50-foot setback from the bank of intermittent streams or the extent of riparian vegetation, whichever is greater, and in all cases, the setback must be sufficient to prevent significant degradation of the habitat area (LUP Policy 2.3.3.B.1). This policy allows for some modification if it can be conclusively demonstrated that a narrower corridor is sufficient to protect the resource. The DEIR states that the willow riparian woodland is a small remnant, and habitat quality is considered poor, and therefore recommends a 10-foot buffer zone. The DEIR does not conclusively prove that a reduced setback such as this would prevent significant degradation of the habitat other than to state that the habitat is already degraded, and further suggests that removal of the habitat with restoration at a location with greater habitat potential would be suitable to address impacts to this habitat. This is an inappropriate analytic framework under the LCP. Under the LCP, such resources are to be avoided and buffered—they cannot be treated as a resource that can be moved from place to place. Moreover, if the riparian

habitat is degraded, as the DEIR suggests, then it is a good candidate for a larger buffer that would protect it against further degradation and allow for habitat improvement. The EIR analysis should re-visit the LCP provisions for riparian habitat and revise the recommended setback to better meet the policy.

The DEIR indicates that raptors were observed around the oak trees on the site, and an active red-tailed hawk nest was observed in a eucalyptus tree. The DEIR needs to be fleshed out with additional information in this respect, including whether any trees with sensitive bird species are ESHA per the LCP. In particular, the LCP prohibits development in ESHA and requires development adjacent to ESHA to be compatible with the long-term maintenance of the resource. As with previous issues, the LCP is premised on impact avoidance, and the project (and CEQA document) needs to be updated to reflect these requirements.

3  
continued  
The project as proposed would result in the removal of 25 oak trees, including 17 considered landmark trees, and additional indirect impacts to retained trees disturbed by construction activities. The LCP prohibits the removal of landmark trees, and exceptions may not be granted for landmark trees that are visually or historically significant, exemplary of their species, or more than 1,000 years old (CIP Section 20.144.050.C.1). It appears as though many, if not all, of the landmark oak trees proposed for removal are located on scenic hills and ridgelines, and are visible from a prominent transportation corridor. As such, they are to be retained for their scenic value, and thus the LCP does not allow for their removal. The DEIR must indicate as much, and further indicate that removal of landmark trees on the scenic ridgeline and slopes of the site would be a significant and unavoidable impact of the project. As such, further project redesign appears necessary to meet LCP policies.

If any of the landmark trees on the project site are not visually significant, an exception can be granted according to the LCP, provided the decision-making body finds there are no development alternatives. It appears feasible to modify the proposed project, a dense subdivision, through a reduction in the proposed development areas and a resiting of lots to avoid landmark tree removal. As such, it does not appear that an exception to the LCP requirements is necessary. Rather, resiting, relocation and reduction of development intensity can all be used to eliminate landmark tree removal. Thus, the appropriate mitigation measure for potential impacts to landmark trees would be to resite, relocate, or reduce the development so as to avoid these trees.

The reduction, relocation or resiting of development to reduce landmark tree removal would also help make the project consistent with other LCP policies, including ones that prohibit the removal of ridgeline trees, require that oak tree removal is minimized and require that new subdivisions have building sites that minimize oak tree removal.

#### Transportation/Traffic

4  
The DEIR indicates that various road improvements are necessary for acceptable operations under proposed project conditions, and these improvements (or project fee contributions to fund these improvements) are required as mitigation to reduce the project's significant traffic impacts.

4

continued

Examples of some of these road improvements include new lanes and interchanges at Highway 1/Salinas Road, Blkhorn Road/Werner Road, Hall Road/Sill Road, and widening of Highway 1 south of Salinas Road. All of the suggested road improvements are located in the coastal zone, and many of them would require LCP amendments and coastal permits. Many of these projects/potential amendments are problematic, and it is not clear if they are approvable. As such, it appears inappropriate to include such improvements as mitigation for this project since it is unknown whether or not they will ever occur. Many of these road improvements would involve impacts to coastal resources, such as agriculture, ESHA, and visual resources, among other things, and it is premature at this time to assume they are approvable, as the DEIR suggests. Furthermore, even if any of these road improvement projects were to be approvable, it would be many years before they would be constructed. In the absence of region-wide improvements such as these, the project would add trips to area intersections and Highway 1, which are already operating at LOS F. This would be inconsistent with the LCP which notes that Highway 1 capacity should be reserved for coastal dependent uses and coastal access, which should be given priority over other development projects. Where services are not adequate for a proposed non-coastal dependent use they are to be reserved for only coastal dependent uses.

An additional impact of such improvements is their contribution to the degradation of the visual resources of the area and its rural/agricultural setting, which the LCP seeks to protect. As discussed above in this letter, the visual resource policies of the LCP require that only low intensity development that is visually compatible with its surroundings be allowed in scenic areas. The projects proposed here to alleviate traffic impacts of the project may substantially contribute to the transformation of the character of this area by introducing development including streetlights, curbs and increased paved areas, which conflict with the existing rural character. These changes may also prejudice future subdivisions and other dense development projects in that they may be used to justify visual compatibility further leading to degradation of the rural agricultural setting inconsistent with the LCP.

#### Agricultural Resources

5

The DEIR found that the project does not present an impact to agricultural resources because the parcels are defined as "other lands" on the Important Farmland Map of Monterey County. We disagree that the project does not have the potential to impact agricultural lands significantly. As is stated in the DEIR, the soils indicate that the area is valuable farmland, with Blkhorn, fine sandy loam soils meeting prime farmland criteria and Santa Ynez fine sandy loam soils meeting farmland of statewide importance criteria. The LCP requires that an agricultural viability report be prepared for lands when their agricultural viability may influence the decision-making process, thus the DEIR needs to be supplemented with such analysis. It is important to clearly evaluate potential agricultural impacts, given that agriculture is a priority use within the coastal zone. The LCP requires agricultural uses on flat or rolling lands to be preserved as productive agricultural land and as rural visual resources; it also requires that groundwater supplies be protected for coastal priority agricultural uses. Agricultural reduction or fallowing should be on land determined to be unsuitable for long-term cultivation based on resource protection criteria,

not on ad hoc decisions on individual parcels, as appears to be the case being made by the DEIR here.

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continued

Additionally, the project is surrounded on several sides by agricultural uses. The impacts to these resources from the proposed development need to be considered. The LCP requires that agriculture adjacent to proposed development not adversely impact adjacent agriculture, including at least a 50-foot buffer zone included in an easement. All such buffers must be applied as part of the constraint analysis for this site, and should be part of any redesign.

#### Density and General Development/Subdivision Standards

The proposed project parcels are zoned Medium Density Residential (MDR/4 (CZ)) and General Commercial (CGC (CZ)); subdivisions are a conditional use of this zoning category. The allowed development density is 1-4 units per acre. LCP general development standards require that adequate sewer, water and transportation services be verified prior to a development application being determined complete. Development may be modified, such as by a reduction in density, as necessary to ensure adequacy of services. As is demonstrated through the DEIR, water and transportation services are inadequate to support the proposed development. The LCP requires that where such a service inadequacy occurs only coastal dependent uses shall be permitted. As such, the proposed project does not meet this LCP criteria.

In addition, Title 19 of the Monterey County Code (subdivision ordinance) requires a minimum lot width in subdivisions of 60 ft and 70 ft for corner lots. The proposed subdivision includes many lots below the 60 foot width minimum.

In sum, it appears clear that the development proposal is overambitious and too intense for the subject site in light of the LCP policies that apply to it.

#### DEIR Maps

6 The maps included in the DEIR as figures would be more useful to reviewing agencies if they were based on the same base map. As it is, they are more difficult to compare because they show different parcel configurations, different tree canopy outlines or only existing development, and no proposed parcel configuration. For example, Figure 10 shows the slopes but does not show them in relation to the proposal, which makes it difficult to consider the potential hazards. Similarly, Figure 17 (Habitat Types) and Figure 14 (Visual Features) are based on a different parcel map than the one shown in Figure 11 (Tentative Map). This makes it more difficult to evaluate the impacts that the proposal might have on these resources. Please ensure that all subsequent CEQA documents include consistent mapping, including use of one base map in relation to potential impacts.

In conclusion, the proposed project fundamentally conflicts with many LCP policies, and it raises significant concerns with respect to the resource protection policies of the LCP. Applicable LCP policies require avoidance rather than mitigation; this is particularly true of groundwater/seawater intrusion, ESHA, tree removal, ridgeline development and the conversion

David Greene, Monterey County Planning and Building Inspection Department  
Rancho Los Robles Subdivision DEIR (SCH # 2002091010)  
December 10, 2007  
Page 8

of a coastal priority use to a non-coastal dependent development. Perhaps the most significant conflict has to do with water supply, and the DEIR appears to be premised on incorrect baseline information, leading to a misrepresentation of the project's effect on the water supply problems in North Monterey County.

It appears clear that the proposed project has not adequately identified the relevant constraints that apply at this site, and thus includes proposed development that does not adequately respect and respond to such constraints. It is clear that the proposed project must be significantly redesigned if it is to be found consistent with the LCP. Such redesign must be premised on avoidance of resource impacts, as required by the LCP, in this context, and given the current CEQA document does not adequately reflect such LCP requirements in this regard, it would appear that a revised DEIR should be developed and recirculated to provide as clear an information base as possible as this project is further reviewed.

We hope that these comments prove helpful help to frame the CDP context for this project. Please feel free to contact me or Dan Carl at (831) 427-4863 if you have any questions or would like to discuss further.

Sincerely,



Katie Morange

Coastal Planner

cc: State Clearinghouse (SCH # 2002091010)  
Supervisor Lou Calcagno  
Richard James, Applicant's Representative  
Pam Silkwood, Applicant's Representative

## 2.0 COMMENTS ON THE DRAFT EIR

- Horan, Lloyd, Karachale, Dyer, Schwartz, Law, and Cook, representing the applicant (October 28, 2007)
- Pajaro Valley Water Management Agency (October 29, 2007)
- Kenneth Walker (October 29, 2007)

The following additional letters were received following the close of the comment period:

- Gary and Yvette Yoshida (October 30, 2007)
- Marjorie Kay (October 31, 2007)
- California Coastal Commission (December 10, 2007)

The following letter was received during the public review period for the Revised Draft EIR, which ended on May 12, 2008.

- Kenyon Yeates LLP, representing Friends, Artists, and Neighbors of Elkhorn Slough (May 12, 2008)

### Master Response Regarding Water

Comments on the Draft EIR were addressed in the Revised Draft EIR hydrology section that was re-circulated for comment. The following Master Response on Water has been prepared to address the comments received on this topic from the re-circulated hydrology section, including water policy, water baseline, groundwater or aquifer levels, and mitigation measures.

**Water Policy and Fee Program.** Consistency with applicable policies is explained in Section 1.5 Consistency with Local and Regional Plans. The *North County LUP/LCP* includes a number of policies relating to water resources. These are presented and discussed on pages 1-9 through 1-12 of the Revised Draft EIR. Additionally, the County has enacted several ordinances that relate to water resources. These are presented and discussed on pages 1-12 through 1-16 of the Revised Draft EIR. In terms of the proposed project's consistency with County policies, the Revised Draft EIR defers to the date upon which the application for the project was deemed complete (September 21, 2000). Under the Subdivision Map Act, those policies and ordinances in place at the time the project application is deemed complete are applicable to the project.

At the time the proposed project's application was deemed complete, payment of a water impact fee was considered to adequately address the assurance of a long-term water supply (see North County Hydrological Study Area Fee on page 1-12 of the Revised Draft EIR). The proposed project will pay this fee, thus satisfying the project's obligations to prove an adequate water supply under applicable County code. The ordinance specifies particular uses to which the

collected funds can be applied. A hydrologic evaluation and groundwater plan funded under the ordinance are already complete. The funds collected from the proposed project will be used by the Water Resources Agency to pay for ongoing studies, investigations, plans, programs, and monitoring to alleviate groundwater problems identified in the North Monterey County area. The funds are also used to fund programs of the Pajaro Valley Water Management Agency thus, providing a direct benefit to the affected basin.

Monterey County's water impact mitigation program and fee were established by Ordinance 3496 (later amended by Ordinance 4005). Ordinance 3496 contains the nexus findings required by Government Code Section 66001 et seq. (See Ordinance 3496, Section 6.) Moreover, the mitigation program is fully defined and the Ordinance provides the requisite evidence of how the mitigation will result. The mitigation program established by the Ordinance is ongoing and the fees must be applied to the program (Chapter 18.51.070.) These legislative findings conclusively establish how the fee will translate into mitigation with no further explanation required in the EIR. The County's consideration of the proposed project is bound by the requirements of the Subdivision Map Act. The fee payment was considered at the time to mitigate for project effects on water resources, provide adequate evidence of water availability, and satisfy the project's obligations in terms of water supply. Consistent with CEQA Guidelines section 15130 (a) (3), the fee can be considered to mitigate for cumulative impacts under CEQA. However, in an abundance of caution, the County determined to characterize cumulative water supply as a significant and unavoidable impact.

Regardless of the applicability of the County's water impact mitigation fee program, the proposed project would reduce water use compared to the historic baseline, and a water supply assessment has been prepared pursuant to SB 610, which demonstrates that the proposed project has a long term (20-year) water supply. The Revised Draft EIR, recognizing the severe state of existing overdraft and uncertainty with regard to full implementation of the *Revised Basin Management Plan*, identifies a potentially significant unavoidable impact regarding cumulative groundwater balance and in an abundance of caution, concludes a significant unavoidable cumulative water supply impact, in that "a long term sustainable supply of water cannot be assured." Thus, if the Board of Supervisors approves the proposed project, they will do so with full knowledge of the uncertainties associated with cumulative water supply in North Monterey County.

The Board may make findings of consistency with CIP section 20.144.070.E.11 based on the applicability of the rules in effect at the time the project application was deemed complete, the reduction of water use compared to the historic baseline, requirement for a water use audit to compare actual to projected water use and address any overage (Mitigation Measures 20 and 21) implementation of landscape water reduction measures (Mitigation Measure 22), the nature of



## 2.0 COMMENTS ON THE DRAFT EIR

the groundwater deficit as a regional cumulative issue not specific to a given project, the results of the water supply assessment, and consistency with the land use map.

The project does not propose a transfer of agricultural water use to residential development and thus the project is not inconsistent with the LCP in this regard. The subject parcel is designated for medium density residential and commercial development by the *North County LUP/LCP* and zoned residential with generalized commercial use, not agricultural. The conversion of use of the parcel to a conforming use for which it has been specially designated does not result in any transfer of water from an agriculturally designated parcel and increases consistency with the LCP designation. Agricultural use of a non-agricultural parcel is not a priority use, nor is the property specifically designated for exclusive agricultural use under the LCP (Specific Policy 2.5.3.A.1.) This Specific Policy of the LCP only applies to priority and designated exclusive agricultural use as follows: "The County's Policy shall be to protect groundwater supplies for coastal priority agricultural uses with emphasis on agricultural lands located in areas designated in the plan for *exclusive* agricultural use."

CIP section 20.144.140 (B) (3) (a) addresses overall long-range development phasing within the north Monterey County area and is not intended to address phasing of individual developments. The policy limits development to 50 percent of the potential buildout from the date of adoption of the *North County LUP/LCP* (referred to as Phase I development). Additional development beyond this Phase I development requires that safe yields of groundwater have been established and water supplies are determined to be available according to definitive water studies. As discussed on pages 1-43 and 1-44 of the Draft EIR, the proposed project is already accounted for within the County's tabulation of the Phase I development for north Monterey County. The proposed project does not exceed that level of development that would trigger the phasing requirements of CIP section 20.144.140 (B) (3) (a). Therefore, the Project is consistent with this ordinance.

**Baseline.** Section 15125 of the CEQA Guidelines sets forth the general rule that environmental conditions existing at the time environmental analysis is commenced "normally" constitute the baseline for purposes of determining whether an impact is significant. The courts have determined that the Legislature's use of the term "normally" gives the agency discretion to deviate from the time-of-review baseline if supported by substantial evidence (*Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270). Environmental conditions may vary from year to year and in some cases it is necessary to consider conditions over a range of time periods (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125). For example, where recent figures do not appear to represent a normal usage over time, historic data supported by substantial evidence may be the proper baseline over recent water use figures (*Ibid*).

The County put considerable thought into its determination on the hydrology baseline, and outlined that process and the relevant data in both the Draft EIR and the Revised Draft EIR. The rationale for the chosen environmental baseline is explained in the Draft EIR (pages 2-91 and 2-92) and the Revised Draft EIR (pages 2-17 through 2-19), including a table presenting various water use estimates made for the project site and historic water use figures. Additional information is presented in the appendices. The water use baseline was reviewed by Monterey County Water Resources Agency and Monterey County Planning Department, and the County determined that the 20-year average would best describe the water use baseline. In addition, information is provided on the current (non-averaged) water use at the project site. Given the unique circumstances surrounding water use on the site, the County believes it has arrived at a baseline that reasonably reflects historic, current, and potential future water usage by the existing land uses. The varying water use levels over time and rationale for the selected baseline are clearly disclosed.

The County practice is to calculate existing water use based on 10 out of 20 year documentation of average annual use. For this project, data and reasonable estimates were available, and all 20 years were used for the calculation. Data on historic on-site water use during the 20-year period are supported by substantial evidence, which includes documentation provided by past owners and tenants and water meter readings. This data and supporting evidence have been independently reviewed and evaluated by the County and its consultants. The rationale for the 20-year approach is founded upon typical farming practices for rotating and converting crops, and takes into account varying weather; i.e. this approach evens out the highs and lows that can occur from one season to the next. This longer timeframe is also consistent with the concept of developing policy for a long term sustainable supply. In addition, requiring documentation over a long timeframe is desirable to discourage property owners from intensifying water usage just prior to development in an effort to alter the baseline in their favor. The County stands by its assessment of the baseline water supply. Because water supplies and water demands are variable from one year to another, but aquifers change gradually over time, the County believes the 20-year averaged use baseline best reflects the long-range reality of water supply issues. CEQA requires a baseline on water use with as much historical data as can be presented in order to adequately assess future impacts (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 956). The County believes that if historic use is not considered relevant to LCP demand or balance calculations, then applicants are encouraged to artificially inflate present water use. See *Save Our Peninsula v. Monterey County Bd. of Supervisors* (2001) 87 Cal. App. 4th 99, 126.

This particular case has unique circumstances relating to the water use baseline, in that pasture irrigation, which had been ongoing for many years, was ended by the operator of the horse stable in 1998 at the direction of County staff concerned about the effect of irrigation on the oak

## 2.0 COMMENTS ON THE DRAFT EIR

trees. As a result current water use is less than the historic average; however, there is no legal requirement for the property owner or horse stable operator to refrain from pasture irrigation.

In regard to irrigation of strawberries on a 10-acre portion of the project site the water meter readings suggest that less than the industry average amount of water is applied to the strawberries. According to the Pajaro Valley Water Management Agency, *Revised Basin Management Plan*, and data from United Farm Workers of America, water consumption for typical strawberry irrigation ranges from 2.5 to 3.0 acre-feet/acre/year; this would total 25 to 30 acre-feet of water annually for the 10-acre strawberry field. The water meter readings from 1988 to 2004 show that total water use for strawberry irrigation on the property ranged from 7.7 to 19.6 acre feet per year, significantly below the typical strawberry irrigation range. Thus, the data do not support assertions that there was significant over-applying of irrigation water to inflate the baseline.

**Groundwater Conditions and Project Effects.** As required under CEQA's mandate as an informational document, and in the interest of full disclosure, the Draft EIR and the Revised Draft EIR provide detailed discussion of the area's hydrological conditions, including the overdraft conditions of the aquifer from which the proposed project's water would come. In light of the concerns over groundwater conditions, mitigation measures are included to reduce the proposed project's water use, which has already been reduced through project designs and State and County mandated water conservation programs.

The Draft EIR concluded that the proposed project would have a less than significant direct impact because the project's groundwater consumption would be less than the environmental baseline. The net reduction in water use on the property from baseline would result in a net, albeit small, benefit to the groundwater basin. The County has the discretion to determine that the project's effects will not be cumulatively considerable because there is no substantial evidence of an "individual potentially significant effect of the project." The Revised Draft EIR could legally have concluded that in the absence of any direct impact on the water basin, there can be no cumulative impact (See *Sierra Club v. West Side Irrig. Dist.* (2005) 128 CA4th 690). However, again in an abundance of caution, the County staff determined in the Revised Draft EIR that the project would result in a potentially significant and unavoidable cumulative impact on the groundwater aquifer and seawater intrusion because the project would continue to use water withdrawn from the over drafted aquifer, particularly if the PVWMA fails to complete implementation of the *Revised Basin Management Plan*. The County circulated the Revised Draft EIR to clarify, that although the proposed project is consistent with the applicable policies (those in effect at the time the application was deemed complete, in accordance with the requirements of the Subdivision Map Act) the proposed project would contribute to a cumulative potentially significant impact to regional water supply and seawater intrusion, owing to the existing

condition of the aquifer. Continuing water use, albeit below the environmental baseline, contributes to this cumulative situation.

The Revised Draft EIR addresses both the regional conditions of the north Monterey County hydrologic area as well as the local water supply for the proposed project. The Revised Draft EIR describes the proposed project's effect on the regional conditions of the entire basin as follows: "the proposed project would reduce the overall severity of current overdraft conditions in the north Monterey County hydrogeologic area." This statement takes into consideration the reduction in water consumption from baseline and recycled wastewater from the Project that would be used in the basin. The Revised Draft EIR also discusses the continuing regional groundwater level declines and concludes that any withdrawal from the basin, even though small and below the environmental baseline, would still contribute to cumulative groundwater overdraft. While the WRA has recently determined that a zero net increase in water is necessary to protect North Monterey County aquifers from overdraft, that standard, although met by this project, is inapplicable to this project by virtue of the Subdivision Map Act, Government Code section 66498.1 (b). The vesting effect of Government Code section 66498.1 (b) also extends to the regulatory framework of the applicable LCP. *Security National Guaranty v. California Coastal Commission*, (2008) 159 Cal. App. 4<sup>th</sup> at 422.

Specific to the proposed project and the Las Lomas area, the availability of long term water supply is discussed in detail in the Water Supply Assessment Report (Appendix K in the Revised Draft EIR). The Water Supply Assessment Report evaluated the water supply for the next 20 year period during periods of normal, single dry, and multiple dry water years with the project and the anticipated growth of the area. The assessment was based on California Water Service Company's (Cal Water) projected total water demand forecasts in its Urban Water Management Plan, which includes the Las Lomas area. The analysis was also based on the "real" data collected in Cal Water's groundwater charts based on groundwater level measurements from Cal Water's local wells. Based on its data of the local groundwater conditions, Cal Water concluded that it has adequate water supplies to meet the projected demands of the proposed project in addition to its existing customers and anticipated water users in the Las Lomas service area for the 20 year period from 2006 to 2026 under normal, single dry year, and multiple dry year conditions. The assessment provides an analysis and supporting data sufficient to assess actual availability of further water supplies. See *Santa Clarita Org. for Planning the Env't v. County of Los Angeles* (2003) 106 CA4th 715.

Again, in a good faith effort at full disclosure the Revised Draft EIR was prepared not only to discuss the project site and vicinity water conditions, but also the overall regional groundwater conditions. CEQA Guidelines makes clear that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, severity of its likely environmental impacts, and the geographic scope of the project (14 CCR

## 2.0 COMMENTS ON THE DRAFT EIR

15204(a)). In light of the minimal amount of project withdrawal in comparison to that from the entire North County groundwater basin, the availability of long term (20) water supply to the proposed project as determined by Cal Water, and the implementation of feasible mitigation measures to address the regional water supply situation, the long term water supply issue has been adequately addressed in the Revised Draft EIR.

Seawater intrusion is intrinsically linked to groundwater conditions, and is discussed in that context in the Draft EIR (pages 2-82, 2-92, 2-101) and Revised Draft EIR (pages 2-20, 2-21, 2-29). The proposed project will decrease project site water use and have no measurable effect on seawater intrusion, adverse or beneficial. Two projects that are part of the *Revised Basin Management Plan* are currently under construction and will have a significant beneficial effect on seawater intrusion. The recycled water plant and the recycled water distribution system will replace most groundwater pumping near the coast with imported water, and will establish a hydrostatic barrier to halt seawater intrusion (*Revised Basin Management Plan*, page 4-16). About half of the project's wastewater (that which is generated during the summer irrigation season) will be recycled at this plant and used for agricultural irrigation in coastal areas.

**Mitigation Measures/Alternatives.** The Vineyard case cited in the second Yeates letter is not relevant to the proposed project. The EIR discussed in the Vineyard case is for both (1) a community plan for a large, mixed-use development project, which at full build-out would include more than 22,000 residential units, housing as many as 60,000 people, together with schools and parks, as well as office and commercial uses occupying about 480 acres of land and (2) a specific plan for the first portion of that development (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 421). The proposed project is a significantly smaller project. One of the primary issues associated with the Vineyard case is that the developer did not have legal rights or facilities for the supplemental water that was needed for the project (Id at p. 424). The court in Vineyard found the availability of future water supplies was speculative because of the lack of facilities and entitlement and therefore, the court rejected the EIR's phasing or tiering of the project. Unlike the "speculative source" of "paper water" in the Vineyard case, the proposed project has a "can and will serve" letter and water supply assessment from Cal Water and the project will be served by Cal Water's well system already constructed and serving the Las Lomas area. Also, unlike the phased planning in the Vineyard case, the purpose of Mitigation Measures 20 and 21 is not to provide additional time to obtain legal rights to the water by phasing the project; its purpose is to track whether the calculated water consumption in the Draft EIR matches the actual water consumption. Under these mitigation measures, upon 40 percent buildout of the project, if the actual water use exceeds the amount projected, the project proponent must prepare and implement a water target attainment plan prior to the construction of additional residential or commercial development on the site.

In addition to Mitigation Measures 20 and 21 the EIR includes a measure to reduce landscape irrigation to levels that are less than the water use under the County's water conservation regulations, or to increase on-site groundwater infiltration.

The reduced water use alternative is intended to overlay the proposed project and the alternatives. That is, if this alternative is selected with the proposed project, then the approval will consist of the proposed project overlaid with the water reduction programs of the alternative. Because the proposed project was found to pose less than significant direct impacts to water, thus benefiting the overdrafted aquifer, this alternative was included in the EIR primarily to anticipate potential imposition of measures by the California Coastal Commission similar to those imposed on a prior project in north Monterey County, i.e., Sunridge Views. Under CEQA, there are no fixed rules governing the types of activities that should be analyzed as project alternatives, and the nature of alternatives vary depending on the type of project being analyzed (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 C3d 553, 556). The alternatives discussed in an EIR should be ones that offer substantial environmental advantages over the proposed project (Ibid at p. 566). The purpose of this reduced water use alternative is to consider offsets of the project's water consumption. CEQA gives an agency the discretion to develop alternatives and adopt/not adopt an alternative.

# Enclosure 8 of Exhibit B

LAW OFFICES OF  
HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,  
LAW & COOK  
INCORPORATED

P.O. BOX 3350, MONTEREY, CALIFORNIA 93942-3350

LAURENCE P. HORAN  
FRANCIS P. LLOYD  
ANTHONY T. KARACHALE  
STEPHEN W. DYER  
GARY D. SCHWARTZ  
MARK A. BLUM  
MARK A. O'CONNOR  
ROBERT E. ARNOLD III  
ELIZABETH C. GIANOLA  
ABIGAIL L. JEFFERS  
PAMELA H. SILKWOOD  
MICHAEL P. BURNS  
AUSTIN C. BRADLEY

JAMES I. COOK  
DENNIS M. LAW

TELEPHONE: (831) 373-4131  
FROM SALINAS: (831) 757-4131  
FACSIMILE: (831) 373-4302

October 28, 2007

Via E-Mail and Hand Delivery

David Greene  
Monterey County Planning Department  
168 West Alisal Street, 2nd Floor  
Salinas, California 93901

RE: Comments on Draft Environmental Impact Report for Rancho Los Robles  
Subdivision, SCH#2002091010

Dear David:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the Rancho Los Robles Project (hereinafter "Project") on behalf of Heritage Western Communities, Ltd. The DEIR is a fundamentally sound and comprehensive document. The within comments are intended to provide some constructive suggestions for better informing decision makers.

1. Summary, Project Description, Page S-1

To better reflect the project description, we suggest the following revisions:

*The proposed project is a lot line adjustment and tentative map for the subdivision and eventual development of 97 single-family lots, four ~~townhouse~~-multifamily units, open space/recreation areas, and a commercial parcel (for a projected 17,000 square-foot building) on a 33.70-acre site in Las Lomas, in northern Monterey County. The site features a horse boarding facility, strawberry fields, and an area of large oak trees. The applicant has applied for a combined development permit, consisting of a coastal development permit, subdivision, lot line adjustment, and tree removal permits and a general development plan to allow for commercial or quasi-public development of the commercial parcel.*

We recommend making a global change to the project description from "townhouse" to "multifamily units".

2. Summary, Table S-1, Summary of Project Impacts and Mitigation, Page S-5



Mr. David Greene  
Page 2  
October 28, 2007

Under Significant (Biological Impact 7) Protected Trees, the following revisions are recommended to correctly reflect the number of protected trees to be removed as part of the Project:

The proposed project would remove three protected coast live oak trees, 25 protected trees of which 16 are considered "landmark" coast live oak trees.

3. Summary, Beneficial Effects, Page S-11

To provide the public additional information on the benefits of this project, we recommend the following be added to this section:

The proposed project would add both market rate housing units and below market rate housing units (i.e., 22% total, consisting of in-lieu fees and on-site housing) in north Monterey County. The proposed project's recreational facility would be used by local residents and students of nearby Hall School. The project would also provide commercial or quasi-public services to the community. The proposed project would help fill a local and regional deficiency in housing, commercial and park facilities.

The project would preserve in perpetuity 29% of the property as open space, including all areas in slopes of 25% or greater, which has the greatest number of oak trees and is highly visible from Hall Road.

By revegetating large portions of the property, the project would reduce erosion and sedimentation to Carneros Creek and Elkhorn Slough which currently (and historically) result(ed) from loose soils and lack of vegetation caused by horse pasture and agricultural operations on steep slopes.

The project would enhance pedestrian safety by providing sidewalks along Sill and Hall Roads for use by residents and students of nearby Hall School.

4. Section 1.1, Project History, Page 1-2

We recommend a more detailed discussion of the prior 204-unit project, known as Oaktree Ranch, as follows:

A 204-unit townhouse project with up to 36,000 square feet of commercial uses was proposed on the project site in 1984 and an EIR was prepared in 1985; however, the project was dropped and no action was taken. The County amended the North County LUP/LCP in 1987, changing the land use designation for the project site from high density to medium density residential. The project was known as Oaktree Ranch. The Oaktree Ranch project was consistent with the then Housing Plan and Land Use Plan designation for the project

Mr. David Greene  
Page 3  
October 28, 2007

site. The Housing Plan designated the project site as a Development Incentive Zone (DIZ). DIZ was described as "areas of higher intensity residential land uses which are urban in character... (and)... where development constraints have been removed or mitigated to the fullest extent possible in order to expedite residential development." The Land Use Plan designated the project site as High Density Residential, which has the density of 7 to 7.5 units per acre. The LUP discussed the project site as follows: "An area of high density residential development is planned at Las Lomas between Hall and Sill roads in order to encourage the provision of low and moderate income housing consistent with the Las Lomas Development Incentive Zone of the Monterey County Housing Element. The area designated for High Density Residential development contains approximately 44 acres and may, consistent with the availability of public services and other resource considerations, be developed at a gross density of 7 to 7.5 dwellings per acre, or a total of about 320 units. The Special Treatment Area designation is applied in order to encourage planned development that will ensure retention of the site's natural amenities, particularly its mature oaks and also to provide for community needs such as a meeting hall or recreation area, and convenience shopping." Specific Policy 4.3.6.D.6.

An EIR was prepared for the Oaktree Ranch project. Prior to the completion and certification of the EIR, the LUP was amended in 1986 and redesignated the project site as Medium Density Residential with the maximum density of 4 units per acre. The applicant filed a lawsuit in 1986 to invalidate the LUP amendment, but did not prevail.

A new combined development permit application for a 103-lot subdivision (later reduced to 101) and commercial development was submitted on August 9, 2000...

5. Section 1.2, Project Location and Setting, Figure 8, Page 1-19

Figure 8 was not included in the electronic version of the DEIR posted on the Monterey County website.

6. Section 1.3, Project Characteristics, Project Overview, Page 1-28

The comment in Comment No. 1 regarding the project description also applies here.

7. Section 1.3, Project Characteristics, Table 2, Page 1-28

As stated in the General Development Plan application, the commercial/quasi-public units comprise 12,000 square feet, not 18,000 square feet as shown on Table 2. The FEIR should either (1) be globally revised to reflect the smaller commercial/quasi-public development and either evaluate the associated reduction in potential impacts or (2) should include a discussion that states that the size of the commercial/quasi-public development is significantly smaller than originally contemplated and therefore, the impacts associated with the commercial development would be significantly reduced.

Mr. David Greene  
Page 4  
October 28, 2007

8. Section 1.3 Project Characteristics, Residential Development, Page 1-31, Third Paragraph, following fourth sentence

To better reflect the Applicant's proposal for below market housing, we suggest the following revisions to the third paragraph, following the fourth sentence:

*... Under this ordinance the applicant is responsible for the provision of 15 percent affordable housing (on-site, off-site, through in lieu fees, or a combination of these). In addition to the required 15 percent affordable housing, the applicant proposes to provide four on-site attached rental units for very low income households, and three on-site single-family units for households with incomes between 120 and 180 percent of median (commonly referred to as "workforce housing"). The applicant proposes to provide a total of 22 percent affordable housing, including additional off-site units consisting of (1) payment of 15% in-lieu fee paid towards an off-site inclusionary housing project to be constructed through partnership with a non-profit organization or deposited to Monterey County's inclusionary housing general fund and (2) construction of 7 below market housing units on-site. The on-site affordable housing would be constructed concurrently with the market-rate housing.*

9. Section 1.3 Project Characteristics, Commercial Development, Page 1-31

Because the Project includes a general development permit and a coastal development permit to allow for commercial or quasi-public development of the commercial parcel, we recommend the following revisions:

*The project includes a general development permit and a coastal development permit to allow for commercial or quasi-public development of the commercial parcel. The commercial area would occupy 1.76 acres along Hall Road, near the southeast corner of the project site, immediately west of the multifamily units townhouses. Architectural plans showing the layout of the commercial/quasi-public buildings were submitted as part of the General Development Plan. However, detailed site development and architectural plans for the commercial area have not been submitted....*

10. Section 1.5, Consistency with Local and Regional Plans, Page 1-35

We recommend the following revisions to provide additional relevant information regarding the Subdivision Map Act as applicable to this Project:

*Information in this section is based on the tentative map prepared by Ifland Engineers, Inc., Monterey County Assessor's maps, the North County LUP/LCP, the Monterey County Housing Element, the Monterey County Code, the North Monterey County Hydrogeologic Study prepared by Fugro West, Inc., the 2000 Air Quality Management Plan, and the consultant's site visits and personal communications. Under the provisions of the*

Mr. David Greene  
Page 5  
October 28, 2007

Subdivision Map Act, the proposed project must be processed in accordance with the laws, policies and ordinances in effect in September 2000, when the application was deemed complete. This consistency analysis is also based on the laws, policies and ordinances then in effect, which are largely unchanged.

11. Section 1.5, Consistency with Local and Regional Plans, Page 1-40, Consistency Analysis

This discussion does not properly describe Mitigation Measure 4a, which allows the boundary of the nonjurisdictional wetland area to be modified. Please refer to Comment No. 21 for additional information. Accordingly, we recommend the following revisions:

*Consistency Analysis: The lower terrace contains wetlands (as defined by the California Coastal Commission) and a small portion of the northeast corner of the project site contains riparian vegetation, both of which are environmentally sensitive habitat. The project proposes filling a portion of the wetland area and establishing a drainage pond within the fill. The project proposes retaining the riparian willow, but does not provide a significant buffer. Mitigation Measures 5a, 5b, and 5c in Section 2.2, Biological Resources address protection or replacement of the willow riparian habitat, with Mitigation Measure 5c recognizing the minimal value of the habitat at this location, and allowing for a 3:1 replacement at a more beneficial location within the project site. Mitigation Measures 4a and 4b in Section 2.2, Biological Resources require construction and ongoing measures to protect, modify and enhance the wetland area in a manner which is compatible with and assures its long term maintenance while avoiding habitat impacts. The measure prohibits ~~fill reduction~~ of the existing wetland area. The measures require a conservation easement over the sensitive habitat areas to protect the resources. Because significant impacts are avoided and the measures are unique to this parcel, the measures do not establish a precedent for continued land development which, on a cumulative basis, could degrade the wetlands resource. With mitigation, the proposed project would be consistent with this policy.*

12. Section 1.5, Consistency with Local and Regional Plans, Page 1-42, Consistency Analysis, 5<sup>th</sup> Sentence

As stated in Table 6, a total of 24 oak trees will be removed as part of the Project. Accordingly, we recommend the following revision:

*The proposed project would result in the removal of about 40 trees, about ~~25~~ 24 of which would be oak trees.*

13. Section 1.5, Consistency with Local and Regional Plans, Page 1-43, Consistency Analysis

Please note in Comment No. 52 the corrected number for the estimated infiltration resulting from the recycling project, which should also be corrected in this section. We also recommend the following revisions to provide additional information/clarification regarding the project:

Mr. David Greene  
Page 6  
October 28, 2007

*Consistency Analysis: The project site is not designated for exclusive agricultural use; the project site is now designated for medium density residential uses, having been downzoned from high density residential uses. However, because the aquifer from which the project would draw groundwater is also used for agricultural irrigation, this policy is relevant to the project's water use. The north Monterey County hydrogeologic area is in a state of overdraft and additional continued, albeit reduced, groundwater pumping could further jeopardize coastal groundwater supplies that serve agricultural uses. The quantity of water withdrawn for the proposed project would be less than has historically been withdrawn for agricultural purposes on the project site, but the project water balance would remain negative, with withdrawals in excess of infiltration. The Revised Basin Management Plan proposes to replace groundwater sources for agricultural irrigation in portions of the Pajaro and Springfield Terrace subareas with imported sources of water, including recycled wastewater, distributed through the coastal distribution system. The recycling project and distribution system are expected to be constructed before the proposed project is occupied. The proposed project's wastewater would flow to the Watsonville wastewater treatment plant, where it would be recycled during the dry half of the year. About 14-16 acre-feet would be recycled each year and used for agricultural irrigation. The proposed project would be consistent with this policy, particularly as it was interpreted and applied by the County at the time that the application for the proposed project was deemed complete.*

14. Section 1.5, Consistency with Local and Regional Plans, Page 1-43, Consistency Analysis

It is important to note that the proposed Project would reduce the water demand from historic water use. Accordingly, the first sentence in this last paragraph of Page 1-43 should be revised as follows:

*Consistency Analysis: The north Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a reduced water demand for which a long term sustainable supply of water cannot be assured without a regional program to address groundwater balance problems, or further off-set of project water use.*

15. Section 1.5, Consistency with Local and Regional Plans, Page 1-44, Consistency Analysis

To provide additional information on the County's application and interpretation of its long term water supply policies at the time the application was deemed complete, we request that the following be added to the last sentence of the second full paragraph:

*Despite the broader groundwater basin issues that remain unresolved, the proposed project would improve net groundwater balance by about 32 acre-feet per year under current conditions and about 35 acre-feet per year when the Watsonville recycling project is on-line. since Moreover, the application for the proposed project was deemed complete on September 21, 2000 (and is thus subject to the laws, policies and ordinances in effect at that*

Mr. David Greene

Page 7

October 28, 2007

time), and is counted within the 2,043 unit limit of this policy. In interpreting this policy, the County of Monterey has consistently taken the position that a project is consistent with this policy if (1) it does not intensify the groundwater use, i.e., if the project's proposed water consumption would be equal or less than historic water use, (2) the 50 percent buildout threshold will not be exceeded, and (3) the applicant would make payment towards the formalized hydrological impact fee program (Monterey County Code Section 18.51) which was in effect at the time the Project's application was deemed complete. The intent of the Section 18.51 and the impact fee is to off-set potential water supply impacts. Because this project (1) will not intensify groundwater use, (2) is within the 50 percent buildout threshold, and (3) the applicant would make payment to the hydrologic impact fee program, the proposed project would be consistent with this policy.

16. Section 1.5, Consistency with Local and Regional Plans, Consistency Analysis, Page 1-45, Second Paragraph, first sentence

As stated in Table 2, the total open space area is 9.7 acres. Accordingly, we recommend the following revision:

*The proposed project includes approximately ~~11.5~~ 9.7 acres of open space...*

17. Section 1.5, Consistency with Local and Regional Plans, Consistency Analysis, Page 1-45, Last Paragraph

To mitigate the liquefaction concern, the soils engineer recommended buttressing the hillside, which action is consistent with the referenced policy (Policy Hazards 2.8.2), i.e., minimize geologic and flood risks. Accordingly, we recommend the following revisions:

*The project site soils are subject to liquefaction, and the project site slopes are subject to sliding, particularly if soils are saturated. A proposed storm water basin in the low area at the base of the central slope will be lined to prevent soil saturation. The applicant proposes to elevate the low area, thus buttressing the hillside, and reducing the risk of slippage but ~~this. This approach is inconsistent~~ is consistent with the County's policies on grading, Policy Hazards 2.8.2 by minimizing geologic and flooding risks. Appropriate setbacks from the top of slope will also be required. The proposed project would be consistent with this policy.*

18. Section 1.5, Consistency with Local and Regional Plans, Consistency, Page 1-49

North County LUP/LCP Key Policy 2.2.1 and General Policy 2.2.2 are relevant to this discussion and should be added to this section. The following provides the language of these policies:

**2.2.1 Key Policy**

*In order to protect the visual resources of North County, development should be prohibited to the fullest extent possible in beach, dune, estuary, and wetland areas. Only low intensity*

Mr. David Greene

Page 8

October 28, 2007

development that can be sited, screened, or designed to minimize visual impacts, shall be allowed on scenic hills, slopes, and ridgelines.

### 2.2.2 General Policy

3. Property containing land on scenic slopes, hills, and ridgelines when proposed for subdivision, should be subdivided so that the lots are situated to allow the highest potential for screening development and access roads from view. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development. During the subdivision process, scenic or conservation easements should be required to the fullest extent possible for wooded ridge, hill, and areas of 30% slope or more.

4. The least visually obtrusive portion of a parcel should be considered the most desirable site for the location of new structures. Structures should be located where existing topography and vegetation provide natural screening.

5. Structures should be located to minimize tree removal and grading for the building site and access road. Disturbed slopes should be restored to their previous visual quality. Landscape screening and restoration should consist of plant and tree species complementing the native growth of the area.

Moreover, we recommend adding the following to the ridgeline development consistency analysis in order to provide additional information concerning relevant policies.

Consistency: Ridgeline development is defined as "development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact." The General Plan Policy 26.1 defines ridgeline development as "development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area." Zoning Ordinance 20.06.197 defines "common public viewing area" as a public street, road, designated vista point or public park from which the general public ordinarily views the surrounding viewshed." Crest of a hill is defined in the Webster's New World Dictionary as "the top line; summit; the highest point". From Hall Road, the proposed project includes subdivision of lots on which future development may create a silhouette above the ridgeline, at the top of the low plateau, with a view of the mountainous ridge in the distance. Hall Road is not identified in the LUP as a protected public vantage point and thus, is considered neither sensitive nor scenic public viewing area. If the top of the low plateau on site is interpreted by the County Supervisors to be a ridgeline, then such development would constitute ridgeline development under this ordinance and would not be permitted. Based on an initial visual analysis for the proposed project, the map was revised and several of the lots were proposed for grading down and/or restricted to single-story structures, and an earth berm was proposed to be placed in front of some lots. In addition, the applicant has proposed that the commercial and townhouse buildings nearest Hall Road be considered for their potential to block views farther back on the project site. Staking and flagging indicates that with these measures, two lots would result in ridgeline development. CIP policies discourage extensive grading, and the berm has been determined by staff to constitute ridgeline development under the County's definition

Mr. David Greene  
Page 9  
October 28, 2007

of development. Without the berm, several additional lots near the top of the slope may ~~would be~~ ridgeline, and without the extensive grading down of the upper terrace area, many of the lots in that area could result in ridgeline development, even with the single-story restrictions.

The County staff has determined that it is consistent with applicable policies and ordinance ~~acceptable to use the front buildings to shield potential for~~ ridgeline development on lots farther back.

19. Section 1.5, Consistency with Local and Regional Plans, Consistency Analysis, Page 1-52

To provide additional information on the formalized hydrological impact fee program (Monterey County Code Section 18.51), we request the following revisions be made:

Ordinance 4005 of the County of Monterey adds Chapter 18.51 to the Monterey County Code to establish a formal hydrological impact fee program for development in the North Monterey County Area to assist in financing a study and management plans relating to the safe yield of the North Monterey County aquifers. The fee is applicable to projects located in the north Monterey County hydrogeologic area for which application were filed prior to January 1, 2001. The application for the proposed project was deemed complete on September 21, 2000, at which time a County ordinance required a fee payment to fund the study and remedy of adverse hydrological conditions in north Monterey County. and thus, the proposed project would pay this fee, the applicant would be required to pay the appropriate financial contribution in accordance with Ordinance 4005 to fund an area-wide hydrological study and address ground water overdraft and water resources in the project area. With the adoption of Ordinance 4005, payment of the mitigation fee was legislatively determined by the County to constitute mitigation reducing water use to a level not adversely impacting the safe, long-term yield of the local aquifer.

The north Monterey County hydrogeologic area remains ~~is in a~~ the state of significant overdraft which prompted adoption of Ordinance 4005, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured without a regional program to address groundwater balance problems, or further off-set of project water use....

20. Section 1.5, Consistency with Local and Regional Plans, Consistency Analysis, Page 1-53

To continue the discussion and reach a logical conclusion based on Comment No. 19 above and to include relevant information from Page 2-114 of the DEIR regarding hydrological impact fees as mitigation, the last several sentences of the first paragraph on Page 1-53 should be revised as follows:



Mr. David Greene  
Page 10  
October 28, 2007

*The proposed project would meet County requirements .... The applicant has proposed an alternative that would reduce water use to a zero net use by providing off-site infiltration if feasible, off-site retrofit of existing houses or facilities with water-conserving fixtures and appliances, and/or other water savings measures. The County has not determined if the feasibility of all of the proposed alternative measures all possible measures allowable under this alternative has not been determined, but the alternative is likely to reduce regional water use to some degree in any case. Nevertheless, the payment to the formalized hydrological impact fee program under the ordinance (Ordinance 4005) applicable to the project would reduce water use to a level not adversely impacting the safe long-term yield of the local aquifer. CEQA Guidelines section 15130(a)(3) allows the payment of a fair share fee towards measures necessary to mitigate a cumulative impact to reduce the project's contribution to the cumulative impact to a less than significant level. In Save Our Peninsula Committee v. Monterey County Board of Supervisors ("September Ranch"), the California Appellate Court held that fees associated with a formally adopted program could be used to mitigate cumulative or project level impacts. Therefore, the The proposed project would be consistent with this policy.*

21. Section 1.5, Consistency with Local and Regional Plans, Consistency, Page 1-53, Third Full Paragraph

Revisions are suggested to clarify the distinction between grading to avoid ridgeline development and grading for the detention pond. Mitigation Measure 4a allows the boundary of the nonjurisdictional wetland area, which has no to little biological utility (see Comment No. 34), to be modified so long as the total area remains the same. Therefore, the EIR needs to distinguish between the delineated nonjurisdictional wetlands area and the modified wetland area subject to a conservation easement. Additionally, the grading has been significantly minimized at the hillside and terrace areas by the DEIR recommendation to eliminate the Project's proposal to grade down lots and construct the berm. Grading to create the detention pond and buttress the hillside at the low lying area of the Project site is consistent with other important County policies associated with erosion and runoff control, geology, and water quality. Accordingly, the second to the last sentence in the third full paragraph should be revised as follows:

*The proposed grading of lots and construction of the berm at the hillside and terrace areas are is inconsistent with this section of the CIP and therefore, Mitigation Measure 3 recommends eliminating these features from the project. However, the detention pond and berm, which buttresses the hillside, proposed for the low lying area of the project site, promote other important County policies associated with erosion and runoff control, geology, and water quality. Therefore, the detention pond and the buttressing of the hillside, would remain as part of the project. Mitigation measures 2 and 3 in Section 2.1 Aesthetics prohibit cuts and fills in excess of four feet, and Mitigation Measure 4a in Section 2.2 Biological Resources prohibits fill within the wetland conservation area. The elimination of the above-referenced project features through Mitigation Measure 3 would significantly minimize the grading for the project. The project would only include the grading necessary*

Mr. David Greene

Page 11

October 28, 2007

to promote other important County policies and thus, would be consistent eliminate the inconsistency with this policy.

22. Section 1.5, Consistency with Local and Regional Plans, Consistency Analysis, Page 1-54, Third Full Paragraph

As discussed in Comment No. 8, we suggest the following revisions to better reflect the Applicant's proposal for below market housing:

*The proposed project includes 101 units; however, the inclusionary housing requirement is based on the net new units (101 less the four existing units). The 15 percent requirement for the proposed project is 14.55 units. The applicant proposes to provide a total of 22 percent affordable housing, including both on-site and off-site units and the payment of 15% in-lieu fees which would be applied towards an off-site inclusionary housing project to be constructed through partnership with a non-profit organization or deposited to Monterey County's inclusionary housing general fund. The applicant also proposes to provide four on-site attached rental units for very low income households, and three on-site single-family units for households with incomes between 120 and 180 percent of median (commonly referred to as "workforce housing"). The three workforce housing units do not meet the standards of the inclusionary housing program, and would not be counted in calculating fulfillment of the requirements. The on-site affordable housing would be constructed concurrently with the market-rate housing. ~~Additional affordable units would be constructed off-site.~~ The proposed project would be consistent with this ordinance.*

23. Section 1.7, Subsequent Permits Required, Page 1-56

The General Development Plan and Coastal Development permit for the commercial units are part of this Project application. The commercial units will be constructed concurrently with the residential units. Thus, the first bulleted item in this section should be deleted.

24. Section 2.1, Aesthetics, Environmental Setting, Vicinity Visual Qualities, Page 2-5

The section entitled Project Analysis, Page 2-5, of the DEIR includes the following discussion which is also appropriate to include in the second paragraph of this section, as follows:

The project would fill a gap in the existing built environment between the concentrated development of central Las Lomas and the Hall District School.

25. Section 2.1, Aesthetics, Figure 14

Although the text accurately describes the visual features from Hall Road, the base map used in this figure is not up-to-date. The most recent version of the tentative map should be used as the base map for this figure.

Mr. David Greene  
Page 12  
October 28, 2007

26. Section 2.1, Aesthetics, Potential Ridgeline Development, Page 2-10

Consistent with Comment No. 18, we recommend the following revisions to the first sentence in the second full paragraph:

*Use the front buildings (commercial and multi-family) to shield ridgeline development on lots farther back could be ~~acceptable~~ consistent with applicable policies and codes if the front buildings are already or concurrently constructed when the farther-back buildings are built.*

27. Section 2.1, Aesthetics, Figure 15

Figure 15 does not include a legend. We recommend that the figure include a legend to further enhance review.

28. Section 2.1, Aesthetics, Mitigation Measure 2.m, Page 2-19

To create the detention pond, buttress the hillside, and enhance the wetlands area, the earth berm height may vary from 4 feet to 12 feet (refer to Page 2-6 of the DEIR). Accordingly, we recommend the following revision to this measure for internal consistency of the EIR.

*m. The earth berm along Hall Road shall be ~~limited to no greater than~~ between four feet and twelve feet in height and planted with vegetation, and contoured to achieve a non-uniform appearance;*

29. Section 2.2, Biological Resources, Coast Live Oak Woodlands, Page 2-26

Similar to the discussions of the non-jurisdictional wetlands, which presented a summary of various experts' assessments, we request that you add a discussion of Dr. Jeffrey B. Froke's assessment of the oak habitat. Dr. Froke prepared a report, dated October 1, 2006, which included an evaluation of whether oak woodland exists at the Project site. Dr. Froke concluded that the Project site is best defined as a "ruderal oak pasture" and not oak savanna or oak woodland because the fundamental attributes of these habitats are not present. He found the property not to qualify as an oak savanna due to the lack of requisite vegetation and soil conditions. Moreover, he found the property not to qualify as oak woodland because, in addition to the lack of vegetation and soil conditions, the property contains less than 30 percent tree coverage, which is a necessary characteristic of oak woodland. Dr. Froke concluded that oak woodland does not exist at the Project site.

30. Section 2.2, Biological Resources, Figure 17

Mr. David Greene

Page 13

October 28, 2007

Although the text accurately describes the habitat types at the Project site, the base map used in this figure is not up-to-date. The most recent version of the tentative map should be used as the base map for this figure.

31. Section 2.2, Biological Resources, Wetlands and Waters of the U.S., Page 2-29

Second Paragraph in this subsection provides a quote from Mr. Bruce Cowan, which mentions "vernal pools", although not on the Project site. Please clarify in this section that vernal pools do not exist at the Project site.

32. Section 2.2, Biological Resources, Willow Riparian Woodland, Page 2-31

Similar to the discussions of the non-jurisdictional wetlands, which presented a summary of various experts' assessments, we request that you add a discussion of Dr. Jeffrey B. Froke's assessment of the willow habitat. Dr. Froke prepared a report, dated October 1, 2006, which included an evaluation of whether willow riparian habitat exists at the Project site. Dr. Froke concluded that the willow copse area does not contain the necessary characteristics of a riparian habitat and that this area is better defined as "ruderal depression and thicket." Dr. Froke, therefore, concluded that a willow riparian habitat does not exist at the Project site.

33. Section 2.2, Biological Resources, Project Analysis, Proposed Protections, Page 2-39

To correct a typographic error, we recommend the following revisions to the first two sentences in this section:

*The proposed project includes placement of a scenic easement over the portions of the project site that have a slope in excess of ~~14-25~~ percent. Approximately 9.5 ~~9.7~~ acres, or 28 percent of the project site, would be retained in essentially undeveloped open space.*

34. Section 2.2, Biological Resources, Significant Impact (Biological Impact 1) – Sensitive Natural Communities (Wetlands), Mitigation Measures, Long-Term Protection, Page 2-47

We request that alternative measures be considered for the non-jurisdictional wetlands similar to those measures considered for the willow riparian habitat. As discussed in this section, the only characteristic qualifying this area as wetlands under the California Coastal Commission's definition is the area's infrequent inundation of storm water. Because the area lacks other indicators, i.e., hydric soils and hydrophytic vegetation, and is found by various biologists to provide no biological utility, we request that alternative measures be considered. Please keep in mind the additional fill and retention pond in this specific area are designed and required to address the County's liquefaction concerns. Thus, the allowance for restoration elsewhere on- or off-site should be included in the discussion for Mitigation Measure 4.a. Although these on- and off-site measures are not yet specifically defined because existing restoration programs have not yet been identified, the measures will be considered reasonable if the FEIR explains that the

Mr. David Greene  
Page 14  
October 28, 2007

measures will be additional available measures if such measures can be implemented as part of a future program or plan. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 671.

Additionally, because the low lying area is only defined as wetlands under the California Coastal Act due to its hydrology, the specific area of soil saturation should be delineated rather than defining the wetlands areas as all "areas lower than 12 feet as on the subdivision map dated May 12, 2006," which has no scientific or regulatory basis.

Moreover, because the area is not a wetland under the U.S. Army Corps of Engineer definition due to its lack of two primary indicators, i.e., hydric soils and hydrophytic vegetation, the discussion should remove any reference to the Nationwide Permit.

Based on the foregoing, the following changes are recommended to Mitigation Measure 4a:

*Placement of a conservation easement over the non-jurisdictional wetland area including a 50-foot setback each side of the edge of the wet lowland area to be defined by the delineation of the area. ~~The wet lowland area shall be defined as the areas lower than 12 feet as shown on the subdivision map dated May 12, 2006; however, the~~ The boundary of this non-jurisdictional area may be modified provided the total area remains constant, and the storage capacity may be increased. A conservation easement will placed over the modified area, once defined. The conservation easement shall prohibit vegetation removal, excavation, grading, filling, and construction of roads and structures within the easement area wetlands easement, except pursuant to approval by the County, ~~as may be permitted under a Nationwide Permit under Section 404 of the Clean Water Act.~~ Such exceptions may include activities for watershed restoration or other activities that will ensure the long-term maintenance of the habitat. No grading, structures, roads, water tanks, surface or sub surface utility lines, animal grazing, or other activities shall be allowed in the conservation easement area except as may be necessary to reduce the potential risk of wildfires, to maintain the vigor of the habitat, to maintain the diversity and value of the habitat, to remove non-native plants, or to otherwise ensure the long-term maintenance of the habitat. Lining for use as a storm water pond shall be limited to the use of clay. Turf shall not be allowed within the conservation easement area wetland boundaries, but may be located within the 50-foot set-back area on one side of the conservation easement area wetland; chemical fertilizers and pesticides shall not be applied within the 50-foot buffer area.*

35. Section 2.2, Biological Resources, Mitigation Measure 4.a.b., Page 2-48

To clarify, Mitigation Measure 4a. allows wetlands boundary to be modified so long as the total area remains constant. For internal consistency, the 3:1 ratio must apply if the wetlands area is moved to another location on- or off-site (e.g., through a mitigation bank). Accordingly, we recommend the following revision:

Mr. David Greene

Page 15

October 28, 2007

As an alternative to Mitigation Measure 4.a., disturbance to if wetland habitat (or willow riparian habitat) is moved to another location on- or off-site (e.g., through an off-site mitigation bank) occurs as part of the project, habitat shall be replaced at a ratio of 3:1. Creation of mitigation areas will be required to follow the restrictions identified in (a). However, the modification of the wetland boundary in accordance with Mitigation Measure (a) is allowable without requiring the 3:1 replacement.

36. Section 2.2, Biological Resources, Mitigation Measure 4.a.c., Page 2-48

"Covenants, Codes, and Restrictions" should be changed to "Covenants, Conditions, and Restrictions."

37. Section 2.2, Biological Resources, Table 6

The text refers to the title of Table 6 as "Trees Proposed for Removal." Table 6 should have the same title as stated in the text.

38. Section 2.2, Biological Resources, Mitigation Measure 5a, Page 2-50

To provide additional relevant information from the biological reports, we request the following addition:

- a. A survey by an EMC biologist in December 2006 determined the willow riparian habitat to be 80 feet wide along Sill Road and 90 feet deep along the eastern property boundary. This area will be restricted through the placement of a conservation easement over the willow riparian habitat including 10 feet from the extent of the riparian vegetation. The conservation easement shall prohibit vegetation removal, excavation, grading, filling, and construction of roads and structures within the easement;

39. Section 2.2, Biological Resources, Construction-related Protection, Mitigation Measure 5b, Page 2-52

To provide clarification, the following is recommended:

- 5b. In order to protect the buffer areas during construction, the contractor shall install temporary fencing along the conservation easement area boundary, prior to commencement of grading and construction activities. Four-foot fencing shall be fastened to t-post stakes placed at eight-foot intervals. Signs shall be installed to clearly designate the sensitive habitat boundary. Erosion control shall be installed to prevent washing of soil or materials into the riparian area during construction. Grading shall occur within the willow riparian habitat conservation easement area

Mr. David Greene  
Page 16  
October 28, 2007

*...easement only as allowed under a Streambed Alteration Agreement and/or Section 404 permit...*

40. Section 2.2, Biological Resources, Construction-related Protection, Alternate Mitigation,  
Page 2-53

As discussed in Comment No. 35, the allowance for restoration elsewhere on- or off-site should be included in the discussion for alternative mitigations. Although these on- and off-site measures are not yet specifically defined because existing restoration programs have not yet been identified, the measures will be considered reasonable if the FEIR explains that the measures will be additional available measures if such measures can be implemented as part of a future program or plan. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 671.

5c. *In lieu of Mitigation Measures 5a and 5b, the project proponent may elect to remove the existing riparian willow habitat for development, and re-establish willow riparian habitat at a 3:1 ratio at appropriate locations in the lower portion of the project site or other location on-site or off-site (e.g., through an off-site mitigation bank) if such measure becomes available....*

41. Section 2.2, Biological Resources, Mitigation Measure 12, Page 2-61

By restricting the replacement trees to "no more than one year of age when planted out" (Mitigation Measure 13), the DEIR does not provide flexibility for using older trees in order to strategically place them to minimize any visual impact. The County will have an opportunity to review and comment on the landscaping plan, which will be prepared by a landscape architect, who will be the best person to decide on the type and age of trees and vegetation to be planted on the Project property.

Accordingly, the following revision to Mitigation Measure 13 is recommended:

*Trees shall be five gallon size at minimum and ~~no more than one year of age when planted out.~~*

42. Section 2.2, Biological Resources, Mitigation Measure 13b, Page 2-62

The scenic easement/conservation area should be allowed to have underground utilities associated with the development. Additionally, Mitigation Measure 13b needs to be consistent with Mitigation Measure 16. Accordingly, the following revisions are recommended:

*The scenic easement/conservation area shall be expanded to include the entire open space (excluding the recreation area, but allowing for establishment of drainage, pathways or neighborhood park and utility features provided those features are at least 0.5 feet from the*

Mr. David Greene

Page 17

October 28, 2007

*trunk per inch truck diameter (measured at two feet above the ground)). No development envelope on private lots shall be within areas with slopes of greater than 25 percent. The homeowner's association shall be responsible for maintenance of the scenic/conservation easement.*

43. Section 2.3, Geology and Soils, Geologic Hazards, *Liquefaction*, Page 2-68, Second Full Paragraph

"NZA" in the first and second third sentence should be changed to "HKA".

44. Section 2.3, Geology and Soils, Mitigation Measure 18, Page 2-73

As discussed in Comment No. 34, Mitigation Measure 4a recommends that the boundary of the non-jurisdictional wetland area, which has no to little biological utility may be modified so long as the total area remains the same. Therefore, the EIR needs to distinguish between the delineated non-jurisdictional wetlands area and the area later determined to be the conservation easement area, which boundaries may be different. Accordingly, the last sentence should be modified as follows:

*No fill is to be placed within the area identified as the conservation easement area, an existing wetland.*

45. Section 2.3, Geology and Soils, Mitigation Measure 19, Page 2-74

The dates of allowable grading activities are reversed and should be revised as follows:

- a. *Only minor grading may occur between October 14 and April 16 April 16 and ~~October 14~~, and no grading shall occur during this period on slopes in excess of 11 percent;*

46. Section 2.4, Hydrology and Water Quality, North County Hydrologic Study Area Fee, Page 2-78

As discussed in Comment No. 19, we request the following revisions be made to provide additional information on the formalized hydrological impact fee program:

*North County Hydrological Study Area Fee. Monterey County Code section 18.51 was added by Ordinance 4005 and established a formal hydrological impact fee program for development in the North Monterey County Area to assist in financing a study and management plans relating to the safe yield of the North Monterey County aquifers. ~~development impact fee for the purpose of funding further study and monitoring of groundwater conditions in the north Monterey County area. The fee is applicable to projects located in the north Monterey County hydrogeologic area for which applications were filed prior to January 1, 2001. The application for the proposed project was filed on August 9,~~*



Mr. David Greene  
Page 18  
October 28, 2007

~~2000 and deemed complete on September 21, 2000, and the proposed project would pay this fee thus the proposed project would pay this fee. the proposed project would pay the appropriate financial contribution to the hydrological impact fee program in accordance with Ordinance 4005 in order to fund an area-wide hydrological study and address ground water overdraft and water resources in the project area. The fee is based on a rate of \$50 per 200 gallons per day average flow (by use types) with a minimum of \$1,000 per approval. New residential uses pay a flat rate of \$1,000 based on a typical daily water flow of 250 gallons.~~

47. Section 2.4, Hydrology and Water Quality, North County Hydrologic Study Area Fee, Page 2-79

In following the discussion in Comment No. 46 above, and to include relevant information provided on Page 2-114 of the DEIR regarding the formalized hydrological impact fee program, we recommend the following be added to the last paragraph of the section entitled, North County Hydrological Study Area Fee, as follows:

*Although the reports funded by the fee are now completed, the fee is still being collected from projects that had applications deemed complete during the time it was in effect. The County uses funds collected for appropriately related purposes addressing the safe yield of the North Monterey County aquifers. With the payment of the mitigation fee required under Ordinance 4005, water use has been determined not to adversely impact the safe long-term yield of the local aquifer. CEQA Guidelines section 15130(a)(3) allows the payment of a fair share fee towards measures necessary to mitigate a cumulative impact to reduce the project's contribution to the cumulative impact to a less than significant level. In Save Our Peninsula Committee v. Monterey County Board of Supervisors ("September Ranch"), the California Appellate Court held that fees associated with an adopted improvement program could be used to mitigate cumulative or project level impacts.*

48. Section 2.4, Hydrology and Water Quality, Water Supplier, Page 2-80

To provide additional information on the California Water Service Company's system, as provided in the Water Supply Assessment (Page 7), we recommend the following revisions:

*The project site ~~is adjacent to the~~ is within the Las Lomas Division service area boundaries of the Salinas District of the California Water Service Company (CWSC). CWSC was formed in 1926 and is the largest investor-owned water utility in the western United States and third largest in the nation. It provides water utility services to 500,000 customers through 28 operating districts located throughout California, including approximately 27,000 customers within the Salinas District. According to the 2003 Water Quality report for the Salinas District, the Las Lomas Division meets all applicable water quality standards. Monterey County Code section 15.04 requires new water connections be provided from an existing permitted water system if such a connection is available. CWSC has four wells in Las Lomas. CWSC serves approximately 600 connections from two of its four wells within the Las*

Mr. David Greene  
Page 19  
October 28, 2007

Lomas service area. The third well is on standby. A fourth new well is not currently operating because naturally occurring iron and manganese levels above the drinking water standards or secondary maximum concentration levels were encountered upon initial pump startup.

Under normal operating conditions, wells are rotated with the largest two being used during periods of maximum demand. The average annual production for Las Lomas was 109 million gallons per year. Using all four well stations, the total pumping capacity is about 190 million gallons per year, with total current pumping of 103 million gallons per year (376 acre-feet per year). The wells are located within the North Highlands (CWSC 2006). Additional information on CWSC is presented in the water supply assessment, included as Appendix K.

49. Section 2.4, Hydrology and Water Quality, Table 9, Page 2-91

Table 1 of Appendix L should consider 104 acre-feet per year of pasture water consumption (as stated in Footnote 5 in Table 9) in the calculation to establish the CEQA Baseline. The corrected calculation for Table 1 of Appendix L, which results in the CEQA Baseline number of 109.12 affyr is discussed in Comment No. 76. Once Table 1 of Appendix L is corrected, for consistency, Table 9 should be revised as follows:

Estimate	Pumping	Infiltration	Net
CEQA Baseline (1982-1001 data) <sup>3</sup>	109.12	47.07	-62.05

50. Section 2.4, Hydrology and Water Quality, Current Project Site Hydrology, Page 2-92

To clarify the events that occurred in 1997, we recommend the following revision:

In 1997, the property owner in response to an earlier pending application for development at the project site (i.e., Oak Tree Ranch project), the Monterey County Planning and Building Inspection Department ordered a halt to the pasture irrigation to protect the health of the oak trees.

51. Section 2.4, Hydrology and Water Quality, Project Analysis, Project Effects on Water Balance, Table 11, Page 2-99

Pursuant to Comment No. 49, Table 11 should be revised as follows to reflect the corrected CEQA Baseline figures on Table 9:

Mr. David Greene  
Page 20  
October 28, 2007

Factor	Withdrawals	Infiltration	Net Recharge
Historic Conditions	109.12	47.07	-62.05
Project Conditions	41.61	7.12	-34.49
Change	-67.51	-39.95	-27.56

52. Section 2.4, Hydrology and Water Quality, *Project Analysis*, Project Effects on Water Balance, First Full Paragraph, Page 2-100

The discussion refers to the Water Supply Assessment (WSA) for the amount of wastewater estimated for delivery to Watsonville treatment plant at full buildout, but the discussion does not show the WSA estimate. The WSA, dated June 22, 2006; (included as Exhibit "A") estimated the total quantity of wastewater for interior residential and commercial use at full development to be 24.55 acre-feet per year. The WSA also estimated that 2/3 of the wastewater or 16.37 acre-feet per year from the Project will be recycled and used for agricultural irrigation. Accordingly, we recommend the following revisions:

*Much of water used by the proposed project would be delivered to the Watsonville wastewater treatment plant. According to WSA, ~~three-quarters~~ two thirds of residential water and ~~essential all of the commercial~~ water would be expected to flow to the Watsonville wastewater treatment plant. In total, about ~~28.25~~ 24.55 acre-feet of water would flow to the plant each year....About 21.5 percent of the water applied is estimated to infiltrate to groundwater (based on 20 percent rate for Pajaro and 23 percent rate for Springfield Terrace - Fugro West Inc. 1995 - Appendix G). Therefore, about ~~14.13~~ 16.37 acre-feet of the wastewater discharged by the project would be recycled, and about ~~3.04~~ 3.52 acre-feet can be credited as infiltrating to groundwater, albeit in a different subarea...*

53. Section 2.4, Hydrology and Water Quality, *Project Analysis*, Project Effects on Water Balance, Table 12, Page 2-100

Pursuant to Comment No. 49, Table 12 would need to be revised to reflect the CEQA Baseline figures corrected on Table 1 of Appendix L. Moreover, pursuant to Comment No. 52, the estimated infiltration for the recycling project should be revised. The correct figures are as follows:

Factor	Withdrawals	Infiltration	Net Recharge
Historic Conditions	109.12	47.07	-62.05
Project Conditions	41.61	10.64	-30.97
Change	-67.51	-36.43	-31.08

54. Section 2.4, Hydrology and Water Quality, Effects on Seawater Intrusion, Page 2-101

Mr. David Greene  
Page 21  
October 28, 2007

To reflect the figures for net groundwater balance corrected in Tables 11 and 12 (Comments Nos. 51 and 53), we recommend the following revisions:

The proposed project would improve the net groundwater balance by approximately 33.63 27.56 acre-feet per year, and 31.08 acre-feet per year with the recycling project on-line, so would contribute towards stemming the progression of seawater intrusion in the groundwater aquifer.

55. Section 2.4, Hydrology and Water Quality, Effects on Flooding, Page 2-102

The post development runoff volume has been specifically calculated for the Project by Hland Engineers in its Project Specific Water Study (Appendix K of the DEIR). The Study included a measurement of the footprints of the residential and commercial buildings and other impervious areas to calculate the gross runoff. The 24.6 acre-feet of runoff referenced in this section is based on extremely rough and general estimate using 40% impervious coverage and is not based on Project-specific impervious footprint measurements.

Additionally, the tentative map shows that off-site runoff would be captured on the southside of Sill Road for flow to the detention pond for control release. Therefore, the post-development runoff rate will not increase from the pre-development rate.

In following the calculations included in the Project Specific Water Balance Study and in discussing the rate of runoff leaving the Project site, we recommend the following revisions:

*The proposed project would result in increased areas of impermeable surfaces, including roads, sidewalks, parking lots, and buildings. ~~Estimated total project site impervious coverage would be 14.5 acres, or about 40 percent of the project site. About 60 percent of the project site is estimated to remain pervious. The footprints of the impermeable surfaces (buildings, roads, sidewalks, etc.) for the proposed project were calculated and were found to total 347,040 sq. ft. Using an annual precipitation of 19.5 in/yr, which results in gross runoff of 12.95 and accounting for evaporation, the runoff is estimated to be 11.19 AF/yr.~~ Storm water run-off from impervious surfaces would exceed the current run-off volume and rate. Run-off from the project site is projected to increase from 1.2 to 11.19 24.6 acre-feet per year. Pre-development and post development runoff rates ~~are~~ has been calculated at 4.81 cubic feet per second (cfs), while post-development runoff has been estimated at 22.61 cfs based on 10 year rainfall data for Monterey County (Todd Engineers 2003). Run-off entering the project site from the north is proposed to be captured at the south side of Sill Road and piped to the detention pond where it will be control released. Therefore, post development runoff rate will remain the same as pre-development runoff rate, piped through the project site, to discharge at the southern boundary of the project site. However (This would eliminate infiltration of the off-site flows onto the project site, and could increase off-site flows volume leaving the site, by about 2.33 acre-feet per year.*

Mr. David Greene

Page 22

October 28, 2007

*A lined detention pond is ..., as could the duration of peak flows. Approximately 26 18 acre-feet of run-off (including 6.9 acre-feet of pass through from off-site) would flow either on-site to beyond the storm water basins that control release to pre-development rates for flow to and into Carneros Creek and Elkhorn Slough, or be released directly to Carneros Creek and Elkhorn Slough (for off-site runoff through the property only) each year.*

56. Section 2.4, Hydrology and Water Quality, Effects on Flooding, Mitigation c., Page 2-103

To provide additional information on the formalized hydrological impact fee program, we request the following addition:

- c. *The Monterey County Water Resources Agency's north Monterey County hydrological impact fee (Monterey County code 18.51) is a formalized fee program which applies to the proposed project and funds the study and resolution of groundwater issues in north Monterey County. Under the ordinances in effect at the time the proposed project's application was deemed complete, payment of the fee is required and is intended to off-set potential water supply impacts. CEOA Guidelines section 15130(a)(3) allows the payment of a fair share fee towards measures necessary to mitigate a cumulative impact to reduce the project's contribution to the cumulative impact to a less than significant level. In Save Our Peninsula Committee v. Monterey County Board of Supervisors ("September Ranch"), the California Appellate Court held that fees associated with a formally adopted program could be used to mitigate cumulative or project level impacts.*

57. Section 2.4, Hydrology and Water Quality, Effects on Flooding, Mitigation Measures 20 & 21, Page 21-105

The term "development agreement" has a specific definition and purpose under the Government Code. If the DEIR did not intend to require a "development agreement" as defined in the Government Code (which would appear to be beyond the County's jurisdiction to specify), we recommend the following revisions to the last sentence of Mitigation Measures 20 and 21:

The developer shall enter into a development agreement an agreement suitable to the County to contractually set the terms of this measure.

58. Section 2.5, Transportation/Traffic, Table 18, Footnote 1, Page 2-110

Pinnacle Traffic Engineering (Pinnacle) calculated the change in the LOS for AM and PM peak hour traffic due to the recent signalization at the intersection of Las Lomas Drive and Hall Road. Pinnacle's calculations for this intersection, as signalized, resulted in LOS B for AM peak hours and LOS C for PM peak hours. Pinnacles' letter report is included in Exhibit "B". Accordingly, footnote 1 should be revised as follows:

Mr. David Greene

Page 23

October 28, 2007

1. *This intersection has been signalized since LOS and delays were calculated; the Fehr and Peers existing plus project scenario suggest that the signal light reduced delays, but the LOS E and LOS F conditions may remain. Pinnacle Traffic Engineering has recently calculated the LOS for this intersection as signalized, as LOS B for AM peak hours and LOS C for PM peak hours.*

59. Section 2.5, Transportation/Traffic, Table 13, Page 2-127

Footnotes 2 and 3 on Table 18 should be in superscript font.

60. Section 2.5, Transportation/Traffic, Table 21, Page 2-133

Please add a description for Footnote 3.

61. Section 2.5, Transportation/Traffic, Mitigation Measures 25 & 26, Page 2-137

To eliminate the uncertainty associated with the traffic impact fee for the Project in the event that the Board of Supervisors agrees to participate in a regional traffic impact fee program, we request the following revision to Mitigation Measures 25 and 26:

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

62. Section 2.5, Transportation/Traffic, Significant Unavoidable (Transportation Impact 3) – Project and Cumulative Traffic on State Route 1.

To provide additional information on addressing the impacts to SR1, the following should be added to this discussion:

*Significant Unavoidable (Transportation Impact 3) – Project and Cumulative Traffic on State Route 1. The proposed project would add trips to State Route 1 south of Salinas Road and north of Castroville, which is already operating at LOS F. This would be a significant impact. Improvements to this section of highway are not anticipated within the 2005-2030 timeframe, and the improvements are not within the jurisdiction of the County of Monterey. Implementation of the following mitigation measure would cover the project share of the*

Mr. David Greene

Page 24

October 28, 2007

*costs for the improvements, but would not reduce this impact to a less than significant level. In accordance with CEQA Guidelines section 15091(a)(2), the County may determine to make findings that improvement to SR-1 would relieve region-wide impacts on traffic is the responsibility of another agency.*

63. Section 2.5, Transportation/Traffic, Mitigation Measure 28.a., Page 2-140

This comment is to clarify the mitigation measures for pedestrian safety and bicycle connection impacts. As shown on the tentative map, the project already includes a sidewalk along Sill Road and a bicycle lane could be added. The sidewalk and bicycle lane could be extended from the Project site easterly to Harrington Road. The Project also includes a sidewalk and bicycle lane along the frontage of Hall Road (refer to attached plan in Exhibit "C") and the sidewalk and bicycle lane could be extended from the north side of Hall Road to the western edge of Hall District School. These components of the Project should provide sufficient mitigation for pedestrian safety and bicycle lane connection impacts. The roadway through the Project site is not required to address these impacts and could pose problems, including requiring a left turning lane on Hall Road. Adding Mitigation Measure a.1 (i.e., roadway through the project site) along with requiring the sidewalks and bicycle lanes along Sill and Hall Roads do not appear to be roughly proportional to the pedestrian safety and bicycle connection impacts. CEQA Guidelines 15126.4(a)(2)(4)(B). Therefore we request that Mitigation Measure a.1 be deleted.

64. Section 2.5, Transportation/Traffic, Mitigation Measure 28.a & b, Pages 2-140 and 2-141

This comment is to clarify the ADA access requirement for the Project. ADA access would be provided to the commercial buildings from Hall Road through appropriate design of its frontage. The commercial buildings fall within the term "place of public accommodation" as defined in Section 12181(7), Title 42 of the United States Code. Section 12181(7) lists twelve specific categories of "place of public accommodation". The commercial buildings are the only project components that fall within the categories listed in Section 12181(7), and therefore, the commercial buildings would be built to comply with the ADA access requirements in accordance with Section 12182(a) of Title 42.

65. Section 2.6, Air Quality, Toxic Air Contaminants and Particulate Matter, Page 2-152

The FEIR should note that the air modeling was conducted before the County decided to eliminate the grading down of lots from the Project. Because there will be a significant reduction in the amount of grading, the short term construction emissions, particularly particulates, will be significantly lower than originally calculated.

66. Section 2.7, Water and Sewer Service, First Paragraph, Page 2-159

As discussed in Comment No. 27, the CWSC system, as described in the Water Supply Assessment, should be described as follows:

Mr. David Greene  
Page 25  
October 28, 2007

*The project site is adjacent to the is within the Las Lomas Division service area boundaries of the Salinas District of the California Water Service Company (CWSC). CWSC was formed in 1926 and is the largest investor-owned water utility in the western United States and third largest in the nation. It provides water utility services to 500,000 customers through 28 operating districts located throughout California, including approximately 27,000 customers within the Salinas District. According to the 2003 Water Quality report for the Salinas District, the Las Lomas Division meets all applicable water quality standards. Monterey County Code section 15.04 requires new water connections be provided from an existing permitted water system if such a connection is available. CWSC has four wells in Las Lomas. CWSC serves approximately 600 connections from two of its four wells within the Las Lomas service area. The third well is on standby. A fourth new well is not currently operating because naturally occurring iron and manganese levels above the drinking water standards or secondary maximum concentration levels were encountered upon initial pump startup.*

*Under normal operating conditions, wells are rotated with the largest two being used during periods of maximum demand. The average annual production for Las Lomas was 109 million gallons per year. Using all four well stations, the total pumping capacity is about 190 million gallons per year, with total current pumping of 162 million gallons per year (376 acre-feet per year). The wells are located within the North Highlands (CWSC 2006). Additional information on CWSC is presented in the water supply assessment, included as Appendix K.*

67. Section 2.7, Water and Sewer Service, Project Analysis, Page 2-160, First and Second Paragraphs

In the Water Supply Assessment, the California Water Service Company (CWSC) has determined that the existing wells provide sufficient capacity to serve both the Project and the anticipated growth in Las Lomas. Therefore, a new well is not needed for the Project. The discussion in this section of the DEIR refers to an outdated conversation with the CWSC that occurred before the preparation of the Water Supply Assessment. We recommend that the discussion be updated to reflect the information in the Water Supply Assessment as follows:

*The existing on-site private wells would be abandoned in accordance with the requirements of the Monterey County Division of Environmental Health. Water would be supplied from a proposed new CWSC well to be developed by the applicant. No well lot is shown on project plans, but typically CWSC purchases well lots from developers, and would expect to do so in this case (Jim Smith, personal communication, January 5, 2004). Therefore, the well site would most likely be at a suitable location within the project site. The well would tie into the existing CWSC system.*



Mr. David Greene

Page 26

October 28, 2007

Prior to acceptance of a service agreement, CWSC would determine the size and location of water supply facilities, including well, mains, and storage tank, if needed, to meet domestic and fire flow requirements by the four CWSC wells serving Las Lomas. The CWSC in its Water Supply Assessment (Appendix K), has determined that there is more than enough capacity to accommodate the project at buildout and the anticipated growth in Las Lomas.

68. Section 2.8, Effects Found to be Less than Significant, Project Analysis, Page 2-167

In discussing the housing, we recommend including a discussion that states the Applicant will also pay 15% in in-lieu fees, which will go towards providing inclusionary housing in the north Monterey County area. We suggest the following sentence be added to the end of the second paragraph as follows:

...However, the project would also remove four small and old housing units, which may currently provide similar affordability. Nevertheless, the project includes the payment of 15% in-lieu fees which will go towards providing additional housing affordable to extremely low, low or moderate income households in North County.

69. Section 2.9, Beneficial Effects, Page 2-170

We request that the same beneficial effects as described in Comment No. 3 be added to this section as follows:

The proposed project would add both market rate housing units and below market rate housing units (i.e., 22% total, consisting of in-lieu fees and on-site housing) in north Monterey County. The proposed project's recreational facility would be used by local residents and students of nearby Hall School. The project would also provide commercial or quasi-public services to the community. The proposed project would help fill a local and regional deficiency in housing, commercial and park facilities.

The project would preserve in perpetuity 29% of the property as open space, including all areas in slopes of 25% or greater, which has the greatest number of oak trees and is highly visible from Hall Road.

By revegetating large portions of the property, the project would reduce erosion and sedimentation to Carneros Creek and Elkhorn Slough which currently (and historically) result(ed) from loose soils and lack of vegetation caused by horse pasture and agricultural operations on steep slopes.

The project would enhance pedestrian safety by providing sidewalks along Sill and Hall Roads for use by residents and students of nearby Hall School.

Mr. David Greene  
Page 27  
October 28, 2007

70. Section 3.1 Cumulative Impacts, Transportation/Traffic, Table 28, Page 3-5

We recommend the same footnote on Table 18, as revised in Comment No. 58, be added to Table 28 for the intersection of Las Lomas Drive and Hall Road:

*"This intersection has been signalized since the LOS was calculated. Pinnacle Traffic Engineering has recently calculated the LOS for this intersection, as signalized, as LOS B for AM peak hours and LOS C for PM peak hours."*

71. Section 3.1, Cumulative Impacts, Water and Sewer Service, Page 3-9, Second Paragraph

Similar to the comments made in Comment Nos. 48 and 67, the California Water Service Company, in its Water Supply Assessment, has determined that the existing wells provide sufficient capacity to serve both the Project at buildout and the anticipated growth in Las Lomas. Accordingly, we recommend the following revision:

*CWSC has issued a will serve letter, and prepared a water supply assessment, both of which indicate that they are willing and able to provide the additional service so long as the proposed project constructs the necessary facility upgrades required to adequately serve it (CWSC 1996, 2006). The project proponent has indicated that such upgrades (a new well, most likely on-site, and potentially upgrades to nearby existing water mains) are a part of the proposed project. Mitigation Measure 33 in Section 2.7 Water and Sewer Service requires the development of a fire flow plan to assure adequate fire fighting capacity in the water system. The proposed project would have a less than significant cumulative effect on water service.*

72. Section 3.2, Alternatives, "No Project - Future Development" Alternative, Transportation/Traffic, Page 3-15

Under the second bulleted item, please provide additional information on the future constraints that would limit the number of units that could be developed.

73. Section 3.2, Reduced Single Family Development Alternative, Page 3-17

Although this alternative is accurately described in the text, the figure illustrating the Reduced Development Alternative is not included in the electronic version of the DEIR on the County website. This section refers to Figure 23 as illustrating the "reduced single family development"; however, Figure 23 is entitled "Mixed Density Cluster Development Alternative".

Mr. David Greene  
Page 28  
October 28, 2007

74. Section 3.2, Reduced Single Family Development Alternative, Hydrology and Water Quality, Page 3-18

The calculation included in the first bulleted item is not correct and underestimates overdraft. If the water use for this alternative is calculated to be 34 acre-feet per year and infiltration is 6 acre-feet per year, the net effect on the groundwater would be an overdraft of 28 acre-feet per year, not 17 acre-feet per year.

75. Section 3.2, Reduced Water Use Alternative, Page 3-27, Third Paragraph under this section

To add flexibility in the type of off-site water savings programs that could be implemented as part of this Alternative, we request the following revisions to enhance the feasibility of the Alternative.

*An off-site program would likely provide a larger benefit, and could include, but is not limited to, infiltration through injection wells or infiltration trenches, or off-set of existing off-site water use by retrofitting existing homes, public or private facilities and landscaping, or other water savings measures. Infiltration would occur within an existing drainage easement south of the project site, as water drained from the project site and before it entered Carneros Creek. Off-site retrofit programs would reduce water use at existing houses or public or private facilities that do not already have low water use appliances or landscapes. Other off-site water savings programs would increase the efficiency of water use and reduce demand on the local aquifer. Depending on the location of the properties areas that received retrofits or other water savings measures, the effects could benefit the local aquifer, the north Monterey County aquifers, or other aquifers in the region. Collection of storm water run-off, such as rooftop collection, could partially offset landscape irrigation needs during the dry season.*

76. Appendix L, Table 1

As stated in footnote 5 of Table 9, the estimated annual irrigation use should reflect the Central Coast pasture irrigation rate of 104 acre-feet per year instead of 87.97 acre-feet per year. Accordingly, Part B and Part E of Table 1 should be revised as follows:

Part B. Current Site Water Use

	AF/yr	% Infiltration	Infiltration to Aquifer (AF/yr)
Ave Agricultural Irrigation 1982-2001	104	37	38.48

Mr. David Greene

Page 29

October 28, 2007

<i>Subtotal</i>	<i>109.12</i>		<i>40.54</i>
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*Part E. Total Water Usage*

	<i>AF/yr</i>	<i>Total Infiltration to Aquifer (AF/yr)</i>	<i>Infiltration to Aquifer (AF/yr)</i>
<i>Total Water Usage</i>	<i>109.12</i>	<i>43.08</i>	
<i>Net Draft on Aquifer</i>			<i>-66.04</i>

77. Appendix K

The final Water Supply Assessment Report, dated June 22, 2006, (Exhibit "A") should be included in Appendix K of the DEIR.

78. Appendix Q

The wastewater infrastructure analysis prepared by McCalf & Eddy and final Technical Memorandum by Schaaf & Wheeler should be included as Appendix Q of the DEIR.

Please contact me if you have any questions or require additional information

Respectfully submitted,

  
Pamela H. Silkwood

Encl.

cc: Carl Holm  
Alana Knaster  
Shandell Franks

# Exhibit A

Exhibit A to the Horan, Lloyd Karachale, Dyer, Schwartz, Law & Cook letter is presented as an update to Appendix K in the Revised Draft EIR.

## Exhibit B

**PINNACLE TRAFFIC ENGINEERING**

930 San Benito Street  
Hollister, California 95023  
(831) 638-9260 • FAX (831) 638-9268  
PinnacleTE.com

October 24, 2007

Pam Silkwood  
Horan, Lloyd, Karachale, Dyer,  
Schwartz, Law & Cook Inc.  
499 Van Buren Street  
Monterey, CA 93940

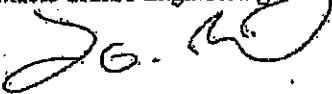
Rancho Los Robles Subdivision Project; Monterey County, California;  
Environmental Impact Report (EIR)  
Response to Question - Transportation / Traffic Section

Dear Ms. Silkwood,

Per your request, I have reviewed the various questions regarding the Transportation / Traffic Section of the EIR. The EIR (Page 2-114) discusses current levels of service at the Hall Road and Las Lomas Drive intersection and the improvements related to the recently installed traffic signal. It is stated that, "the Fehr and Peers report estimates LOS F conditions to continue under the existing plus project scenario with a signal light installed." The Project Conditions (existing plus project) level of service data shows LOS D during the AM peak and LOS F during the PM peak hour (Page 2-126). The table states that the LOS values are for signalized operations. The LOS worksheets in the original traffic report (TIA, Fehr & Peers; July 30, 2003) indicate that the LOS values only reflect the widening of Las Lomas Drive for 2 southbound approach lanes and not the installation of a traffic signal. Using traffic volume data from the original report I determine the signalized LOS values. These calculations demonstrate that vehicle delays for Project Conditions (existing plus project) will be within the LOS B range during the AM peak hour and LOS C range during the PM peak (copies of LOS worksheets are attached). Based on this supplemental analysis, it is also concluded that existing signalized traffic conditions are within acceptable limits (LOS C or better) during both peak hour periods.

If you have any questions or need additional information, please contact me at your earliest possible opportunity.

Pinnacle Traffic Engineering



Larry D. Hall, CE, TE, PTOE  
President

ldh:msw  
attachments

cc: Chuck Allen - Landmark Real Estate Company, Inc.

Rancho Los Robles Meetings L02.doc



## Level of Service computation Report

2000 HCM Operations Method (Base Volume Alternative)

\*\*\*\*\*  
Intersection #1 Hall / Las Lomas  
\*\*\*\*\*

Cycle (sec): 60 Critical Vol./Cap. (%): 0.823  
 Loss Time (sec): 9 (Y+R=4.0 sec) Average Delay (sec/veh): 19.9  
 Optimal Cycle: OPTIMIZED Level of Service: B  
 \*\*\*\*\*

Street Name:	Las Lomas				Hall			
Approach:	North Bound		South Bound		East Bound		West Bound	
Movement:	L	R	L	R	L	R	L	R
Control:	Protected		Protected		Protected		Protected	
Rights:	Include		Include		Include		Include	
Min. Green:	0	0	0	0	0	0	0	0
Lanes:	0	0	0	0	1	0	0	0

## Volume Module:

	Las Lomas		Hall	
	North	South	East	West
Base Vol:	0	0	43	0
Growth Adj:	1.00	1.00	1.00	1.00
Initial Hse:	0	0	43	0
User Adj:	1.00	1.00	1.00	1.00
PHF Adj:	0.85	0.85	0.85	0.85
PHF Volume:	0	0	51	0
Reduced Vol:	0	0	0	0
Reduced Vol:	0	0	51	0
ECF Adj:	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00
Final Vol:	0	0	51	0

## Saturation Flow Module:

	Las Lomas		Hall	
	North	South	East	West
Sat/Lane:	1900	1900	1900	1900
Adjustment:	1.00	1.00	0.88	0.88
Lanes:	0.00	0.00	0.14	0.00
Final Sat:	0	0	234	0

## Capacity Analysis Module:

	Las Lomas		Hall	
	North	South	East	West
Vol/Sat:	0.00	0.00	0.22	0.00
Crit Moves:	****			
Green/Cycle:	0.00	0.00	0.26	0.00
Volume/Cap:	0.00	0.00	0.82	0.00
Uniform Del:	0.0	0.0	20.8	0.0
Increment Del:	0.0	0.0	11.9	0.0
InitQueue Del:	0.0	0.0	0.0	0.0
Delay Adj:	0.00	0.00	1.00	0.00
Delay/Veh:	0.0	0.0	32.7	0.0
User Del Adj:	1.00	1.00	1.00	1.00
Adj Del/Veh:	0.0	0.0	32.7	0.0
LOS by Move:	A	A	C	A
HCM2k Avg Q:	0	0	9	0

Note: Queue reported is the number of cars per lane.

Level Of Service Computation Report  
2000 HCM Operations Method (Base Volume Alternative)

\*\*\*\*\*  
Intersection #1 Hall / Las Lomas  
\*\*\*\*\*

Cycle (sec): 60 Critical Vol./Cap. (X): 0.795  
Loss Time (sec): 9 (Y+R=4.0 sec) Average Delay (sec/veh): 17.8  
Optimal Cycle: OPTIMIZED Level Of Service: B  
\*\*\*\*\*

Street Name:	Las Lomas				Hall			
Approach:	North Bound		South Bound		East Bound		West Bound	
Movement:	L	T - R	L	T - R	L	T - R	L	T - R
Control:	Protected		Protected		Protected		Protected	
Rights:	Include		Include		Include		Include	
Min. Green:	0	0	0	0	0	0	0	0
Lanes:	0	0	0	0	1	0	1	0

Volume Module:

Base Vol:	0	0	0	43	0	264	91	583	0	0	661	21
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	0	0	0	43	0	264	91	583	0	0	661	21
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85
PHF Volume:	0	0	0	51	0	311	107	686	0	0	778	25
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	0	0	0	51	0	311	107	686	0	0	778	25
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Vol.:	0	0	0	51	0	311	107	686	0	0	778	25

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	0.95	1.00	0.85	0.95	1.00	1.00	1.00	1.00	1.00
Lanes:	0.00	0.00	0.00	1.00	0.00	1.00	1.00	1.00	0.00	0.00	0.97	0.03
Final Sat.:	0	0	0	1805	0	1615	1805	1900	0	0	1834	50

Capacity Analysis Module:

Vol/Sat:	0.00	0.00	0.00	0.03	0.00	0.19	0.06	0.36	0.00	0.00	0.42	0.42
Crit Moves:	*****											
Green/Cycle:	0.00	0.00	0.00	0.24	0.00	0.24	0.07	0.61	0.00	0.00	0.53	0.53
Volume/Cap:	0.00	0.00	0.00	0.12	0.00	0.79	0.79	0.59	0.00	0.00	0.79	0.79
Uniform Del:	0.0	0.0	0.0	17.7	0.0	21.3	27.3	7.2	0.0	0.0	11.3	11.3
IncrementDel:	0.0	0.0	0.0	0.1	0.0	10.6	27.0	0.8	0.0	0.0	4.4	4.4
InitQueueDel:	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Delay Adj:	0.00	0.00	0.00	1.00	0.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
Delay/Veh:	0.0	0.0	0.0	17.9	0.0	32.1	54.3	8.1	0.0	0.0	15.8	15.8
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	0.0	0.0	0.0	17.9	0.0	32.1	54.3	8.1	0.0	0.0	15.8	15.8
LOS by Move:	A	A	A	B	A	C	D	A	A	A	B	B
HCM2E Avg Q:	0	0	0	1	0	8	4	0	0	0	14	14

Note: Queue reported is the number of cars per lane.

Level Of Service Computation Report  
2000 HCM Operations Method (Base Volume Alternative)

\*\*\*\*\*  
Intersection #1 Hall / Las Lomas  
\*\*\*\*\*

Cycle (sec): 75 Critical Vol./Cap. (X): 0.902  
Loss Time (sec): 9 (Y+R=1.0 sec) Average Delay (sec/Veh): 29.6  
Optimal cycle: OPTIMIZED Level Of Service: C  
\*\*\*\*\*

Street Name:	Las Lomas						Hall					
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Control:	Protected			Protected			Protected			Protected		
Rights:	Include			Include			Include			Include		
Min. Green:	0	0	0	0	0	0	0	0	0	0	0	0
Lanes:	0	0	0	0	0	0	1	0	0	0	0	0

Volume Module:

Base Vol:	0	0	0	38	0	220	377	717	0	0	604	56
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Adj:	0	0	0	38	0	220	377	717	0	0	604	56
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90
PHF Volume:	0	0	0	42	0	244	419	797	0	0	671	62
Reduced Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	0	0	0	42	0	244	419	797	0	0	671	62
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Vol:	0	0	0	42	0	244	419	797	0	0	671	62

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	0.88	1.00	0.88	0.95	1.00	1.00	1.00	0.99	0.99
Lanes:	0.00	0.00	0.00	0.15	0.00	0.85	1.00	1.00	0.00	0.00	0.92	0.08
Final Sat:	0	0	0	246	0	1424	1805	1900	0	0	1720	159

Capacity Analysis Module:

Vol/Sat:	0.00	0.00	0.00	0.17	0.00	0.17	0.23	0.42	0.00	0.00	0.39	0.39
Crit Moves:				****			****			****		
Green/Cycle:	0.00	0.00	0.00	0.19	0.00	0.19	0.26	0.69	0.00	0.00	0.43	0.43
Volume/Cap:	0.00	0.00	0.00	0.90	0.00	0.90	0.90	0.61	0.00	0.00	0.90	0.90
Uniform Del:	0.0	0.0	0.0	29.7	0.0	29.7	26.9	6.2	0.0	0.0	19.8	19.8
IncrementDel:	0.0	0.0	0.0	27.2	0.0	27.2	20.6	0.0	0.0	0.0	13.3	13.3
InitQueueDel:	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Delay Adj:	0.00	0.00	0.00	1.00	0.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
Delay/Veh:	0.0	0.0	0.0	56.9	0.0	56.9	47.5	7.0	0.0	0.0	33.1	33.1
User DelayAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Adj Del/Veh:	0.0	0.0	0.0	56.9	0.0	56.9	47.5	7.0	0.0	0.0	33.1	33.1
LOS by Move:	A	A	A	E	A	E	D	A	A	A	C	C
HCM2kAvgQ:	0	0	0	10	0	10	13	10	0	0	20	20

\*\*\*\*\*  
Note: Queue reported is the number of cars per lane.  
\*\*\*\*\*

Level of Service Computation Report  
2000 HCM Operations Method (Base Volume Alternative)

\*\*\*\*\*  
Intersection #1 Hall / Las Lomas  
\*\*\*\*\*

Cycle (sec): 70 Critical Vol./Cap. (X): 0.888  
Loss Time (sec): 9 (Y+R=4.0 sec) Average Delay (sec/veh): 26.5  
Optimal Cycle: OPTIMIZED Level of Service: C  
\*\*\*\*\*

Street Name: Las Lomas Hall

Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Control:	Protected			Protected			Protected			Protected		
Rights:	Include			Include			Include			Include		
Min. Green:	0	0	0	0	0	0	0	0	0	0	0	0
Lanes:	0	0	0	0	0	0	1	0	1	0	0	1

Volume Module:

Base Vol:	0	0	0	36	0	220	377	717	0	0	604	56
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	0	0	0	38	0	220	377	717	0	0	604	56
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PRF Adj:	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90	0.90
PRF Volume:	0	0	0	42	0	244	419	797	0	0	671	62
Reduced Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	0	0	0	42	0	244	419	797	0	0	671	62
PCB Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
WLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Vol.:	0	0	0	42	0	244	419	797	0	0	671	62

Saturation Flow Module:

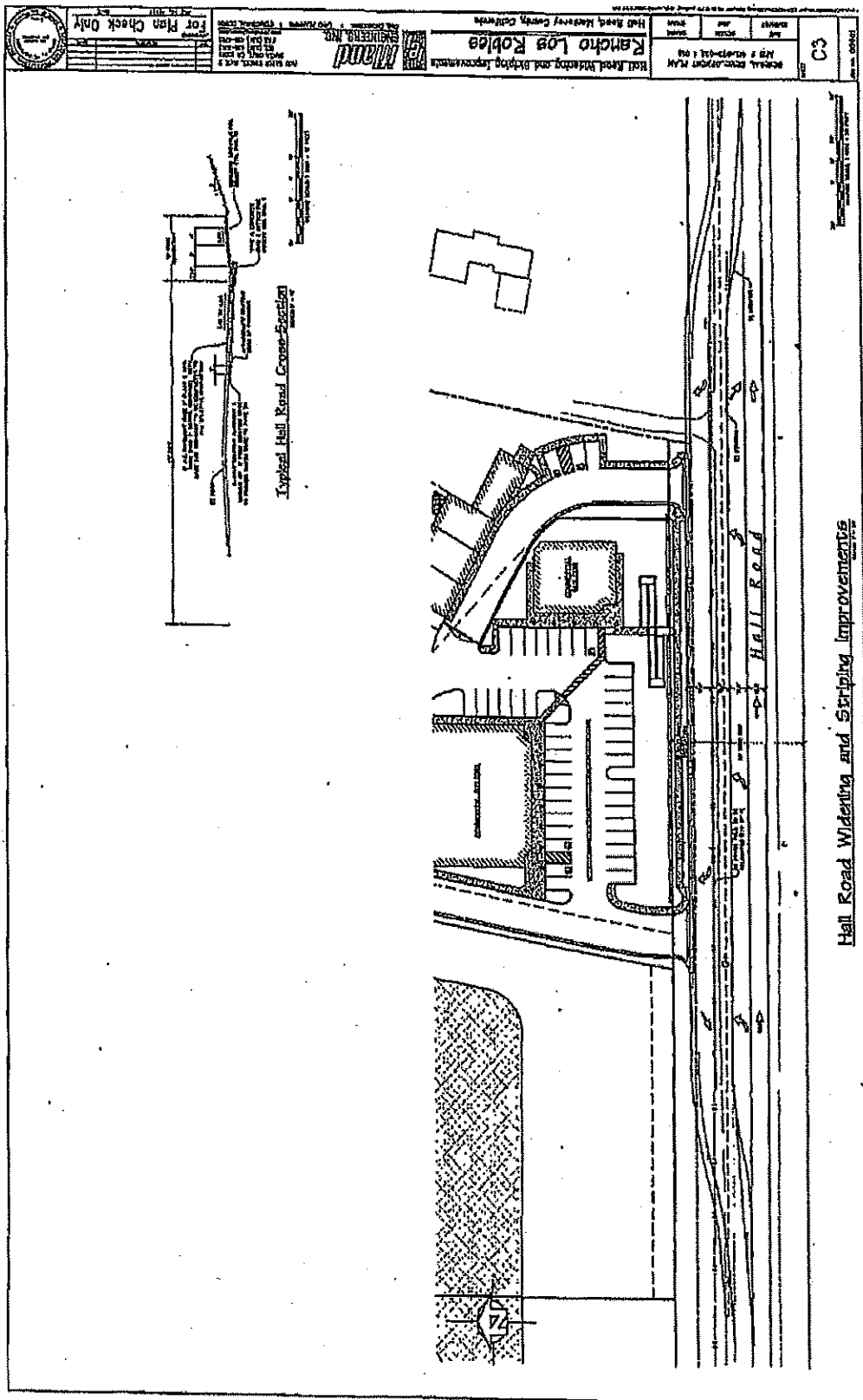
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	0.95	1.00	0.85	0.95	1.00	1.00	1.00	0.99	0.99
Lanes:	0.00	0.00	0.00	1.00	0.00	1.00	1.00	1.00	0.00	0.00	0.92	0.08
Final Sat.:	0	0	0	1805	0	1615	1805	1900	0	0	1720	159

Capacity Analysis Module:

Vol/Sat:	0.00	0.00	0.00	0.02	0.00	0.15	0.23	0.42	0.00	0.00	0.39	0.39
Crit Moves:	****											
Green/Cycle:	0.00	0.00	0.00	0.17	0.00	0.17	0.26	0.70	0.00	0.00	0.44	0.44
Volume/Cap:	0.00	0.00	0.00	0.14	0.00	0.89	0.89	0.60	0.00	0.00	0.89	0.89
Uniform Del:	0.0	0.0	0.0	24.7	0.0	28.4	24.9	5.4	0.0	0.0	18.0	18.0
Incremental Del:	0.0	0.0	0.0	0.2	0.0	27.5	18.2	0.8	0.0	0.0	11.5	11.5
InitQueueDel:	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Delay Adj:	0.00	0.00	0.00	1.00	0.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
Delay/Veh:	0.0	0.0	0.0	24.9	0.0	55.9	43.1	6.1	0.0	0.0	29.6	29.6
User Del Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	0.0	0.0	0.0	24.9	0.0	55.9	43.1	6.1	0.0	0.0	29.6	29.6
LOS by Move:	A	A	A	C	A	E	D	A	A	A	C	C
HCM2kAvgQ:	0	0	0	1	0	9	12	9	0	0	19	19

\*\*\*\*\*  
Note: Queue reported is the number of cars per lane.  
\*\*\*\*\*

## Exhibit C



# Exhibit C

## Mark Blum

---

**From:** Mark Blum  
**Sent:** Thursday, June 08, 2017 3:33 PM  
**To:** Kahn, Kevin@Coastal  
**Cc:** Carl Holm (holmCP@co.monterey.ca.us); Onciano, Jacqueline@County of Monterey; chuckallenpginc@gmail.com; JonIfland@iflandengineers.com; John M. Phillips (district2@co.monterey.ca.us); Carl, Dan@Coastal; Craig, Susan@Coastal; Marshall, Darby 755-5391; Spaur, David x5387  
**Subject:** RE: Rancho Los Robles  
**Attachments:** Estimate for Cattle Use 2017-05-30.pdf; Estimate for Residential Use 2017-06-08.pdf; Estimate for Irrigation Use 2017-06-08.pdf

Kevin,

This will further refine the housing component of the revised project proposal based on deliberations with Monterey County.

- 1) Since the County approved condition of approval discusses a multi-family parcel that will have four low-income Inclusionary units, the applicant proposes to designate two parcels for multi-family development (duplexes). According to Darby Marshall at Monterey County, for three-bedroom units at this income level the allowable rent is \$1,584/month if all utilities are included. If the tenant is paying for utilities the allowable rent is between \$1,347 and \$1,434/month (the variance is due to different mixes of gas and electric appliances and energy star ratings). This will boost the proposed total number of units on site to 54.
- 2) The total inclusionary housing requirement for the project is 15% as described in Mr. Marshall's earlier emails. Either three or four of the proposed units are exempt from the requirement as pre-existing units, because there were four residential units existing at the time of the application being deemed complete. According to Mr. Marshall, it is irrelevant under the county guidelines that one of those units was demolished or that all of them will be replaced with new residential development. Nor does it matter that all 4 units were on a single legal parcel. The variable between 3 or 4 exempt units is due to the still unresolved question whether the intention to dedicate one existing residential unit to non-residential use precludes the exemption. The county is working on this determination. Depending on the outcome, the total inclusionary housing requirement is either 7.5 or 7.65 units. Four units are proposed to be on-site low-income multi-family units. The balance of inclusionary units required is therefore either 3.5 or 3.65 units. As per existing inclusionary housing condition, the applicant proposes to satisfy this remaining requirement through payment of an in-lieu fee. The in-lieu fee for each unit is \$67,813.00.



3)

- 4) The applicant voluntarily proposes two (2) three bedroom Workforce 2 housing units, although none are required. The Workforce 2 (180% AMI) Maximum Initial Sales Price for a 3 bedroom/4-person household is \$ 494,515.00.

54 units will use slightly more water than the 52 unit proposal evaluated by Ifland Engineers and Mark Johnsson. (Recall that the 52 unit proposal has a net positive on-site water balance based on the assumptions specified by Coastal Commission staff in its project EIR comments). The increased consumption will be more than off-set by elimination of three sources of current on-site water use from the domestic well, which water source and uses have not previously been factored into the Ifland Engineers water balance. The estimated current water use from these three sources is 5.89 acre feet. See attached analyses.

Please let me know if I can answer any further questions or if some further discussion could be helpful.

Mark

**Mark A. Blum**

**HORAN | LLOYD**

Horan Lloyd

A Professional Corporation

26385 Carmel Rancho Blvd, Suite 200

Carmel, CA 93923

[mblum@horanlegal.com](mailto:mblum@horanlegal.com)

[www.horanlegal.com](http://www.horanlegal.com)

T: 831.373.4131

F: 831.373.8302

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**From:** Mark Blum

**Sent:** Tuesday, June 06, 2017 7:26 AM

**To:** Kahn, Kevin@Coastal <Kevin.Kahn@coastal.ca.gov>

**Cc:** Carl Holm (holmCP@co.monterey.ca.us) <holmCP@co.monterey.ca.us>; Onciano, Jacqueline@County of Monterey <oncianoj@co.monterey.ca.us>; chuckallenpginc@gmail.com; JonIfland@iflandengineers.com; John M. Phillips (district2@co.monterey.ca.us) <district2@co.monterey.ca.us>; Carl, Dan@Coastal <Dan.Carl@coastal.ca.gov>; Craig, Susan@Coastal <Susan.Craig@coastal.ca.gov>

**Subject:** Re: Rancho Los Robles

Kevin,

This will clarify your summary. Assuming a 52-lot subdivision and the original three homes still present, the obligation would be calculated as follows:

Estimate of Water Use for Irrigation Use

Note: Information provided by Chuck Allen in an email dated June 5, 2017

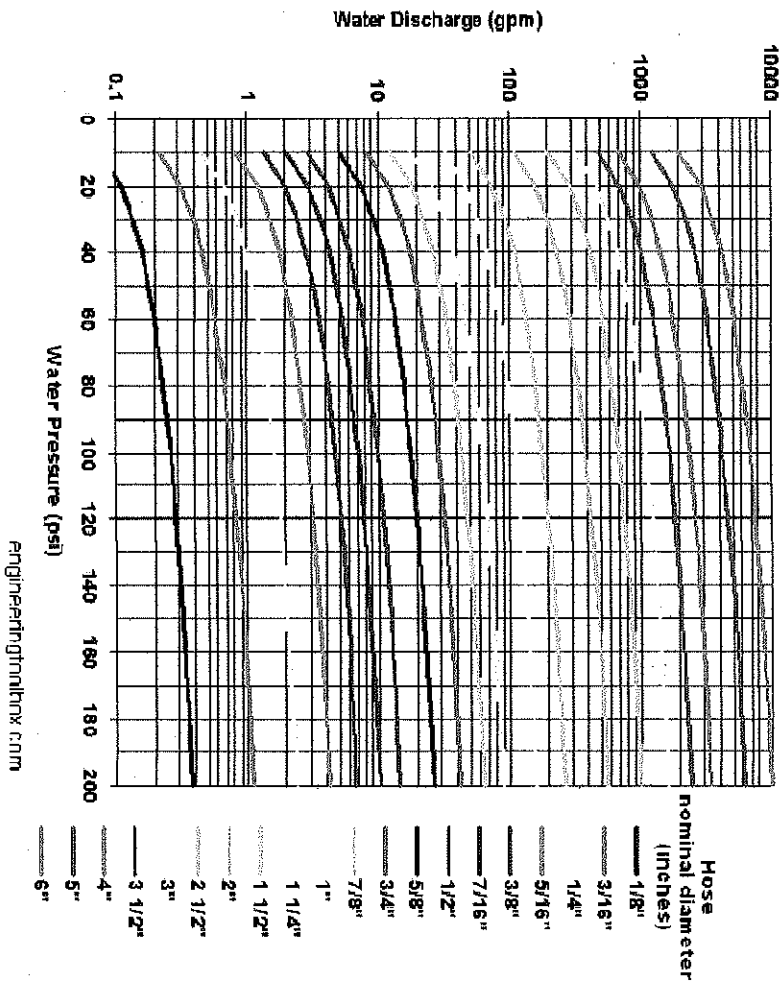
From: Chuck Allen <chuckallen@comcast.net> Sent: Mon 6/5/2017 8:35 AM  
To: Jon Hland  
Cc: Mark Blum  
Subject: Re: FW: CCC comment re diversion of water to Watsonville Treatment Plant

Jon, each of the three homes have 4 people residing in each home. There are about 10 head of cattle grazing on the grass, and the organic vegetable transplant grower is irrigating his transplant beds plus out side land scape of young plants about 3 hours per day. The water is delivered through a 3/4 inch hose line.

Thank you, and I hope this can help complete our water use calculations. I will also get an up date list of PVTMA meter readings for the large irrigation well.

Chuck

Water flow discharging through a 100' reel hose - pressures ranging 10 - 200 psi.



- 1 psi = 6.9 kPa = 0.069 bar
- 1 ft (100) = 0.3048 m
- 1 gpm (US)/min = 6.3086x10<sup>-5</sup> m<sup>3</sup>/s = 0.227 m<sup>3</sup>/h

Assume 100 foot hose length  
Assume 60 psi  
Water Discharge is approx. 22 GPM

3,960 GPD  
1,445,400 GPDY

4.44 AF/YR

Estimate of Water Use for Current Residents

Note: number of residents figures provided by Chuck Allen in an email dated June 5, 2017

From: Chuck Allen <ChuckAllen@aol.com>  
To: Jun Hwang  
Cc: Mark Blum  
Subject: Re: FW: CCC comment re diversion of water to Watsonville Treatment Plant

Sent: Mon 6/5/2017 8:35 AM

Jon, each of the three homes have 4 people residing in each home. There are about 10 head of cattle grazing on the grass, and the organic vegetable transplant grower is irrigating his transplant beds plus our side land scape of young plants about 3 hours per day. The water is delivered through a 3/4 inch hose line.

Thank you, and I hope this can help complete our water use calculations. I will also get an up date list of PVTMA meter readings for the large irrigation well.

Chuck

Utilizing per capita water use figures provided by a Cal Water Service Company Assessment dated 2006 (cited in May 2016 Water Balance Study):

12 residents

65.36 GPD per person

784 GPD total

365 days per year

286,277 GPD

0.88 AF/YR

# Estimate of Water Use for Cattle

Note: uses figures provided by attorney, Mark Blum, in an email dated May 30, 2017

You replied to this message on 5/30/2017 10:26 AM.  
From: Mark Blum <mblum@horrological.com>  
To: Tom Flanck; Chuck Kalle-rtjdlw@gmail.com  
Cc: [REDACTED]  
Subject: RE: CCC comment re diversion of water to Watsonville Treatment Plant

Sent: Tue 5/30/2017 9:46

Ok, Chuck will have to describe the irrigation use in more detail. As for cattle consumption, at 50 degrees, a cow may consume about five to seven gallons per day, but the amount increases by 0.4 gallons per day for every one-degree increase in air temperature. This is a conservative number for a non-lactating cow. Lactation doubles the numbers. Unless Chuck knows otherwise, to be conservative, we'll assume the cows are non-lactating.

Thanks!  
Mark

8 cows

Average daily temperature of 55 degrees (assumed)

Average baseline daily use per cow of 6 gallons

Average daily water demand

55 - 50 5

5 \* .4 = 2

6 + 2 = 8 GPD per cow

8 cows x 8 GPD = 64 GPD total

365 days 23360 GPY

0.07 AFY

# Exhibit D

## Mark Blum

---

**From:** Kahn, Kevin@Coastal <Kevin.Kahn@coastal.ca.gov>  
**Sent:** Tuesday, April 25, 2017 3:00 PM  
**To:** Mark Blum  
**Cc:** Craig, Susan@Coastal; Carl, Dan@Coastal  
**Subject:** Rancho Los Robles  
**Attachments:** Rancho Los Robles site.pdf

Hi Mark, thanks again for speaking with Susan and me this morning about Rancho Los Robles status and next steps. Apologies for the long email, but I wanted to summarize our discussion and list out the options available, including so that you can discuss them with your client.

As discussed, in addition to the previously identified water supply/subdivision issues, there are other fundamental LCP inconsistencies with the proposed project. Specifically, roughly half the project site is oak woodland, which the North County LCP designates as ESHA that is off-limits to residential and other non-resource dependent development, while roughly a third of the site (the portion currently used for strawberries and other row crops) is prime and productive farmland, which the LCP also protects. Please see the *general* demarcation of these resources overlain on your client's currently proposed project's site plan (attached). Note that the oak woodland habitat demarcation is taken directly from the EIR (Final EIR Figure 17), while the farmland corresponds to the area currently used for row crops. Again, these are general demarcations and are for illustrative purposes only at this time, but they do highlight the significant constraints to residential subdivision and development at this site. Based on these, as well as the water supply and subdivision constraints, staff would ultimately have to recommend the Commission deny this proposed project.

In light of all this, there appears to be three options for moving forward. The first is to have your client simply withdraw the proposed project. The second option, if your client still intends on pursuing this project, would be to bring it to Commission hearing. If so, then it is our intention to hear it at our **July** hearing, which is July 12-14 at the CSUMB campus. We think it's important to hear it there since it offers a local venue for the many interested parties.

Finally, the third option is the one you mentioned whereby the project is changed to be a farmworker housing project. If your client does intend on pushing forward with this revised proposal, we strongly believe that it should be reviewed by the County under a new CDP. In other words, such a fundamentally different project would need to be vetted through the local process, including with appropriate resolution of ESHA, agricultural, and water supply impacts. We would therefore strongly recommend that you withdraw the CDP that is currently on appeal with us, and instead start fresh with a new CDP application for your farmworker housing project with the County.

Let's be sure to check in next week on next steps and how your client wishes to proceed. If we are moving forward for a July hearing, we would like to know in the next week or so in order to alert interested parties.

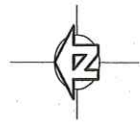
Please don't hesitate to contact me with any questions or concerns.

Thanks,  
Kevin

**Kevin Kahn**  
District Supervisor  
Central Coast District Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060  
(831) 427-4863

# Exhibit E





### Farmland Map

GRAPHIC SCALE: 1 INCH = 60 FEET

**Notes:**

ALL EXISTING BUILDINGS TO BE REMOVED EXCEPT  
ON COMMUNITY SERVICES PARCEL; INTERIOR  
STREETS TO REMAIN PRIVATE

### BUILDING SETBACKS (MINIMUM DIMENSIONS)

FRONT YARD - 30 FEET  
SIDE YARD - 6 FEET  
REAR YARD - 10 FEET

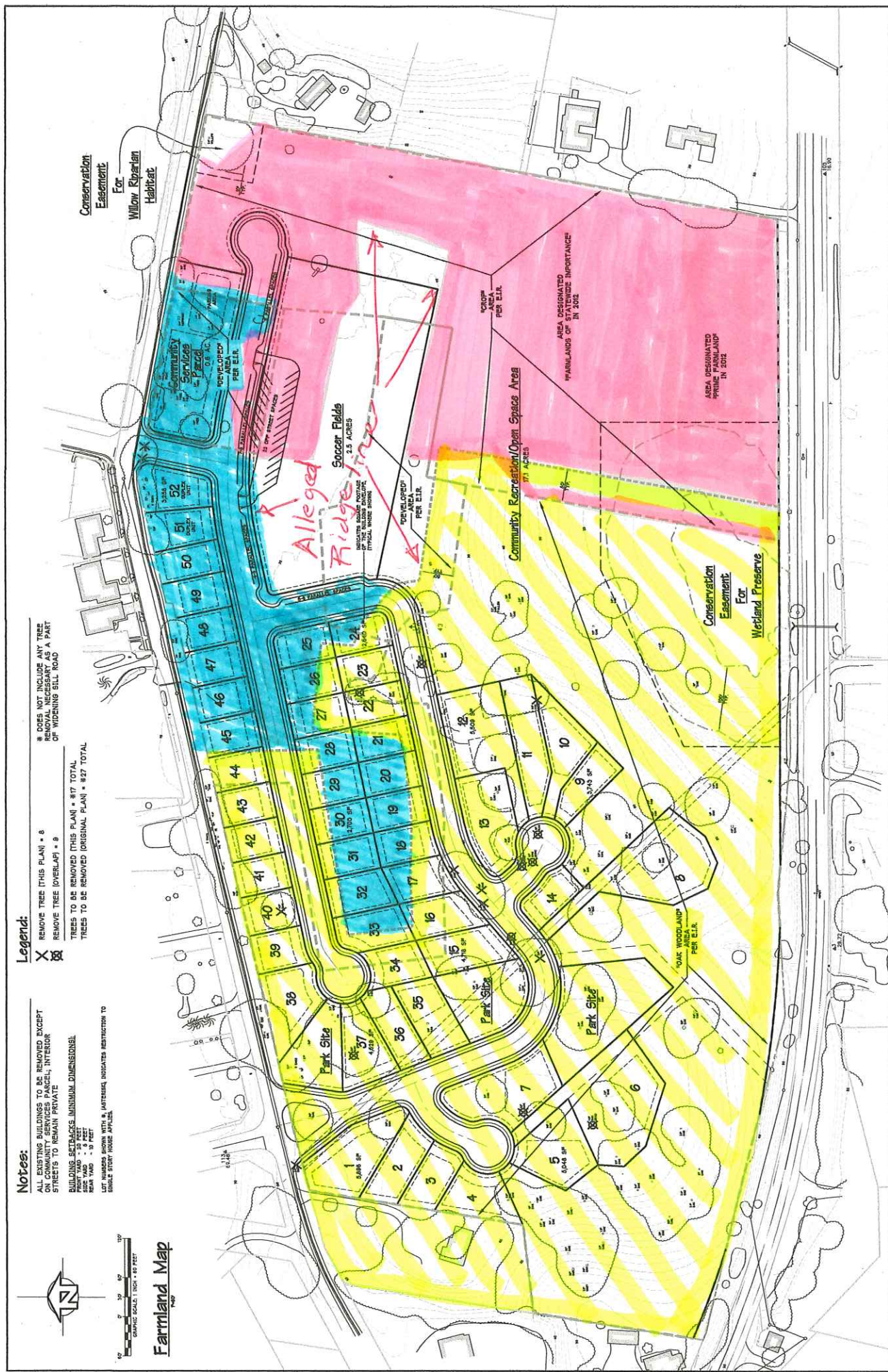
LOT NUMBERS SHOWN WITH \* (ASTERISK) INDICATES RESTRICTION TO SINGLE STORY HOUSE APPLIES.

**Legend:**

~~X~~ REMOVE TREE (THIS PLAN) = 8  
~~00~~ REMOVE TREE (OVERLAP) = 9

TREES TO BE REMOVED (THIS PLAN) = #17 TOTAL  
TREES TO BE REMOVED (ORIGINAL PLAN) = #27 TOTAL

\* DOES NOT INCLUDE ANY TREE REMOVAL NECESSARY AS A PART OF WIDENING SILL ROAD



# Exhibit F





July 7, 2017

Horan Lloyd, A Professional Corporation  
Attention: Mark A. Blum  
26385 Carmel Rancho Blvd, Suite 200  
Carmel, CA 93923

Regarding: Rancho Los Robles, APN 412-073-002,015 Tree Resource Project  
Review Update

Mr. Blum,

As you requested I reviewed current project plans for 54 lots, inspected the site and re-assessed conditions of 120 trees within the development boundaries. Twenty-four trees growing on the Community Service parcel were not re-inspected. The Preliminary Tree Removal Table/Summary, Tree Resource Inventory and Tree Location Map files I've provided you document my current findings. These findings update information provided in the *Preliminary Tree Resource Evaluation* prepared for this project dated June 27, 2006

The ten coast live oak trees I have recommended for removal due to condition: High Risk or instability pose a risk to the long-term maintenance of the oak woodlands and to people that are within striking zones of these specific trees. These trees warrant removal irrespective of development of the property. When they fail, they may damage other trees and property or injure people that may be within the fall zone.

Changes in site conditions: Many trees have structural problems that have lead to them falling over or the breaking of poorly attached large members. The large wounds resulting from this breakage allows the development of decay (rot) organisms. These decay columns have increased/will increase in size over time and threaten future tree stability. Trees #80 and 90, both large diameter Landmark trees had fallen since the 2006 inspection. Trees #22, 23, 32, 58 and 79 had suffered large diameter breakage since the 2006 inspection and need to be removed to avoid further failure. Excessive animal excrement has elevated nitrogen levels in the soils resulting in dense canopies in high vigor further stressing decayed or poorly attached structural members.

The area where the coast live oak trees stand is currently used as pasture lands for dozens of cattle and has been heavily grazed. Soils beneath tree canopies are compacted, highly erodible and absent of native grasses and plants commonly found in oak woodlands. Invasives such as Italian thistle are the dominant understory plants on the site.

There was no observable regeneration, seedlings, saplings or small diameter coast live oaks.

**Consulting Arborists**

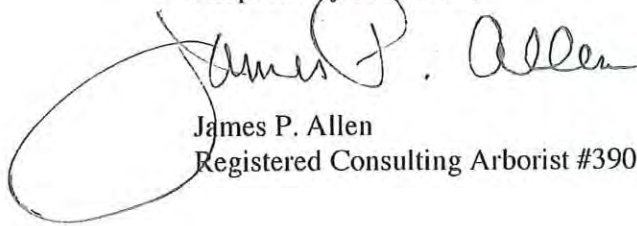
611 Mission Street  
Santa Cruz, CA 95060  
831.426.6603 office  
831.460.1464 fax  
jpallen@cruzio.com

As prior consultants have noted, the oak woodland habitat is in poor condition for the reasons I have described. Without protective measures, changes in use and intervention, this habitat will continue to deteriorate. The protections recommended in the county the conditions of approval will aid in the perpetuation of the resource only if coupled with an oak woodland enhancement program. The project as conditioned could improve the quality and long-term maintenance of the remaining oak woodland components.

The proposed tree removal is limited to that which is necessary for the reduced development, although several, very prominent trees are required to be removed. The reduced project siting and design, coupled with the existing conditions of approval of county permit PLN970159 along with the implementation of an oak woodland enhancement program, will minimize disruption of vegetation and habitat loss to assure the remaining habitat's long-term maintenance.

Please contact me at 831-426-6603 with any questions regarding this analysis.

Respectfully submitted,



James P. Allen  
Registered Consulting Arborist #390





James P. Allen  
 & Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
1	Coast Live Oak	25	Fair	Fair	Good	12	LOW	•Poor trunk/stem attachments Suppressed canopy to north Borders Sill Road • <b>Preserve and Protect</b> • <b>Yes</b>
2	Coast Live Oak	18.5	Fair	Fair	Good	18	LOW	•Suppressed canopy to east and west Borders Sill Road • <b>Preserve and Protect</b> • <b>No</b>
3	Coast Live Oak	21.5	Fair	Fair	Good	16	LOW	•Suppressed canopy to east Borders Sill Road • <b>Preserve and Protect</b> • <b>No</b>
4	Coast Live Oak	36	Fair	Poor	Fair	16	LOW	•Poor trunk/stem attachments Dead branches Suppressed canopy to west Borders Sill Road • <b>Preserve and Protect</b> • <b>Yes</b>



James P. Allen  
 & Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
5	Coast Live Oak	16	Poor	Poor	Fair	16	LOW	•Poor trunk/stem attachments Suppressed canopy to east and west Borders Sill Road • <b>Preserve and Protect</b> •No
6	Coast Live Oak	10	Fair	Poor	Poor	16	LOW	•Pruning wound on trunk Dead branches Suppressed canopy to east and west Borders Sill Road • <b>Preserve and Protect</b> •No
7	Coast Live Oak	14	Fair	Poor	Fair	16	LOW	•Single trunk leans to south and west Borders Sill Road • <b>Preserve and Protect</b> •No



James P. Allen  
& Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
8	Coast Live Oak	30.5	Poor	Fair	Fair	18	LOW	•Poor trunk/stem attachments Trunk leans to south at 3 feet Suppressed canopy to north Borders Sill Road •Preserve and Protect •Yes
9	Coast Live Oak	Group of 3: 9.5, 16 & 19	Fair	Fair	Fair	16	LOW	•Poor trunk/stem attachments Co-dominant stems @ 6 feet on southern trunk 9.5 in tree sharply leans to south at 3.5 feet Borders Sill Road •Preserve and Protect •Yes
10	Coast Live Oak	30.5	Fair	Fair	Good	18	MODERATE Conflicts with proposed sidewalk & street improvements	•Large diameter branch failure Suppressed canopy to east and west Canopy leans south Nest in upper canopy Borders Sill Road •Preserve and Protect •Yes





James P. Allen  
 & Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
11	Coast Live Oak	19	Good	Poor	Good	16	LOW	•Narrow trunk/stem attachments Borders Sill Road <b>•Preserve and Protect</b>
12	Coast Live Oak	27.4	Fair	Fair	Fair	18	LOW	Nest in high branches Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>
13	Blue Gum Eucalyptus	65.5	Fair	Poor	Poor	28	LOW	•High Risk Tree Large diameter branch failure Poor attachments between main trunks Borders Sill Road <b>•Remove due to Condition</b> <b>•Yes</b>
14	Coast Live Oak	29.3	Fair	Poor	Poor	18	LOW	•Canopy suppressed to north and east Canopy competition with eucalyptus Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>





James P. Allen  
& Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
15	Blue Gum Eucalyptus	8 Stems: 17-42	Fair	Poor	Poor	28	<b>HIGH</b> Within entry road	•Crossing branches present Fence embedded in lower trunk Power line and pole guy wires pass through canopy Borders Sill Road <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
16	Blue Gum Eucalyptus	group of 3: 11, 11.5 & 15.5	Fair	Poor	Poor	12	<b>HIGH</b> Within entry road	•Suppressed canopy (lateral branching), commingles with #15 Borders Sill Road <b>•Remove due to Construction Impacts</b> <b>•No</b>
17	Coast Live Oak	52	Fair	Poor	Fair	28	<b>HIGH</b> Within entry road	•Poor trunk/stem attachments <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
18	Coast Live Oak	16.5	Fair	Poor	Fair	18	<b>NONE</b>	•Sharp trunk lean to east Canopy suppressed to west <b>•Preserve and Protect</b>



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# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

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19	Coast Live Oak	35.4	Fair	Poor	Fair	22	NONE	•Poor trunk/stem attachments Wet wood infection co-dominant stems @ 2 feet <b>•Preserve and Protect</b> <b>•Yes</b>
20	Coast Live Oak	22.5	Fair	Poor	Fair	18	LOW	•Poor trunk/stem attachments Cavity in eastern trunk face <b>•Preserve and Protect</b> <b>•No</b>
21	Coast Live Oak	30.5	Fair	Fair	Fair	22	LOW	•Co-dominant trunks Small wound on eastern trunk face <b>•Preserve and Protect</b> <b>•Yes</b>
22	Coast Live Oak	39.5	Fair	Poor	Poor	22	LOW	•Poor trunk/stem attachments Large diameter trunk failure Unstable high risk tree <b>•Remove due to Condition</b> <b>•Yes</b>



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23	Coast Live Oak	Dbl: 17 & 18	Fair	Poor	Poor	18	LOW	•High risk tree Poor trunk/stem attachments Compromised structure due to large canker development Recent failure @ 10 feet of southernmost stem <b>•Remove due to Condition</b> <b>•Yes</b>
24	Coast Live Oak	32.5	Fair	Poor	Poor	22	MODERATE Proximity to cul-de-sac	•Leans to southeast Canopy suppression to the west Encroaches over cul-de-sac <b>•Preserve and Protect</b> <b>•Yes</b>
25	Coast Live Oak	49	Good	Fair	Fair	32	HIGH Within proposed residence, lot 40	•Reduced trunk taper Wound on lower trunk and large pruning wounds Large crossing branch Animal burrowing under root crown <b>•Remove due to Construction Impacts</b> <b>•Yes</b>



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26	Coast Live Oak	51	Fair	Poor	Fair	25	<b>HIGH</b> Proximity to foundation, lot 41	•Trunk has slight lean to northeast Large branch failure/pruning wounds <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
27	Coast Live Oak	38	Good	Poor	Good	32	<b>MODERATE</b> Proximity to cul-de-sac, canopy pruning required	•Umbrella like canopy with large drooping branches <b>•Preserve and Protect</b> <b>•Yes</b>
28	Coast Live Oak	50.5	Good	Fair	Fair	28	<b>HIGH</b> within proposed residence, lot 37	•Poor trunk/stem attachments Large branch failure wound to north and south Co-dominant stems <b>•Remove due to Construction Impacts</b> <b>•Yes</b>



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29	Coast Live Oak	32.5	Fair	Poor	Fair	26	<b>MODERATE</b> Within 10 ft of entry road	•Poor trunk/stem attachments Poorly attached lower branch needs propping Canopy pruning for bldg and sidewalk clearance <b>•Preserve and Protect</b> <b>•Yes</b>
29A	Coast Live Oak	11.8	Fair	Fair	Fair	12	<b>MODERATE</b> Proximity to building, lot 2	•Poor trunk/stem attachments Poorly attached lower branch needs propping Minor foliar distortion Canopy pruning for bldg and sidewalk clearance <b>•Preserve and Protect</b> <b>•No</b>
30	Acacia	Group of 3: 7, 12.5 & 13.5	Fair	Poor	Poor	14	<b>HIGH</b> Within proposed building envelope, lot 3	•Located on property boundary Invasive species <b>•Remove due to Condition</b> <b>•No</b>



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31	Coast Live Oak	Dbl: 22 & 22.5	Fair	Poor	Fair	28	<b>MODERATE</b> proximity to building, lot 4	•Poor trunk/stem attachments Large diameter dead branch <b>•Preserve and Protect</b> <b>•Yes</b>
32	Coast Live Oak	39.2	Fair	Poor	Poor	24	<b>MODERATE</b> proximity to lot 5	•Poor trunk/stem attachments Large diameter branch failure Divides into 3 poorly attached trunks 2 feet above ground Sprout growth @ 5 feet on western trunk face <b>•Remove due to Conditions / or dramatically reduce canopy height</b> <b>•Yes</b>
33	Coast Live Oak	Dbl: 18.5 & 32.4	Fair	Poor	Poor	18	<b>HIGH</b> Canopy conflicts with proposed residence, lot 5	•Poor trunk/stem attachments Arching trunks, long overextended over residence at lot 3 Pruning wound on eastern trunk face <b>•Remove due to Condition</b> <b>•Yes</b>



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34	Coast Live Oak	24	Fair	Poor	Fair	18	NONE	•Canopy suppressed to northeast Large diameter wound on western trunk face 5 inch diameter dead branch present in canopy <b>•Preserve and Protect</b> <b>•Yes</b>
35	Coast Live Oak	23	Fair	Fair	Fair	18	NONE	•Canopy suppression to north <b>•Preserve and Protect</b> <b>•No</b>
36	Coast Live Oak	43	Fair	Poor	Fair	32	NONE	•Poor trunk/stem attachments <b>•Preserve and Protect</b> <b>•Yes</b>



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37	Coast Live Oak	22	Fair	Poor	Fair	32	NONE	•Poor trunk/stem attachments Girdling root on eastern side Pruning wound on eastern trunk face Past branch failures Canopy suppression to east Failed codeterminate stem, remaining leans to north and west High failure potential •Preserve and Protect / Monitor stability •No
37A	Acacia	18	Fair	Poor	Poor	18	NONE	•Previous trunk failure Large diameter branch failure •Remove due to Condition •No





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38	Coast Live Oak	28.6	Fair	Poor	Fair	28	NONE	•Poor trunk/stem attachments Co-dominant stems @ 4.5 feet Canopy suppression to west <b>•Preserve and Protect</b> <b>•Yes</b>
39	Coast Live Oak	39.2	Fair	Poor	Fair	28	NONE	•Poor trunk/stem attachments "Wet-wood" infection Canopy suppression to west <b>•Preserve and Protect</b> <b>•Yes</b>
40	Coast Live Oak	Dbl: 24 & 24.8	Fair	Fair	Fair	22	NONE	•Poor trunk/stem attachments Canopy suppression to north <b>•Preserve and Protect</b> <b>•Yes</b>
41	Coast Live Oak	29.3	Fair	Poor	Fair	18	NONE	•Large pruning wound on north trunk face Canopy suppression to west <b>•Preserve and Protect / Monitor Stability</b> <b>•Yes</b>



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42	Coast Live Oak	Dbl: 21.5 & 25	Fair	Fair	Fair	22	<b>MODERATE</b> proximity to lot 5	•Poor trunk/stem attachments •"Wet-wood" infection •Canopy pruning required for building clearance <b>•Preserve and Protect</b> <b>•Yes</b>
43	Coast Live Oak	25.7	Fair	Fair	Fair	18	<b>MODERATE</b> proximity to lot 5	•Large pruning wound on lower trunk <b>•Preserve and Protect</b> <b>•Yes</b>
43A	Coast Live Oak	6.4	Fair	Poor	Fair	8	<b>HIGH</b> Within proposed structure, lot 35 / 36	<b>•Remove due to Construction Impacts / Move</b> <b>•No</b>



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44	Coast Live Oak	36.1	Fair	Poor	Poor	18	<b>HIGH</b> Proximity to driveway, lot 6	•Poor trunk/stem attachments Large wound to northwest and northeast of trunk Large stem failure Severe decay in basal area High failure potential <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
45	Coast Live Oak	Dbl: 29.4 & 42.5	Fair	Poor	Poor	34	<b>HIGH</b> Within proposed residence, lot 7	•High risk tree Poor trunk/stem attachments Significant trunk failure on southern trunk face <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
46	Coast Live Oak	30.5	Fair	Fair	Fair	24	<b>MODERATE</b> Proximity to lot 7	•Canopy pruning needed for bldg clearance <b>•Preserve and Protect</b> <b>•Yes</b>



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47	Coast Live Oak	Dbl: 18 & 30	Fair	Poor	Poor	24	<b>HIGH</b> Within proposed road	•Fallen tree that is still alive • <b>Remove due to Condition</b> • <b>Yes</b>
48	Coast Live Oak	47	Good	Poor	Poor	26	<b>HIGH</b> Proximity to residence, lot 35	•Significant branch failure on eastern side of trunk Major stem failure to south Severe decay in lower trunk Large diameter branch conflicting with proposed structure, lot 35 & 36 • <b>Remove due to Condition</b> • <b>Yes</b>
49	Coast Live Oak	37.5	Fair	Fair	Fair	32	<b>MODERATE</b> Proximity to lot 15	•"Wet-wood" infection Stout trunk divides into secondary trunks at 5 ft above ground Wide spreading canopy • <b>Preserve and Protect / Canopy &amp; root pruning required</b> • <b>Yes</b>



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50	Coast Live Oak	22	Fair	Poor	Poor	18	<b>MODERATE</b> Proximity to lot 15	•Poor trunk/stem attachments Dramatic lean to east over proposed lot 15 Co-dominant trunks @ 5 feet with bark inclusion Pruning wound on southern trunk face Possible anthracnose •Preserve and Protect <b>•Remove due to Condition</b> <b>•No</b>
51	Coast Live Oak	34.4	Fair	Poor	Poor	28	<b>MODERATE</b> Proximity to lot 15	•Poor trunk/stem attachments Wound on southeastern trunk face <b>•Preserve and Protect</b> <b>•Yes</b>
52	Coast Live Oak	44	Fair	Poor	Poor	28	<b>HIGH</b> Within proposed road	•High failure potential Major branch failure on southern trunk face Large pruning wound on northeastern trunk face <b>•Remove due to Condition</b> <b>•Yes</b>



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53	Coast Live Oak	31	Fair	Poor	Fair	22	<b>HIGH</b> Within proposed road	•Poor trunk/stem attachments "Wet-wood" infection Pruning wound on eastern trunk face <b>•Remove due to construction impacts</b> <b>•Yes</b>
54	Coast Live Oak	37.5	Fair	Fair	Fair	28	<b>HIGH</b> Within proposed road	•None <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
55	Coast Live Oak	33.5	Fair	Poor	Fair	28	<b>HIGH</b> Within proposed road	•Trunk leans to east Wound on western trunk face Sweeping branches Wide spreading canopy touches ground in several positions <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
56	Coast Live Oak	Dbl: 22 & 34.5	Fair	Fair	Fair	32	<b>HIGH</b> Canopy conflits with proposed buildings, lots 12 and 13	•Move structures on lots 12 &13 as far from trunks as possible <b>•Preserve and Protect</b> <b>•Yes</b>



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57	Coast Live Oak	Dbl: 21 & 30	Fair	Fair	Fair	32	<b>MODERATE</b> Within 10 feet of building foundation, lot 12	•Poor trunk/stem attachments Wide, low growing, spreading canopy Low vigor Severe canopy pruning needed <b>•Preserve and Protect</b> <b>•Yes</b>
58	Coast Live Oak	31	Poor	Poor	Poor	28	<b>MODERATE</b> proximity to cul-de-sac	•Poor trunk/stem attachments Large codominate stem failure Wound on southern trunk face Severe lower trunk decay <b>•Remove due to Condition</b> <b>•Yes</b>
59	Coast Live Oak	Dbl: 24 & 28	Poor	Poor	Poor	N/A	<b>HIGH</b>	•Cleaved in two prostrate sections, one dead other alive <b>•Remove due to Condition</b> <b>•Yes</b>



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60	Coast Live Oak	Dbl: 24 & 26.5	Fair	Fair	Fair	28	<b>HIGH</b> Within proposed road	•Poor trunk/stem attachments Co-dominant stems Suppressed canopy to east <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
60A	Coast Live Oak	9.8	Fair	Fair	Fair	8	<b>HIGH</b> Within proposed road	<b>•Remove due to Construction Impacts / Relocate</b> <b>•No</b>
61	Coast Live Oak	Multi: 20, 23, 23.5 & 27.5	Fair	Poor	Fair	32	<b>HIGH</b> Within 5 feet of proposed road	•Poor trunk/stem attachments Well developed canopy Retain in group with 60 & 62 - will not stand alone <b>•Preserve and Protect / Severe root &amp; canopy pruning required</b> <b>•Yes</b>





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62	Coast Live Oak	30.5	Fair	Poor	Fair	30	<b>HIGH</b> Within 5 feet of proposed road	•Poor trunk/stem attachments Co-dominant stems @ 3 feet <b>•Preserve and Protect / Retain in group with 60 &amp; 61- will not stand alone</b> <b>•Yes</b>
62A	Coast Live Oak	Mutti: 9.2 & 11.6	Fair	Poor	Fair	12	<b>MODERATE</b> Proximity to road	•Poor trunk/stem attachments <b>•Preserve and Protect</b> <b>•No</b>
63	Coast Live Oak	60.2	Fair	Poor	Poor	30	<b>NONE</b>	•Poor trunk/stem attachments Large branch failure to northwest Canopy suppression to southwest <b>•Preserve and Protect / Retain in group with 64 &amp; 65</b> <b>•Yes</b>



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64	Coast Live Oak	54.5	Fair	Poor	Poor	30	NONE	•Poor trunk/stem attachments •"Wet-wood" infection •Canopy suppression to west •Pruning wound on southwestern trunk face <b>•Preserve and Protect / Retain in group with 63 &amp; 65</b> <b>•Yes</b>
65	Coast Live Oak	Multi: 46 & 40.5	Fair	Fair	Fair	34	NONE	•Canopy suppression to east •Old pruning wounds on trunk •Spectacular specimen <b>•Preserve and Protect / Retain in group with 63 &amp; 64</b> <b>•Yes</b>
66	Coast Live Oak	Multi: 23.2, 32.5 & 34.3	Fair	Fair	Fair	35	MODERATE Proximity to lot 6	•Poor trunk/stem attachments •Wet wood infection •Past branch failures <b>•Preserve and Protect / Severe pruning for bldg clearance / removal of entire limb</b> <b>•Yes</b>



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67	Coast Live Oak	37.3	Fair	Fair	Fair	35	<b>MODERATE</b> Proximity to lot 6	•Poor trunk/stem attachments Rust-like exudation on lower trunk 3in dead branch in eastern canopy <b>•Preserve and Protect</b> <b>•Yes</b>
68	Coast Live Oak	49.5	Good	Fair	Fair	30	<b>MODERATE</b> Proximity to residence, lot 6	•Poor trunk/stem attachments "Wet-wood" infection Root buttress decay to north-northwest Dead branches present in canopy <b>•Preserve and Protect</b> <b>•Yes</b>
69	Coast Live Oak	34.2	Fair	Fair	Fair	35	<b>NONE</b>	•Canopy suppression to northwest Dead branches present in canopy <b>•Preserve and Protect</b> <b>•Yes</b>



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70	Coast Live Oak	42.8	Fair	Poor	Fair	28	NONE	•Poor trunk/stem attachments Co-dominant stems @ 5 feet "Wet-wood" infection Old pruning wounds to northeast, east and west Well shaped canopy <b>•Preserve and Protect</b> <b>•Yes</b>
71	Coast Live Oak	22.6	Poor	Poor	Poor	18	NONE	•Poor trunk/stem attachments Canker present on trunk Wound on southeastern trunk face <b>•Preserve and Protect / Monitor stability</b> <b>•No</b>
72	Coast Live Oak	29.6	Good	Fair	Fair	27	NONE	•Poor trunk/stem attachments <b>•Preserve and Protect</b> <b>•Yes</b>



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73	Coast Live Oak	20.7	Poor	Fair	Fair	16	NONE	•Trunk leans to east Low Vigor <b>•Preserve and Protect</b> <b>•No</b>
74	Coast Live Oak	41.7	Fair	Poor	Fair	24	NONE	•Poor trunk/stem attachments-crossing branches "Wet-wood" infection Pruning wound on northern trunk face Basal wound on trunk <b>•Preserve and Protect</b> <b>•Yes</b>
75	Coast Live Oak	42.6	Fair	Poor	Fair	28	NONE	•Poor trunk/stem attachments Evidence of internal decay from stem failure @ 5 feet <b>•Preserve and Protect / Monitor stability</b> <b>•Yes</b>
76	Coast Live Oak	44.9	Fair	Fair	Fair	28	NONE	Large diameter dead branch <b>•Preserve and Protect</b> <b>•Yes</b>



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77	Coast Live Oak	28.8	Fair	Fair	Fair	18	NONE	•Poor trunk/stem attachments Previous branch failures in canopy <b>•Preserve and Protect</b> <b>•Yes</b>
78	Coast Live Oak	Dbl: 25 & 35	Fair	Fair	Fair	35	NONE	•Trunk leans to east Previous branch failures in canopy Larger stem uprooted Smaller stem remains viable, leans dramatically to north & west <b>•Preserve and Protect</b> <b>•Yes</b>
79	Coast Live Oak	63.5	Poor	Poor	Poor	35	NONE	•Major stem failure to north and west Risk of cont'd failure <b>•Preserve and Protect / Monitor stability</b> <b>•Yes</b>
79A	Coast Live Oak	Dbl: 5.8 & 7	Fair	Poor	Good	8	NONE	•Poor trunk/stem attachments <b>•Preserve and Protect</b> <b>•No</b>



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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
80	Coast Live Oak	45	Fallen	Fallen	Fallen	32	NONE	•Poor trunk/stem attachments Major stem failure to south and west Large cavity from past pruning wound to east Risk of cont'd failure <b>Fallen</b>
81	Coast Live Oak	Multi: 3-6	Good	Poor	Fair	8	NONE	•Poor trunk/stem attachments Old support stake embedded in trunk <b>•Preserve and Protect</b> <b>•No</b>
82	Blue Gum Eucalyptus	64	Fair	Poor	Fair	32	<b>MODERATE</b> Proximity to driveway, lot 8	•Co-dominant trunks @ 10 feet Poor anchorage from supporting roots Possible raptor habitat <b>•Preserve and Protect / Unable to tolerate cut or fill, maintain 25 ft distance</b> <b>•Yes</b>



James P. Allen  
& Associates

# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
83	Coast Live Oak	26	Fair	Poor	Fair	16	<b>MODERATE</b> Proximity to driveway, lot 8	•None • <b>Preserve and Protect</b> • <b>Yes</b>
84	Coast Live Oak	27	Fair	Poor	Fair	18	<b>MODERATE</b> Proximity to foundation, lot 14	•Old pruning wound on northern and northeastern trunk face •"Wet-wood" infection • <b>Preserve and Protect</b> • <b>Yes</b>
85	Coast Live Oak	25.1	Fair	Poor	Fair	16	<b>NONE</b>	•Poor trunk/stem attachments •Trunk leans to west •Co-dominant stems @10 feet •Previous limb failure •Canopy suppression to east • <b>Preserve and Protect</b> • <b>Yes</b>





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## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
86	Coast Live Oak	41.7	Fair	Poor	Poor	25	<b>LOW</b> Proximity to cul-de-sac	•Poor trunk/stem attachments Animal burrowing under root crown "Wet-wood" infection Pruning wound on northwestern trunk face Canopy suppression to west <b>•Preserve and Protect</b> <b>•Yes</b>
87	Coast Live Oak	38	Fair	Fair	Fair	24	<b>MODERATE</b> Proximity to driveway, lot 5	•Canopy clearance for bldng clearance <b>•Preserve and Protect</b> <b>•Yes</b>
88	Coast Live Oak	24.1	Good	Fair	Fair	18	<b>HIGH</b> Within proposed cul-de-sac	•Divides into 2 well attached stem 15' above grade Well balanced canopy <b>•Remove due to Construction Impacts</b> <b>•Yes</b>



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## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
89	Coast Live Oak	48	Fair	Poor	Good	34	NONE	•Large diameter stem failure Low growing canopy Spectacular specimen •Preserve and Protect / Monitor stability •Yes
89A	Coast Live Oak	18	Fair	Poor	Fair	12	NONE	Poor trunk and stem attachment •Preserve and Protect
90	Coast Live Oak	36	Fallen	Fallen	Fallen	N/A	N/A	•Decayed pruning wound on northeastern trunk face Basal wound on trunk Sm pruning wounds •Fallen
91	Coast Live Oak	37.8	Fair	Poor	Fair	18	N/A	•Poor trunk/stem attachments •Preserve and Protect / Simple Direct Cable •Yes



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# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
92	Coast Live Oak	Multi: 18, 21, & 22	Fair	Fair	Fair	18	NONE	•Animal burrowing under root crown 1 trunk uprooted, other 2 leaning dramatically tree still alive <b>•Preserve and Protect</b> <b>•Yes</b>
93	Coast Live Oak	18	Poor	Poor	Poor	22	<b>HIGH</b> Within proposed building envelope, lot 22	•Low vigor Basal wound on western trunk face with internal decay <b>•Remove due to Construction Impacts</b> <b>•No</b>
94	Coast Live Oak	31.4	Fair	Fair	Fair	20	<b>HIGH</b> proximity to foundations, lots 22 & 23	•None <b>•Preserve and Protect / Severe root &amp; canopy pruning for foundation, lot 23</b> <b>•Yes</b>
95	Coast Live Oak	31	Fair	Poor	Fair	26	<b>HIGH</b> within proposed road	•Old pruning wound to eastern trunk face Severely decayed scaffold branch <b>•Remove due to Construction Impacts</b> <b>•Yes</b>



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## PRELIMINARY TREE RESOURCE EVALUATION

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
96	Coast Live Oak	38.5	Fair	Poor	Fair	20	<b>LOW</b> Proximity to road	•Poor trunk/stem attachments Trunk leans to southeast Unable to tolerate grade changes Suppressed canopy to north and west Canopy pruning for bldg clearance Crossing branches present in canopy <b>•Preserve and Protect</b> <b>•Yes</b>
97	Coast Live Oak	40.4	Fair	Fair	Fair	18	<b>MODERATE</b> Proximity to building foundation, lot 12	•"Wet-wood" infection Wide spreading canopy Structural defect in scaffold branch @ 15 feet Leans to north and east <b>•Preserve and Protect / Simple direct cable</b> <b>•Yes</b>



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# RANCHO LOS ROBLES

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
98	Coast Live Oak	40.4	Fair	Poor	Poor	22	NONE	•Poor trunk/stem attachments Trunk leans to northeast Canopy suppressed to south <b>•Preserve and Protect / Simple direct cable</b> <b>•Yes</b>
99	Coast Live Oak	27.2	Fair	Poor	Poor	16	NONE	•Pruning wound to southwest and south Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>
100	Coast Live Oak	21.2	Fair	Poor	Poor	16	NONE	•Poor trunk/stem attachments Lower trunk pruning wound Large diameter dead branch Canopy suppressed to north and west Borders Sill Road <b>•Preserve and Protect</b> <b>•No</b>



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## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
101	Coast Live Oak	31.2	Poor	Poor	Poor	20	MODERATE Proximity to fill treatment	•Trunk leans to south Pruning wound on southeastern trunk face Extensive basal trunk decay <b>•Preserve and Protect / Canopy and Root Prune</b> <b>•Yes</b>
102	Coast Live Oak	33	Fair	Poor	Fair	N/A	NONE	•Poor trunk/stem attachments Crossing branches present in canopy Past branch failure to south and north @ 15 feet <b>•Preserve and Protect</b> <b>•Yes</b>
103	Coast Live Oak	49	Fair	Fair	Fair	N/A	NONE	•Poor trunk/stem attachments Branch failure on northeastern trunk face <b>•Preserve and Protect</b> <b>•Yes</b>



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## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

*Dedicated to the Preservation of Trees*

TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
104	Coast Live Oak	36 @ 2ft	Fair	Poor	Poor	N/A	NONE	•Poor trunk/stem attachments Heavy lower branching prone to failure •Preserve and Protect •Yes
105	Coast Live Oak	35	Fair	Poor	Poor	N/A	NONE	•Poor trunk/stem attachments Major trunk decay on northern trunk face Past branch failures Canopy suppressed to north •Preserve and Protect •Yes
106	Coast Live Oak	46	Good	Fair	Fair	N/A	NONE	•Poor trunk/stem attachments Canopy suppressed to north and south •Preserve and Protect •Yes
107	Coast Live Oak	22	Poor	Poor	Poor	N/A	NONE	•Fallen tree that is still alive •Preserve and Protect •No



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# RANCHO LOS ROBLES

## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
108	Coast Live Oak	28.5	Fair	Poor	Fair	N/A	NONE	•Poor trunk/stem attachments Co-dominant trunks Canopy suppressed to east <b>•Preserve and Protect</b> <b>Triangular cable system</b> <b>•Yes</b>
109	Coast Live Oak	28.5 @ 3ft	Fair	Poor	Poor	N/A	NONE	•Leans to northwest Previous branch failures in canopy <b>•Preserve and Protect</b> <b>•Yes</b>
134	Coast Live Oak	28	Fair	Fair	Fair	18	<b>HIGH</b> Within proposed entry road	•Low spreading canopy Pruning wounds to north Borders Sill Road <b>•Remove due to Construction Impacts</b> <b>•Yes</b>





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## PRELIMINARY TREE RESOURCE EVALUATION

### APN 412-073-002 AND 015

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
135	Coast Live Oak	24	Fair	Poor	Fair	18	<b>HIGH</b> Within proposed entry road	•Poor trunk/stem attachments Co-dominant stems @ 7 feet Borders Sill Road <b>•Remove due to Construction Impacts</b> <b>•Yes</b>
136	Coast Live Oak	Dbl: 19.1 & 30.2	Fair	Fair	Fair	18	<b>MODERATE</b> Proximity to sidewalk / structures, lot 52	•Canopy Pruning for Bldg clearance Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>
137	Coast Live Oak	Dbl: 15.5 & 18.2	Fair	Poor	Fair	15	<b>MODERATE</b> Proximity to sidewalk / structures, lot 52	•Poor trunk/stem attachments Trunk leans to south Canopy suppressed to north Canopy pruning for lot 52 Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>



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# RANCHO LOS ROBLES

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TREE #	SPECIES	DIAMETER (INCHES)	HEALTH	STRUCTURE	SUITABILITY for PRESERVATION	CRZ (radial ft)	IMPACTS LEVEL/ Description	•OBSERVATIONS •RECOMMENDED STATUS •MEETS "LANDMARK" CRITERIA Yes/No
138	Coast Live Oak	27.7	Fair	Fair	Fair	18	<b>MODERATE</b> Proximity to sidewalk / structures, lot 52	•Pruning wound on northern trunk face with decay Canopy pruning for lot 51 Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>
139	Coast Live Oak	43.4 @ 2ft	Fair	Fair	Fair	18	<b>MODERATE</b> Proximity to sidewalk / structures, lot 52	•Canopy pruning for lot 51 Borders Sill Road <b>•Preserve and Protect</b> <b>•Yes</b>

**Rancho Los Robles  
Preliminary Tree Removal Summary  
July 7, 2017**

<b>120</b>	<b>94</b>	<b>32, 27 are oak species</b>	<b>19, 17 are oak species</b>	<b>16, 13 are oak species</b>	<b>13, 10 are oak species</b>	<b>10, 9 are oak species</b>	<b>26, 22 are oak species</b>
Number of trees Inventoried out of 144 trees onsite	Number of trees meeting "Landmark" criteria	Number of trees proposed for removal due to both Construction Impacts and Condition	Number of trees proposed for Removal due to Construct ion Impacts	Number of trees proposed for Removal due to Construction Impacts that meet "Landmark" criteria	Number of Trees proposed for Removal due to poor condition, HIGH RISK, or instability	Trees proposed for Removal due to Condition that meet "Landmark" criteria	Trees proposed for Removal that meet "Landmark" criteria (sum of totals)

**Rancho Los Robles  
Preliminary Tree Removal Table  
July 7, 2017**

<b>Tree #</b>	<b>Species</b>	<b>Diameter</b>	<b>Meets "Landmark" Status, Yes/No</b>	<b>Reason for Removal</b>	<b>Comments</b>
13	Eucalyptus	65.5	Yes	Condition	High Risk Poor Suitability
15	Eucalyptus	8 stems: 17-42	Yes	Impacts	Within Entry Road
16	Eucalyptus	3 trunks: 11, 11.5 & 15.5	No	Impacts	Within Entry Road

**Rancho Los Robles  
Preliminary Tree Removal Table  
July 7, 2017**

<b>Tree #</b>	<b>Species</b>	<b>Diameter</b>	<b>Meets “Landmark” Status, Yes/No</b>	<b>Reason for Removal</b>	<b>Comments</b>
17	Coast live oak, (CLO)	52	Yes	Impacts	Within Proposed Road
22	CLO	39.5	Yes	Condition	High Risk
23	CLO	Double 16 & 17	Yes	Condition	High Risk
25	CLO	27	Yes	Impacts	Within Residence, Lot 40
26	CLO	53	Yes	Impacts	Proximity to residence, Severe root loss
28	CLO	Double 28 & 38	Yes	Impacts	Within Residence, Lot 37
30	Acacia	Three trunks 7, 12.5 & 13.5	No	Condition	Invasive species
32	CLO	39.2	Yes	Condition	High Risk
33	CLO	39.2	Yes	Condition	High Risk

**Rancho Los Robles  
Preliminary Tree Removal Table  
July 7, 2017**

<b>Tree #</b>	<b>Species</b>	<b>Diameter</b>	<b>Meets “Landmark” Status, Yes/No</b>	<b>Reason for Removal</b>	<b>Comments</b>
37A	Acacia	18	No	Condition	Invasive species
43A	CLO	6.4	No	Impacts	Could be Relocated
44	CLO	36.1	Yes	Impacts	Proximity to driveway, Lot 6
45	CLO	Double 24 & 42	Yes	Impacts	Within Residence, Lot 7
47	CLO	Double 18 & 30	Yes	Condition	Fallen but still alive
48	CLO	47	Yes	Condition	Significant branch failure
50	CLO	22	No	Condition	Significant branch failure
52	CLO	44	Yes	Condition	High Risk
53	CLO	31	Yes	Impacts	Within Proposed Road
54	CLO	37.5	Yes	Impacts	Within Proposed Road
55	CLO	33.5	Yes	Impacts	Within Proposed Road

**Rancho Los Robles  
Preliminary Tree Removal Table  
July 7, 2017**

<b>Tree #</b>	<b>Species</b>	<b>Diameter</b>	<b>Meets “Landmark” Status, Yes/No</b>	<b>Reason for Removal</b>	<b>Comments</b>
58	CLO	21	Yes	Condition	High Risk
59	CLO	Double 24 & 28	Yes	Condition	I stem has fallen The remaining stem is alive
60	CLO	Double 24 & 26.5	Yes	Impacts	Within Road
60A	CLO	9.8	No	Impacts	Within Road
88	CLO	20	No	Impacts	Within Cul de Sac
93	CLO	18	No	Impacts	Within Residence
95	CLO	31	Yes	Impacts	Within Road
134	CLO	28	Yes	Impacts	Within Road
135	CLO	24	Yes	Impacts	Within Road

# Rancho Los Robles The Palms at Rancho Los Robles Preliminary Construction Impact Assessment

Location Map

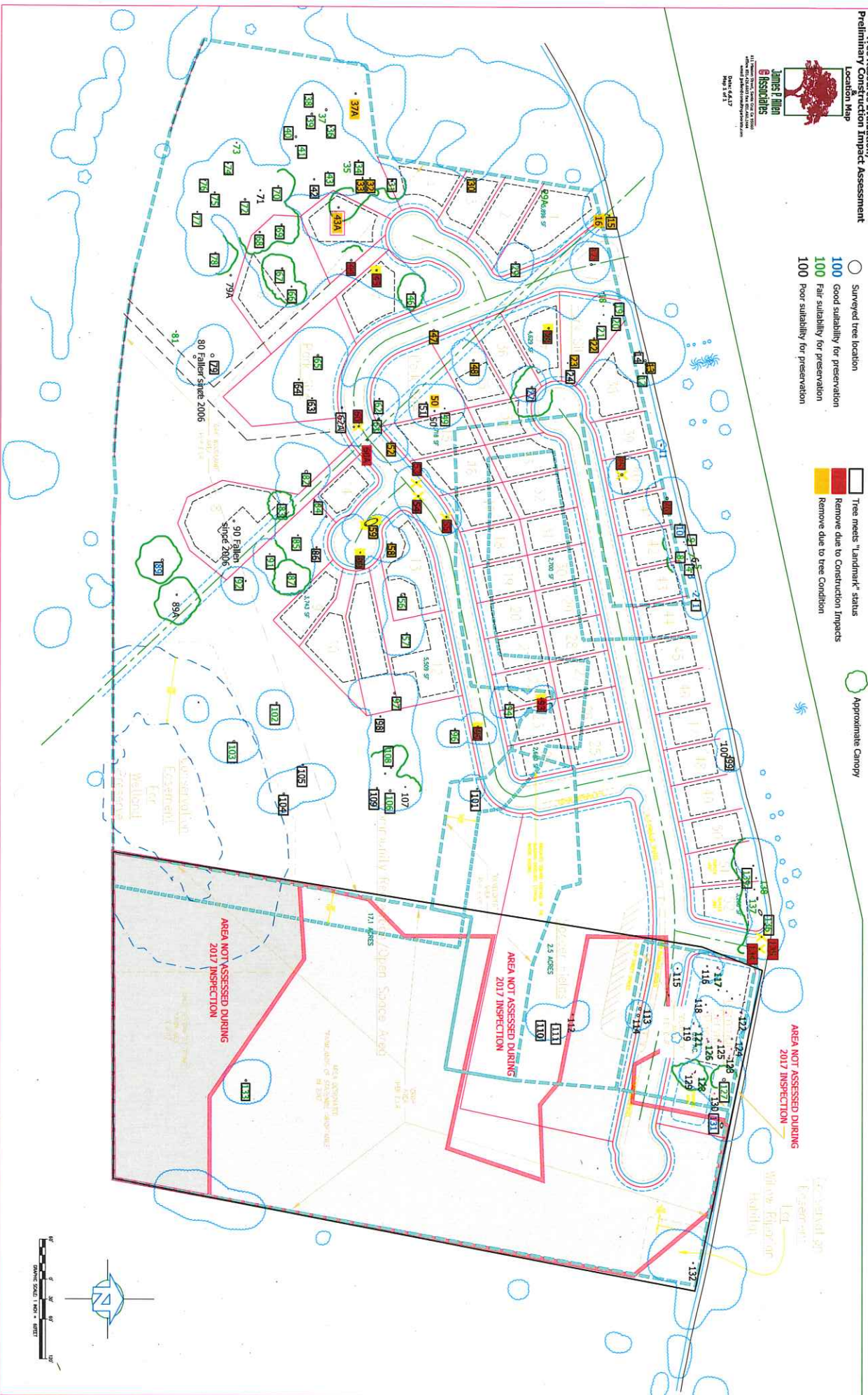


## Legend

- Surveyed tree location
- Good suitability for preservation
- Fair suitability for preservation
- Poor suitability for preservation

- Tree meets "landmark" status
- Remove due to Construction Impacts
- Remove due to tree Condition

- Good Relocation Candidate
- Approximate Canopy



# Exhibit G



LAW OFFICES OF  
HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,  
LAW & COOK  
INCORPORATED

LAURENCE P. HORAN (Retired)  
FRANCIS P. LLOYD  
ANTHONY T. KARACHALE  
STEPHEN W. DYER  
GARY D. SCHWARTZ  
MARK A. BLUM  
MARK A. O'CONNOR  
ROBERT E. ARNOLD III  
ELIZABETH C. GIANOLA  
PAMELA H. SILKWOOD

P.O. BOX 3350, MONTEREY, CALIFORNIA 93942-3350  
[www.horanlegal.com](http://www.horanlegal.com)

JAMES J. COOK  
DENNIS M. LAW

Of Counsel  
JEROME F. POLITZER  
SEAN FLAVIN

TELEPHONE: (831) 373-4131  
FROM SALINAS: (831) 757-4131  
FACSIMILE: (831) 373-6302

October 21, 2011

OUR FILE NO. 2955.01

**VIA EMAIL**

Mike Watson  
California Coastal Commission  
Central Coast District  
725 Front Street, Suite 300  
Santa Cruz, California 95060

**RE: Appeal A-3-MCO-09-009 (Rancho Los Robles Subdivision)**

Dear Mr. Watson:

My office represents Mr. Chuck Allen, the applicant for the Rancho Los Robles subdivision. I am now in receipt of Mr. Dan Carl's October 3, 2011 letter to Mr. Allen (and have provided you with Mr. Allen's correct address). As you requested when we discussed this matter by phone, this letter outlines Mr. Allen's response to the appeal as the basis for a meeting to discuss project mitigations aimed at obviating a substantial issue determination.

Mr. Allen wishes to continue pursuing this project. Mr. Allen has developed a conceptual proposal to address water use, the core Local Coastal Plan ("LCP") inconsistency identified by Commission staff. Mr. Allen believes the other items identified by the appeal and the Commission's comments on the DEIR (visual resources, ESHA/wetlands and related habitat, and traffic), are addressed by the FEIR and by the Board of Supervisor's approval of the environmentally superior reduced density project alternative. More detail concerning these items is found later in this letter.

It must be stated from the outset that the applicant, and the findings of the Monterey County Board of Supervisors, do not agree with the Coastal Commission staff's assessments of potential LCP inconsistencies. Nevertheless, this letter is not intended to debate those differences, but rather to outline actions addressing the potential inconsistencies as perceived by staff.

You are probably aware that, starting in mid-2008, there have been several prior meetings and discussions between Coastal staff (Charles Lester and, if I recall correctly, Katie Morange), Monterey County elected officials, management and staff, and applicants for the so-called North Monterey County "pipeline" projects, including Rancho Los Robles. The pipeline projects are the subdivision applications that were deemed complete under, and are therefore governed as a matter of law, by the Coastal Act and LCP/LUP policies, standards and regulations in effect prior to September, 2000.

499 Van Buren Street  
Monterey, California 93940

Mike Watson  
California Coastal Commission  
Central Coast District  
October 21, 2011  
Page 2

Throughout the prior discussions, Coastal Commission staff's primary concern with respect to Rancho Los Robles has been perceived water supply impacts. Coastal staff indicated a strong interest in the concept of establishing a water bank to off-set net project water use.<sup>1</sup> One specific source of water that was discussed for a water bank was retiring land presently in agricultural use that is clearly unsuitable for long-term cultivation based on resource protection criteria. Regrettably, the specific Elkhorn Road land that Coastal staff supported retiring from farming use was too expensive for the project applicant to acquire. Since that time Mr. Allen has been searching for other parcels of land similarly unsuitable for long-term agricultural use (in addition to actively pursuing numerous other ways to conserve agricultural water use and increase the water supply in the PVWMA district).

Mr. Allen has focused his property search within the Carneros Creek and Elkhorn Highlands area where Rancho Los Robles is located. The Elkhorn Slough Watershed Conservation Plan provides a general discussion on large and small farms located within the watershed. It states that these farms, including "smaller farms ... scattered within the Carneros Creek and Elkhorn Highlands area... are major cause of sedimentation, a chief stress to marsh habitats." For the Carneros Creek Zone, the Plan notes the "loss of natural habitat and species diversity due to sediment accumulation and turbidity from uncontrolled agricultural runoff". The link to this report can be found at: <http://www.elkhornslough.org/eswcp/ESWCP.pdf>

While there may be numerous parcels potentially suitable for creating a water bank, Mr. Allen wants to present information concerning one specific opportunity that might be available at this time. If Coastal staff agrees that this parcel is unsuitable for long-term cultivation based on resource protection criteria (and is thus a suitable substitute for the Elkhorn Road parcel), and that the other potential inconsistencies in the appeal are being addressed, then Mr. Allen proposes to target the subject parcel for establishing a water bank.

The target property, which is identified as Monterey County APNs 412-071-030 and 031, includes about 33 acres of farmable land. It is accessed via Sill Road, which borders it to the south. The target property is thus in the immediate vicinity of the Rancho Los Robles subdivision and similarly drains into Carneros Creek. The target property has large areas of steeply rolling terrain with a drainage course through the middle. Mr. Allen reports that farming the property has caused

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1. Based on Coastal staff's assumptions and calculations, the County approved Rancho Los Robles project will have a net water use, after infiltration, of 25.56 acre feet per year. While the applicant does not agree with this number, it is nevertheless the applicant's present proposal to completely offset this water use.

Mike Watson  
California Coastal Commission  
Central Coast District  
October 21, 2011  
Page 3

very significant erosion, depositing sediment on adjoining land and into Carneros Creek. I attach some photographs obtained from adjoining public areas that reflect these conditions. The road in the one image is Sill Road. Sill Road runoff flows either to the east or to the west (depending on the location of the property) along the road and eventually into Carneros Creek.

The land is in berry production. There are no structures, but there are residential homes in the area and bordering the target property. The current tenants have been farming the land since 2002, and the lease has just expired this month.

An existing onsite well produced, at last measure, 140 gallons per minute. Mr. Allen does not yet have historical water use records for the target property, but will seek to obtain those in the future should this parcel appear promising to staff. Berries typically utilize approximately 2.5 acre feet per acre annually. Applying this rule of thumb, retiring these 33 acres from agricultural use could create a water bank of approximately 82.5 acre feet annually. In a worst case scenario, even if historic water production figures were to establish that the farming operation had used only 0.77 acre feet per acre annually (which is certainly unlikely), that alone would be sufficient to establish a water bank that could entirely offset the net water use calculated for Rancho Los Robles by Coastal Commission staff.

Because the target parcel would provide far more water banking than is required to offset Rancho Los Robles water use, it's conceivable that a program could be structured for other North County "pipeline" development projects to offset water use. However, the applicant is not advocating this option and does not anticipate pursuing it unless it is of significant interest to Coastal Commission staff and will not delay his own project.

Commission staff has previously detailed its concerns with the Rancho Los Robles project in considerable depth in its December 10, 2007 comments on the Draft Environmental Report (SCH #2002091010 ("DEIR")). The Commission's subsequent appeal A-3-MCO-09-009 simply lists the topics of concern contained in its EIR comments. Although the appeal does recognize that the Monterey County Board of Supervisors elected to approve the "reduced density alternative" identified in the Final Environmental Impact Report ("FEIR"), the appeal does not contain any actual analysis of the effect of this project reduction on LCP consistency. Mr. Allen believes that the reduced density alternative has gone a long way to address the concerns expressed in the Commission's comments, and would like the opportunity to further review the specific effects of those amendments with you.

To briefly preview that discussion, it should be noted that the Commission's DEIR comments bearing on visual resources focused on the prior 103 residential unit subdivision. They assert that the bulk and density of the 103-unit project is out of character with the Hall Road corridor, and thus inconsistent with the LCP. The reduced density alternative eliminated ridgeline development by

Mike Watson  
California Coastal Commission  
Central Coast District  
October 21, 2011  
Page 4

moving lots out of the areas near the top of the slope. It further minimized the loss of mature trees, protected the willow and wetlands areas, and reduced traffic and hydrogeological impacts by reducing the number of houses by about twenty percent (20%). More specifically, residential development was moved out of the area visible from Hall Road, avoiding ridgeline development without the need or use of blocking by intervening buildings on the commercial parcel. Additionally, some 14 lots were restricted to one-story houses in order to avoid ridgeline development. Building envelopes were established for lots with mature trees. The reduced density alternative moved the recreational park to the top of the slope, in the area that was previously proposed to be developed with houses. Under this alternative, the steeply sloped area of the site, the wet lowland area, and the willow riparian area are now all contained within open space parcels. Moreover, the stormwater basin in the area along Hall Road will now be at natural grade.

Aesthetically, the reduced density alternative lessens the effect on the character of the lower area near Hall Road due to a less developed and less engineered look; the removal of the earth berms fronting the stormwater basin, a more natural design to the basin, elimination of the townhouses from the lower area, and development of the community recreational use in the upper portion of the project site.

Coastal staff's DEIR comments on the proposed project identified a concern with proposed fill of the existing wet lowland area onsite and creation of a bermed detention pond would be inconsistent with LCP prohibitions on non-resource dependent development and uses in wetlands, and with setback requirements from wetlands. The reduced density alternative addresses this concern by designing and maintaining the drainage basin to be a natural wetland area. This would provide an environmental enhancement over current conditions, as the subject area is not a wetland, but merely a wet lowland area.

As concerns traffic, consistent with the LCP the proposed project is located in an area identified for concentrated development (North County Land Use Plan/Local Coastal Program ("LUP/LCP") 4.3.5 General Policy 2), and is consistent with the land uses and densities in the North County LUP/LCP Land Use Map. The LUP/LCP Policy 4.3.5 General Policy 2 directs that the transportation infrastructure should be expanded to accommodate this planned growth. The proposed project would pay the County's ad-hoc transportation fee to contribute to its fair share towards the necessary improvements. The environmental impacts of planned road improvements have already been evaluated under the California Environmental Quality Act ("CEQA") at the programmatic level and it is inappropriate to re-evaluate all such improvements each time a coastal development permit is issued within the North County LUP/LCP area. Primary access to the proposed project is from Hall Road. State Route 1 south of Salinas Road would carry only fifteen percent (15%) of the proposed project's trips. Therefore, North County LUP/LCP 3.1.3 Specific Policy 1 does not apply to the proposed project. Of course, the reduced density alternative has also reduced project traffic by about twenty percent (20%).

Mike Watson  
California Coastal Commission  
Central Coast District  
October 21, 2011  
Page 5

The Coastal Commission questioned whether the project constitutes the conversion of existing agricultural land to urban use and whether that can be found consistent with the LCP's agricultural protection policies, including key LUP Policy 2.6.1, which requires protection of productive farmland.

This comment was evaluated in the FEIR, where a less than significant impact was identified (page 2-163). As noted in the FEIR, agricultural protection policies need to be considered in the context of the land use map and site constraints. The North County LUP/LCP designates the project site for medium density residential and commercial development. Consequently, it is not designated for agricultural use and preserving it for this purpose would itself create an LCP inconsistency. Elsewhere in North Monterey County, large areas of agricultural land are protected for long-term agricultural use through LUP and zoning designations.

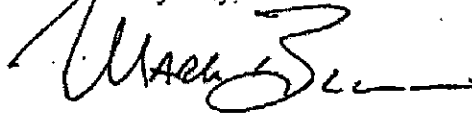
Historically, Rancho Los Robles was designated as residential land in large part due to its unsuitability for agricultural use. The Rancho Los Robles land is sandy and erosive by nature. It drains to Cameros Creek. The Rancho Los Robles EIR found that about half of the project site is physically unsuitable for agricultural use due to steep slopes, wetlands and oak woodland habitat. But in fact, none of the land is well suited to farming, as dramatically attested to by its leasehold value of only about 40% - 45% of the going rate for berry farmland (\$1,000 per acre versus going rate of \$2,300 to \$2,400 per acre). Historically, the Rancho Los Robles land was used as a horse ranch. The applicant leased some of the land for agricultural use only to generate some revenue to offset property taxes and because the County of Monterey directed him to stop watering the horse pasture. The fact that the land has been temporarily put to this use does not and cannot render it suitable for long-term cultivation.

While there are no known reports of the specific erosive capacity of either the Rancho Los Robles land or the target parcel north of Sill Road, there is an informative report concerning the Triple M Ranch land located just to the southeast and also draining to Cameros Creek. (See attached map.) In May 2010, a CSUMB student quantified the volume of sediments trapped on the floodplain on the Triple M Ranch. The report, entitled "Quantifying Spatially-Explicit Change in Sediment Storage on an Emerging Floodplain and Wetland on Cameros Creek, CA", concluded that an estimated 480 to 1,055 cubic meters of sediments may have been deposited on this floodplain during the 2009-2010 rainy season. Although the study did not measure sedimentation directly from properties located north of Hall Road or Sill Road, it confirmed that sedimentation loading from the upland agricultural lands to Cameros Creek is significant. The CSUMB student's report can be found at the following link: [http://hydro.csUMB.edu/Doug/html/Bassett\\_wetland\\_sed\\_alba\\_2010.pdf](http://hydro.csUMB.edu/Doug/html/Bassett_wetland_sed_alba_2010.pdf)

Mike Watson  
California Coastal Commission  
Central Coast District  
October 21, 2011  
Page 6

I hope that this pre-preview of the issues the applicant wishes to discuss with you is helpful. Should you have further specific questions prior to our meeting, please let me know. Otherwise, I look forward to arranging a meeting with you and Mr. Lester or Mr. Carl at your earliest convenience.

Yours very truly,

A handwritten signature in black ink, appearing to read "Mark A. Blum", with a long horizontal flourish extending to the right.

Mark A. Blum

MAB:mh

Enclosures

Cc: Client

JR118-8822-2476, v. 1

# Exhibit H

# Notes:

ALL EXISTING BUILDINGS TO BE REMOVED EXCEPT  
ON COMMUNITY SERVICES FACILITY, INTERIOR  
STREETS TO REMAIN PRIVATE.

BUILDING ESTIMATES: MINIMUM DIMENSIONS:

MIN. WID. - 10 FEET  
MIN. HGT. - 10 FEET  
MIN. AREA - 1000 SQ. FT.  
MIN. LOT AREA - 1000 SQ. FT.

# Legend:

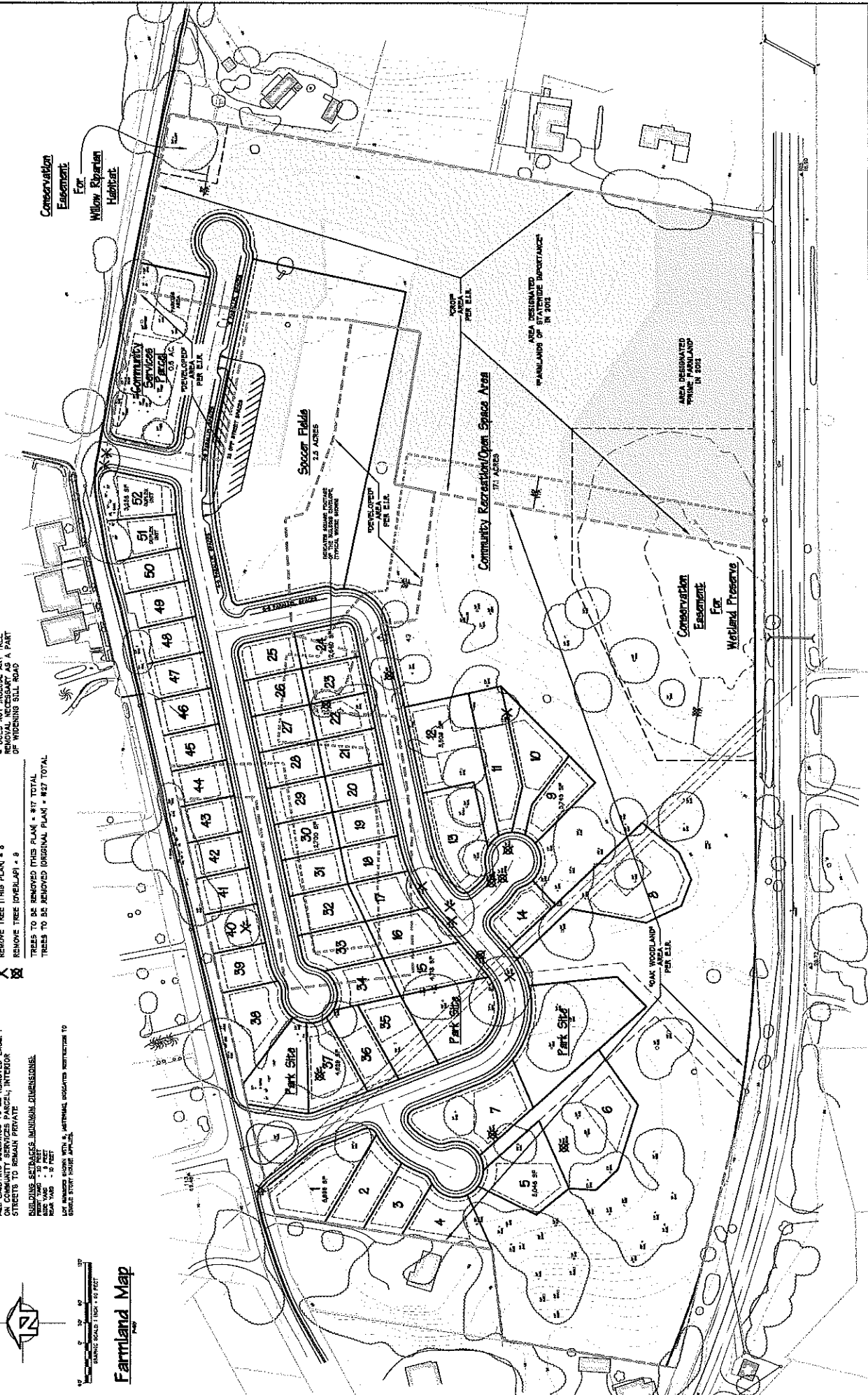
X REMOVE TREE (THIS PLAN) - 8

○ REMOVE TREE (ORIGINAL) - 8

TREES TO BE REMOVED (THIS PLAN) - 817 TOTAL

TREES TO BE REMOVED (ORIGINAL PLAN) - 827 TOTAL

■ DOES NOT INCLUDE ANY TREE  
REMOVAL NECESSARY AS A PART  
OF WIDENING SILL ROAD





# Exhibit I

**MONTEREY COUNTY**  
**1984-2014 Land Use Summary**  
 Farmland Mapping and Monitoring Program  
 CALIFORNIA DEPARTMENT OF CONSERVATION

LAND USE CATEGORY	TOTAL ACREAGE INVENTORIED																1984-2014 NET ACREAGE CHANGE	Average Annual Acreage Change
	1984	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988	1988		
Prime Farmland	176,779	176,892	176,738	176,356	175,446	174,681	173,238	170,774	169,255	168,338	167,838	166,812	166,252	165,327	164,327	163,393	-10,591	-353
Farmland of Statewide Importance	37,762	37,678	37,905	37,297	37,398	37,961	38,209	38,714	45,877	44,988	43,401	43,091	43,372	43,823	43,984	43,984	6,232	208
Unique Farmland	10,875	10,884	11,253	12,001	12,708	13,074	13,810	15,238	24,142	26,478	25,104	24,788	25,528	25,707	26,101	26,101	15,228	508
Farmland of Local Importance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Important Farmland Subtotal	225,418	225,554	225,898	225,654	225,550	225,719	225,057	224,724	239,274	240,812	238,143	234,671	235,150	235,857	236,283	236,283	10,867	382
Grazing Land	1,081,510	1,081,159	1,080,857	1,080,441	1,080,482	1,080,452	1,078,188	1,076,031	1,080,683	1,057,448	1,085,575	1,080,494	1,085,897	1,083,393	1,082,688	1,082,688	-18,611	-827
Agricultural Land Subtotal	1,308,928	1,308,713	1,308,753	1,308,095	1,308,032	1,308,168	1,303,243	1,300,755	1,289,937	1,288,280	1,301,718	1,301,185	1,300,847	1,298,247	1,298,982	1,298,982	-7,944	-285
Urban and Built-Up Land	42,374	43,197	43,860	45,253	46,370	47,112	49,231	50,030	52,488	54,060	55,950	58,534	58,779	57,925	58,147	58,147	15,773	528
Other Land	786,284	784,871	783,947	783,233	782,178	781,302	782,274	784,098	782,459	782,559	757,208	757,182	757,258	757,710	757,847	757,847	-7,437	-248
Water Area	6,544	6,547	6,547	6,547	6,547	6,545	6,378	6,245	6,246	6,246	6,246	6,246	6,246	6,246	6,246	6,246	-288	-10
Total Area Inventoried	2,121,128	2,121,128	2,121,127	2,121,128	2,121,127	2,121,127	2,121,127	2,121,128	2,121,128	2,121,125	2,121,123	2,121,127	2,121,128	2,121,128	2,121,128	2,121,222	94	3

(1) Figures are generated from the most current version of the GIS data. Files dating from 1984 through 1992 were reprocessed with a standardized county line in the Alameda Equal Area projection, and other boundary improvements.

(2) Due to the incorporation of digital soil survey data (SSURGO) in 2000, acreages for farmland, grazing and other land categories may differ from those published in the 1998-2000 Farmland Conversion Report.

(3) Due to the incorporation of an updated digital soil survey data (SSURGO) during this update, acreages for farmland, grazing and other land use categories may differ from those published in the 2000-2002 California Farmland Conversion Report.

(4) Conversion of geospatial data to North American Datum 1983 (NAD 83) led to minor changes in total FMHP acreage beginning in 2014.

PERCENTAGE OF COUNTY INVENTORIED: 100%

# Exhibit J

(Resol)

BOARD OF SUPERVISORS  
COUNTY OF MONTEREY, STATE OF CALIFORNIA  
RESOLUTION NO. 87-267

WHEREAS, Section 30514 of the Public Resources Code provides for amendments to adopted and certified Land Use Plan Segments of the Local Coastal Program, and

WHEREAS, On October 23, 1984, the Board of Supervisors adopted subject to Coastal Commission approval and certification an amendment to the Carmel Area Land Use Plan for the Gump property, APN 009-131-20 (PC-5162), and

WHEREAS, On January 8, 1985, the Board of Supervisors adopted subject to Coastal Commission approval and certification three amendments to the North County Land Use Plan for the Moss Landing P.G. & E Power Station, APN 133-181-02; Oak Hills, APN 133-391-05, 06, 07, 08; and Villa Verde and Villa Nueva, APN 133-09-02, 133-072-21-23, 26, 29 (PC-5194), and

WHEREAS, On March 26, 1985, the Board of Supervisors adopted subject to approval and certification of the Coastal Commission an amendment to the North County Land Use Plan for the "Oaktree Ranch," APN 412-073-02, 07, 08, 10-15 (PC-5194), and

WHEREAS, On December 10, 1985, the Board of Supervisors adopted subject to Coastal Commission approval and certification three amendments to the North County, Del Monte Forest Area, and Carmel Area-Land Use Plans to regulate wastewater discharge into Monterey Bay and the County's coastal waters, (PC-5431), (PC-5432), (PC-5433), and

WHEREAS, On August 27, 1985, the Board of Supervisors adopted subject to Coastal Commission approval and certification an amendment to the North County Land Use Plan for the Pajaro Valley Golf Course, APN 177-072-08, (PC-5236), and

WHEREAS, On March 11, 1986, the Board of Supervisors adopted subject to Coastal Commission approval and certification three amendments to the North County Land Use Plan (1) to regulate mushroom growing operations (PC-5329), (2) for the Porter property, APN 119-011-24 (PC-5417), and (3) to correct mapping errors in five locations:

- a. Highway 1 and Merritt Street, Castroville, APN 133-143-14, 133-143-04;
- b. Salinas Road and Hillcrest Road, Bay Farms, APN 117-081-13, 14;
- c. Elkhorn Road south of Empire Road, Elkhorn, APN 131-072-28, 43;
- d. Maher Road south of Hall/Tarpy Road, Prunedale, APN 131-061-27, 21; and
- e. Moro Cojo Slough, west of Highway 1, Moss Landing, APN 133-173-01, 05; 133-211-01, 03, 04, 06-08; and 133-221-01 (PC-5418), and

WHEREAS, On December 16, 1986, the Board of Supervisors adopted subject to Coastal Commission approval and certification an amendment to delay the construction of both a forest access road and gate from the Spanish Bay Resort to Highway 68 for a period of up to three years (PC-5873), and

WHEREAS, On January 22, 1985; February 7, 1986; April 9, 1986; June 11, 1986; and February 25, 1987, the Coastal Commission approved and certified each of the aforementioned amendments with no modifications, and

WHEREAS, Section 13544.5 of the California Coastal Commission Regulations provides for acknowledgment of receipt via resolution by the Board of Supervisors of the Coastal Commission's resolutions of certification of amendments to certified Land Use Plan segments of the Local Coastal Program, and

NOW, THEREFORE BE IT RESOLVED That the Board of Supervisors hereby acknowledges receipt of the California Coastal Commission's resolutions of certification of a total of ten amendments to the aforementioned certified Land Use Plan segments of the Local Coastal Program and affirms the previous adoption by this acknowledgment of the foregoing amendments, and

BE IT FURTHER RESOLVED, that the following staff report is adopted in support of this acknowledgment:

#### STAFF REPORT

**Ten Amendments To The Land Use Plan Segments of the Local Coastal Program - Receipt of Coastal Commission Resolutions of Certification Acknowledged by the Board of Supervisors on May 12, 1987.**

On January 22, 1985, the California Coastal Commission certified an amendment to the Carmel Area Land Use Plan for property owned by Agnes Gump (PC-5162). The amendment provides an exception to the basic medium density requirements of Section 4.5.H of the Carmel Area Land Use Plan by allowing a single-duplex use for one, unbuilt lot of record in Block 6, Carmel Woods, APN 009-131-20.

On December 13, 1985, Monterey County submitted to the Coastal Commission one file containing five amendments to the North County Coastal Land Use Plan (PC-5194). On February 7, 1986, the Coastal Commission adopted and certified three of the five amendments. The three amendments are (1) from "Industrial" to "Resource Conservation" for property located adjacent to the northeast corner of the Moss Landing P.G. & E power station, APN 133-181-02, (2) from "High Density Residential" to "Medium Density Residential" for a 16+ acre area located on the northeast corner of Highway 156 and Cathedral Oak Road, Oak Hills, APN 133-391-05, 06, 07, 08, and (3) specify that the density of the "High Density Residential" land use designation be "5 acres/unit" for the areas known as Villa Verde and Villa Nueva on Castroville Blvd., APN 133-09-02, 133-072-21, 23, 26, 29.

On April 9, 1986, the Coastal Commission certified the fourth of the five amendments. The amendment changes the land use designation from "High Density Residential" to "Medium Density Residential" for a 44 acre area known as the "Oaktree Ranch" located between Hall and Sill Roads, Las Lomas, APN 412-073-02, 07, 08, 10-15. The fifth amendment was withdrawn by the County from Coastal Commission consideration. It would have changed the land use designation from "Agricultural Preservation" to "Light Industrial" for the Hilltop Property located on Highway 1, southwest of Salinas Road.

Also on April 9, 1986, the Coastal Commission certified three, similar amendments to the North County Coastal Land Use Plan (PC-5431), Del Monte Forest Area Land Use Plan (PC-5432), and the Carmel Area Land Use Plan (PC-5433) to regulate wastewater discharge into Monterey Bay and the County's coastal waters.

On June 11, 1986, the Coastal Commission certified four separate amendments to the North County Coastal Land Use Plan. The first amendment expands the "Special Treatment" and "High Density" land use designations within the Pajaro Valley Golf Course located on Salinas Road, APN 177-072-08, to allow greater flexibility in site planning for future residential development (PC-5236). The second amendment prohibits the expansion of any mushroom growing operation within areas designated "Rural Residential," but allows new or expanded mushroom growing operations by use permit within areas designated "Agricultural Conservation" and "Light Industrial" (PC-5329). The third amendment corrects the land use designation from "Resource Conservation" to "Agricultural Conservation" for the 168+ acre Porter parcel located northeast of the intersection of Hall and Garin Roads, Las Lomas, APN 119-011-24 (PC-5417). The fourth amendment corrects mapping errors in five locations (PC-5418). The mapping error corrections are as follows:

a. Highway 1 and Merritt Street, Castroville

Correct the location of the "Public/Quasi-Public" land use designation from APN 133-143-14, in residential use, to APN 133-143-04, to accurately reflect the existing Castroville County Sanitation District pump station; and redesignate APN 133-143-14 "Agricultural Preservation" in conformity with adjoining lands.

b. Salinas Road and Hillcrest Road, Bay Farms

Correct the location of "Commercial" land use designation from APN 117-081-13, in vacant use, to APN 117-081-14, to accurately reflect the existing commercial use; and redesignate APN 117-081-13 "Medium Density Residential" in conformity with adjoining lands.

c. Elkhorn Road south of Empire Road, Elkhorn

Correct the location of the "Commercial" land use designation from APN 131-072-28, in rural residential use, to APN 131-072-43, to accurately reflect the existing commercial use; and redesignate APN 131-072-28 "Rural Density Residential" in conformity with adjacent lands.

d. Maher Road south of Hall/Tarpy Road, Prunedale

Correct the location of "Commercial" land use designation from APN 131-061-27 to APN 131-061-21 to accurately reflect the location of the existing commercial use; and redesignate APN 131-061-27 "Rural Density Residential" in conformity with adjoining lands.

e. Moro Cojo Slough, west of Highway 1, Moss Landing

Correct the location of "Resource Conservation-Wetland and Coastal Strand" land use designation to accurately reflect the existing wetland boundary over APN 133-173-01, 05; 133-211-01, 03, 04, 06-08; and 133-221-01.

On February 25, 1987, the Coastal Commission certified an amendment to the Del Monte Forest Area Land Use Plan for the Pebble Beach Company. The amendment allows the delay of construction of both a forest access road and gate from the Spanish Bay Resort to Highway 68 for a period of up to three years (PC-5873).

PASSED AND ADOPTED upon motion of Supervisor Del Piero, seconded by Supervisor Shipnuck, and carried by the following vote, to-wit:

AYES: Supervisors Del Piero, Shipnuck, Petrovic, Karas & Strasser Kauffman

NOES: None

ABSENT: None



I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page        of Minute Book 59, on May 19, 1987  
Dated: May 19, 1987

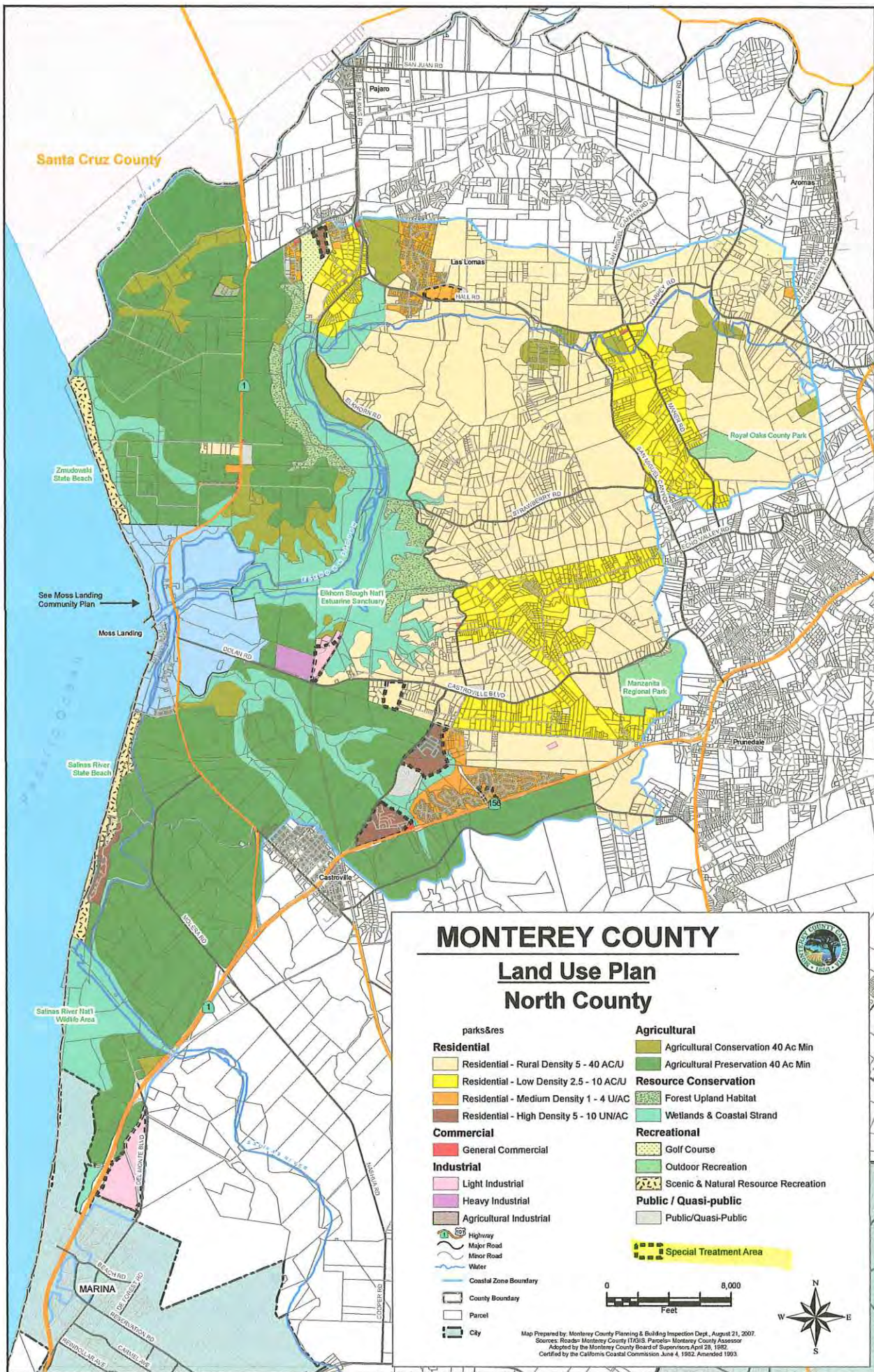
ERNEST K. MORISHITA, Clerk of the Board  
of Supervisors, County of Monterey,  
State of California.

By

*Pamela Olivas*

Notarist

# Exhibit K



# Exhibit L



# UPDATE INDEX

## *North County Land Use Plan Amendments*

*As certified by the California Coastal Commission for the following date, with final acceptance by the Board of Supervisors:*

1. *February 7, 1986 - MAP CHANGE - 1) Oak Hills Infill: APN 133-391-05, 06, 07, 08, consisting of 16 acres. Change land use designation from HDR to MDR. 2) PG&E: APN 133-181-02. Located adjacent to the northeast corner of the PG&E site. Change land use designation from Industrial to Resource Conservation. 3) Villa Verde and Villa Nueva: APN 133-072-21, 23, 26, 29 and 133-09-02. Change land use designation from HDR to HDR/5 acres per unit (PC 5194, Oak Hills Infill; PG&E, and Villa Verde/Villa Nueva, 1-85). Resolution 87-267--5-19-87.*
2. *April 9, 1986 - AMEND POLICY - 2.3.3.D - Wastewater Discharge regulations, Marine Resources Section (PC 5431, 1-86). Resolution 87-267--5-19-87.*
3. *April 9, 1986 - MAP CHANGE - APN 412-073-02, 07, 08, 10-15. Located between Hall and Sill Roads, consisting of 44 acres. Change land use designation from HDR to MDR (PC 5194, Oaktree Ranch, 1-85). Resolution 87-267--5-19-87.*
4. *June 11, 1986 - MAP CHANGE - APN 177-072-08. Expands Special Treatment and High Density land use designations (PC 5236, Pajaro Valley Golf Course, 1-86). Resolution 87-267--5-19-87.*
5. *June 11, 1986 - AMEND POLICIES - 2.6.3.7 and 2.6.3.9 - Commercial mushroom regulations. (PC 5329, 1-86). Resolution 87-267--5-19-87.*
6. *June 11, 1986 - CORRECT MAP ERROR - APN 119-011-24. Located northeast of Hall and Garin Roads, consisting of 168 acres. Correct land use designation from RC to AC (PC 5417, Porter, 1-86). Resolution 87-267--5-19-87.*
7. *June 11, 1986 - CORRECT FIVE MAP ERRORS - 1) APN 133-143-04, 14, Highway 1 and Merritt Street. 2) APN 131-061-21, 27, Maher Road, south of Hall/Tarpy. 3) APN 117-081-13, 14, Salinas Road and Hillcrest Road, Bay Farms. 4) APN 131-072-28, 43, Elkhorn Road, south of Empire Road. 5) APN 133-173-01, 05; 133-211-01, 03, 04, 06, 07, 08; 133-221-01, Moro Cojo Slough, west of Highway 1 (PC 5418, Mapping Errors, 1-86). Resolution 87-267--5-19-87.*

**NOTE:** *Six of these first seven were incorporated into the Land Use Plan and Map in 1987; number 5 was not incorporated.*

8. *September 9, 1987 - ADD POLICY - 4.3.6.D.7 - minimize cumulative impacts in Long Valley watershed (PC 5740, Long Valley, 1-87). Resolution 88-177--3-22-88.*

9. *December 18, 1988 – LUP AND CIP MAP CHANGE - APN 117-082-014, 028, and 030, 117-091-010, 011, and 017. Located between Bay Farms Road and Hillcrest Avenue, consisting of 10.8 acres on six parcels. Change land use designation from MDR/1-4 to PQP and CIP zoning from MDR/4 to PQP to allow school (PC 6127, Pajaro Valley Unified School District, 1-88). Resolution 89-181--4-11-89.*
10. *February 19, 1992. LUP AND CIP MAP CHANGE - APN 131-054-01, 02, 03, 04. Located northerly of Dolan Road, consisting of 86.6 acres. Change land use designation and zoning map from Agricultural Conservation to Light Industrial and Resource Conservation to Agricultural Conservation (PC 6607, Dolan Road Junk Yard, 3-91). Resolution 92-248-June 9, 1992.*
11. *February 19, 1992 – LUP AND CIP MAP CHANGE - APN 131-021-57. Located northerly of Del Monte Farms Road, consisting of 4.4 acres. Change land use designation and zoning from LDR/B-7 to RDR/B-7 (PC 7010, Orchid Zone, 3-91). Resolution 92-386, Ordinance 3619--8-18-92.*
12. *June 9, 1993 – LUP AND CIP MAP CHANGE - APN 117-052-12; AMEND POLICIES AND CIP - many changes to add language regarding new Agricultural Industrial designation. Located southwest of the intersection of Salinas Road and Highway 1, consisting of approximately 40 acres. Change land use and zoning designation from Agricultural Preservation to Agricultural Industrial for 24.9 acres and remaining 16.2 acres to Agricultural Conservation (PC 5194, Hilltop, 1-93). Resolution 93-252--7-13-93.*
13. *June 9, 1993 – LUP AND CIP MAP CHANGE - APN 129-021-002. Located on and westerly of Dyer Road, consisting of 46 acres. Change land use designation from RDR/5-40 to LDR/2.5-10 and change zoning from LDR/5 to LDR/2.5 (PC 92160, Samples, 1-93). Resolution 93-252--7-13-93.*

**D. Marine Resources**

All new and/or expanding wastewater discharges into the coastal waters of Monterey County shall require a permit from the Health Department. Applicants for such permits shall be required to submit, at a minimum, the following information and students:

1. Three years monitoring records identifying the existing characteristics of the proposed wastewater discharge. Particular areas of concern include toxic chemicals, inorganic heavy metals, bacteria, and other indicators prescribed as threats to the health and safety of coastal waters, or
2. Provide comprehensive projections of the proposed wastewater discharges; both quantitative and qualitative characteristics must be specifically identified. Specific figures for the indicators identified in (1) must be included in the projections.
3. Provide complete information on levels of treatment proposed at the treatment facility to remove those indicators mentioned in (1). This information shall also include reliability and efficiency data of the proposed treatment.
4. Provide a comprehensive monitoring plan for testing of wastewater for indicators identified in (1).
5. Perform oceanographic studies to determine the most suitable location and methods for discharge into the ocean.
6. Perform tests of ocean waters at the proposed discharge site and surrounding waters to establish baseline or background levels of toxic chemicals, heavy metals, bacteria and other water quality indicators. These tests must be performed no more than one year prior to submittal of the proposal. Historical data may not be substituted for this requirement.
7. Perform toxicity studies to determine the impacts of the proposed wastewater discharges on marine life, as well as on recreational uses of the coastal waters.
8. Identify and analyze alternative methods of wastewater disposal. This shall include hydrogeologic studies of the applicant's groundwater basin to determine the water quality problems in that area and if onsite disposal will have an adverse impact on groundwater quality.

The data and results of requirements (1) through (8) must be submitted to the County's Chief of Environmental Health for evaluation and approval. A wastewater discharge permit shall be issued only if the above information demonstrates that the proposed wastewater discharge will not degrade marine habitats; will not create hazardous or dangerous conditions; and will not produce levels of pollutants that exceed any applicable state or federal water quality standards.

*Page 30, amend Policy 2.6.3.7 to read as follows:*

7. Greenhouses and other agriculture-related operations that are not on-site soil-dependent or which degrade soil capabilities shall not be located on prime and productive agricultural soils in the areas designated for Agricultural Preservation land use. Greenhouses that are on-site soil-dependent shall be located to allow the fullest use of the land for agricultural production. Greenhouses and other agriculture-related operations that do not require on-site soils may be located on Agriculture Conservation and Rural Residential lands on the less agriculturally viable areas of the parcel or in Light Industrial areas. (the location of commercial mushroom facilities is specifically defined in Policy 2.6.3.9).

*Page 30, add Policy 2.6.3.9 to read as follows:*

9. The establishment of new and expansion of existing commercial mushroom growing operations shall be allowed by use permit in areas designated for Agricultural Conservation and Light Industrial use. Construction, replacement, reconstruction, or retrofitting of existing mushroom operations resulting in increased production shall be allowed by use permit. Potential impacts to drainage, air and water quality, traffic, noise, scenic quality, and any adverse effects shall be mitigated to the maximum extent feasible. Installation of environmental control methods (for air, traffic, water, noise, and visual impacts) brought about by regulatory agencies shall require review and approval by the Director of Planning.



*Add policy 4.3.6.D.7:*

7. The Long Valley watershed area shall be bounded by the ridgelines located south of Strawberry Canyon Road and north of Paradise Canyon Road; by Elkhorn Road and Walker Valley Road on the west; and the Coastal Zone boundary on the east. Preservation of both the natural habitat and watershed shall be of the utmost priority. Maritime Chaparral and stands of Monterey Pine, Coast Live Oak, Madrone, and Manzanita shall be protected to the maximum extent feasible. The highly erodible, Arnold Loamy Sand soils shall be protected to the maximum extent feasible.

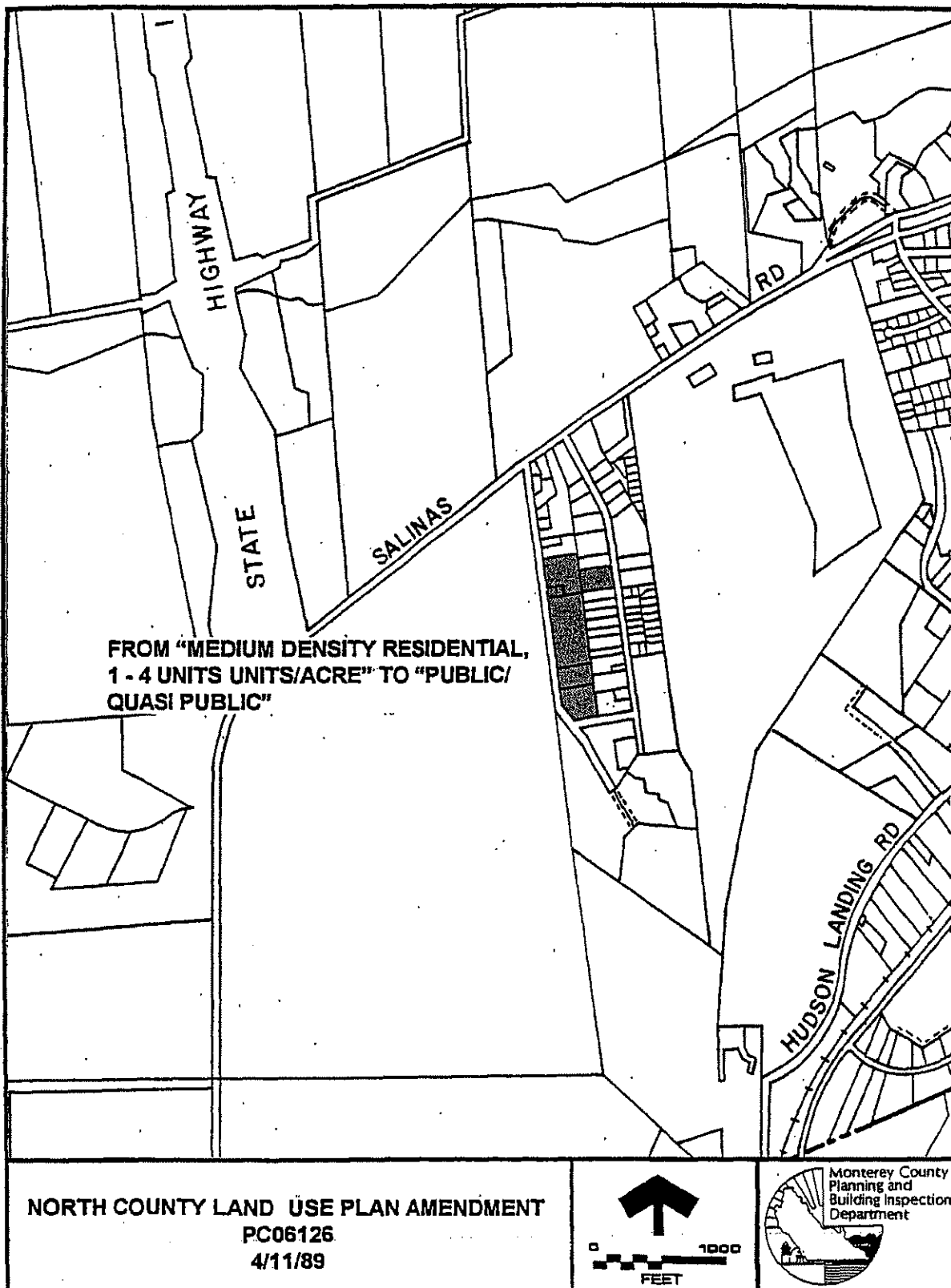
Proposed development within the Long Valley watershed shall be required to minimize, to the greatest extent feasible, removal of vegetation, erosion, and contamination of groundwater resulting from the use of residential septic systems, agricultural pesticides, or fertilizers. Erosion control plans for proposed development shall be approved by the Building Inspection Department. All potable-water and residential-wastewater-disposal systems shall be approved by the Environmental Health Department, as Long Valley may provide a source of potable water to other water problem areas in North County.

When development is proposed on a parcel, the following conditions shall be required for approval of any Coastal Development Permit. Scenic easements shall be dedicated in all areas with slopes greater than 25% slope. A public access easement shall be dedicated for the establishment of a trails system. Proposed development which necessitates grading for dwellings, driveways, and accessory uses shall be required to appropriately replace material to minimize erosion. Wherever feasible, revegetation with native plants shall be required in all graded areas. Improved access roads, and drainage facilities for all proposed development within the Long Valley watershed area shall meet the standards and requirements of the Monterey County Public Works Department, North County Fire Protection District, and the Flood Control and Water Conservation District.

UPDATE INDEX #9

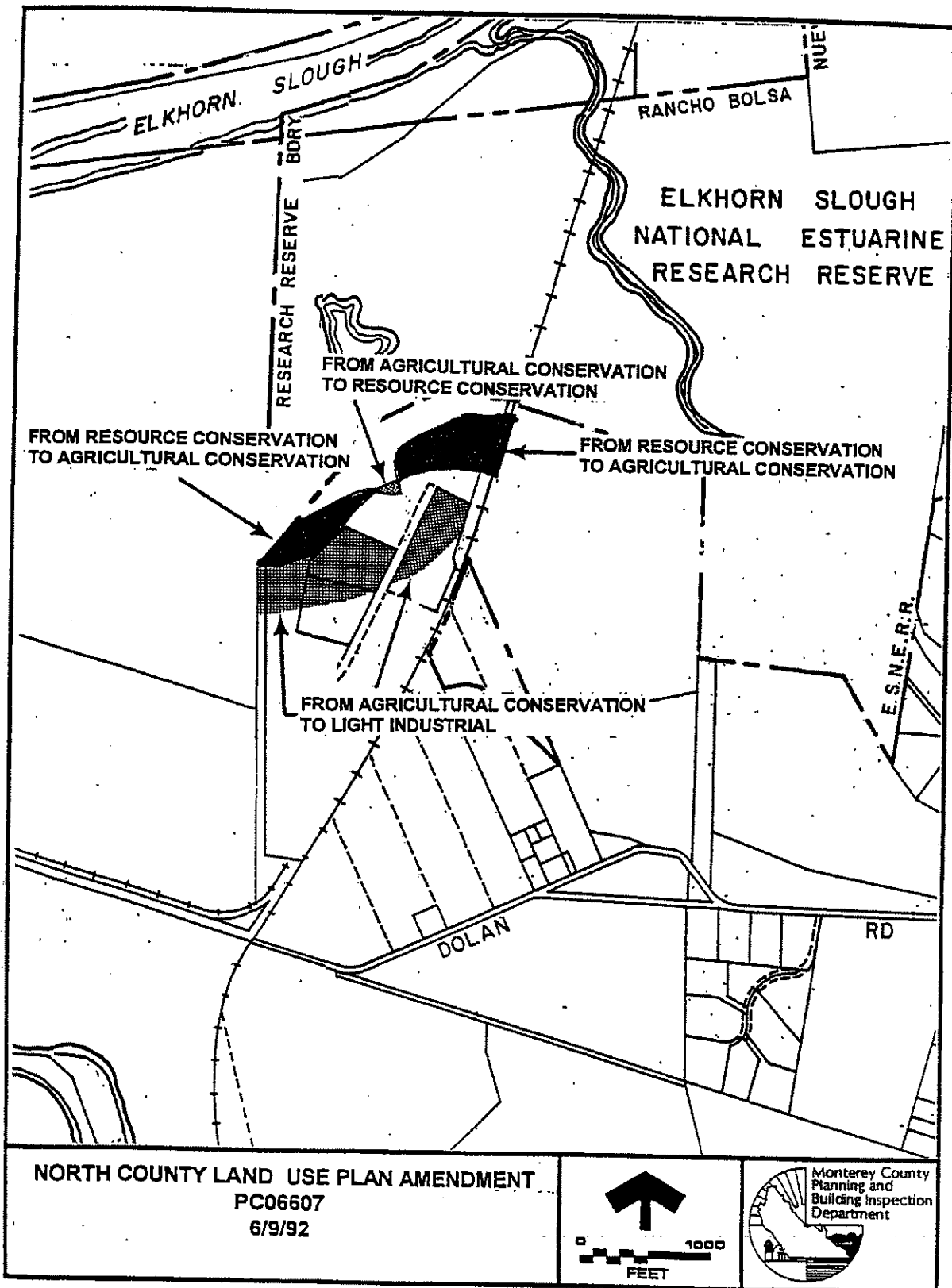
MAP CHANGE - APN 117-082-014, 028, 030;  
117-091-010, 011, 017

NORTH COUNTY LAND USE PLAN  
DECEMBER 18, 1988



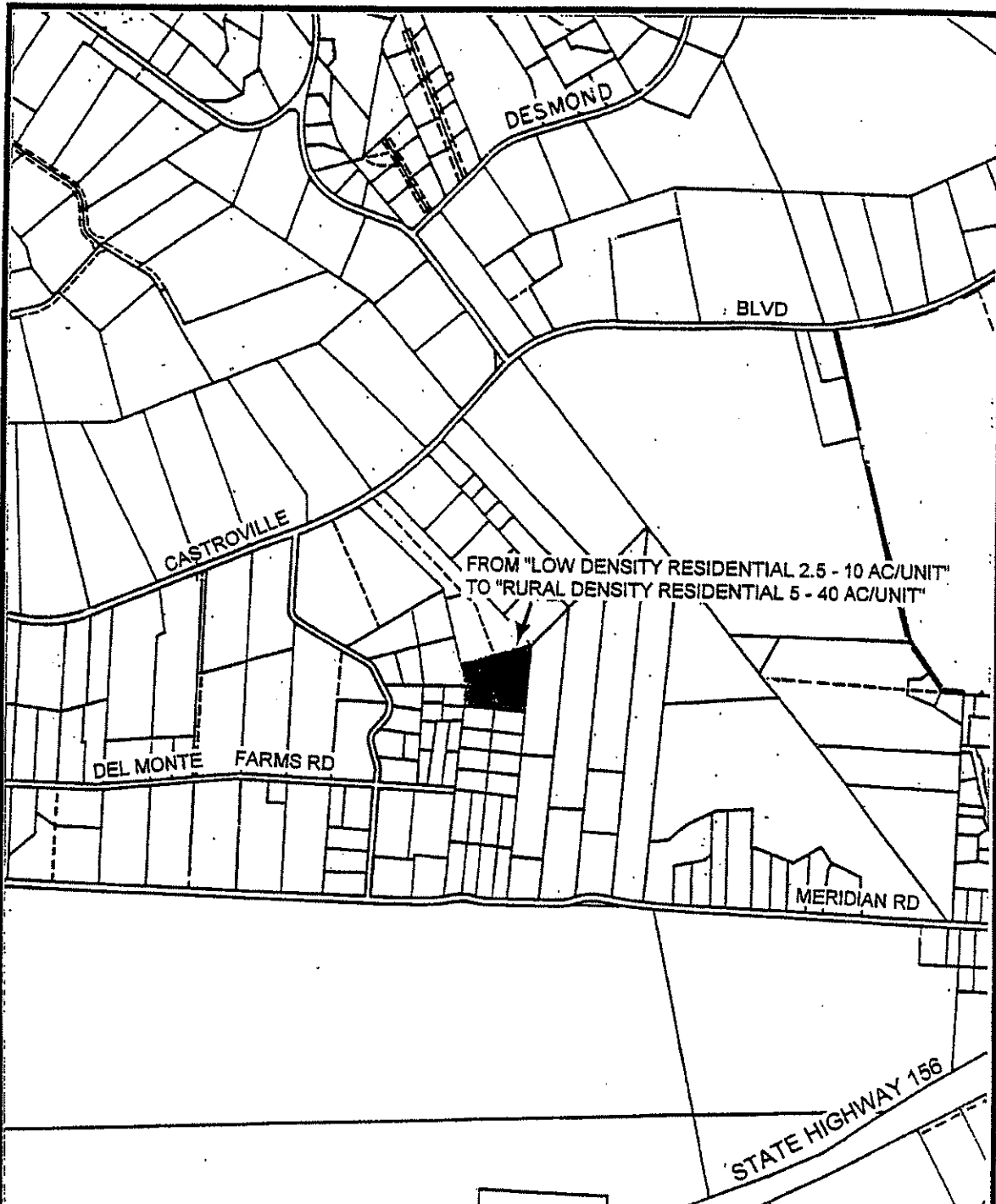
UPDATE INDEX #10  
MAP CHANGE - APN 131-054-01, 02, 03, 04

NORTH COUNTY LAND USE PLAN  
FEBRUARY 19, 1992

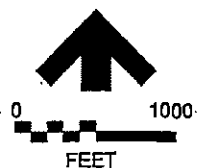


UPDATE INDEX #11  
MAP CHANGE - 131-021-57

NORTH COUNTY LAND USE PLAN  
FEBRUARY 19, 1992

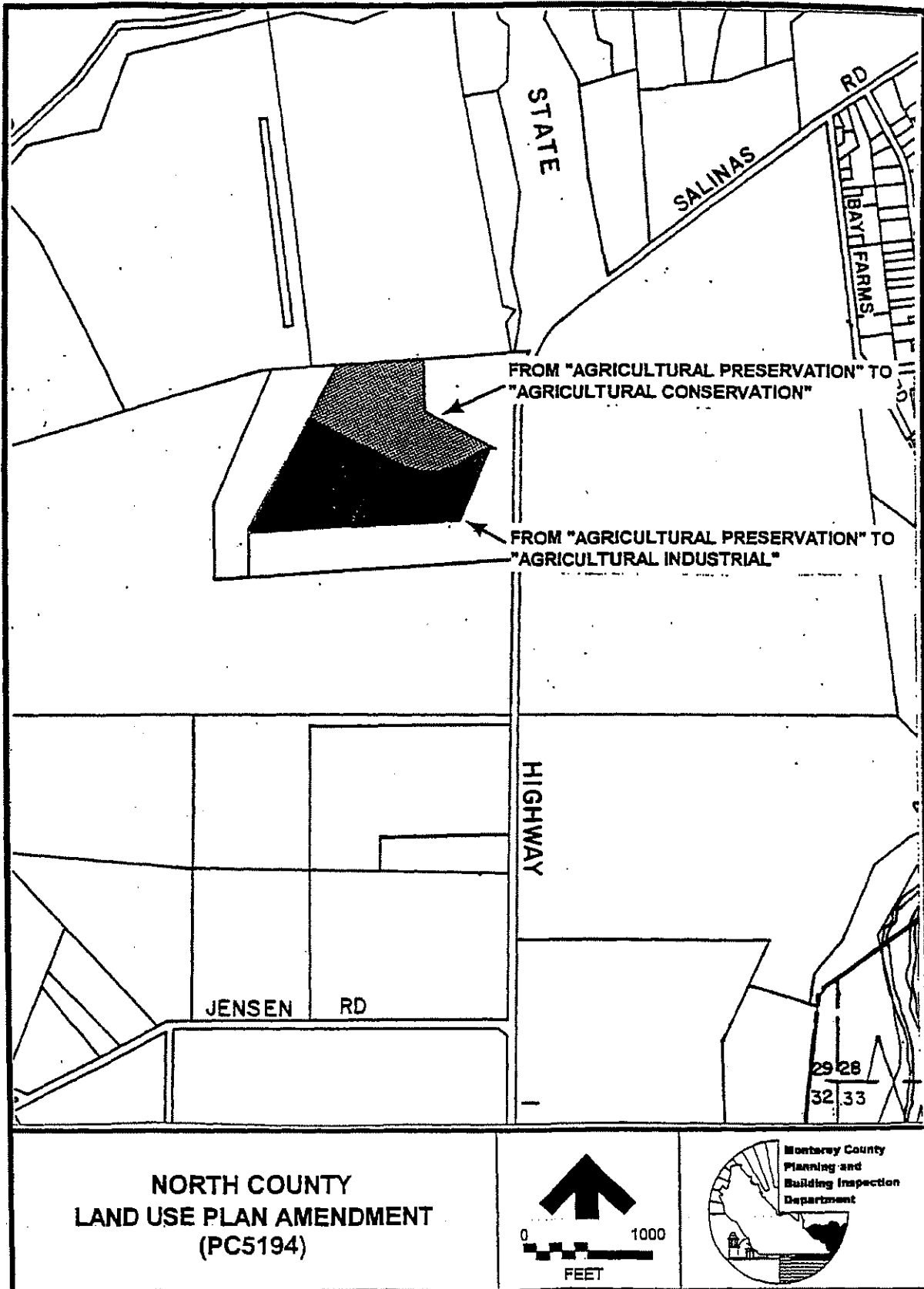


NORTH COUNTY  
LAND USE PLAN AMENDMENT  
(PC7010) 2/19/92



UPDATE INDEX #12  
MAP CHANGE - APN 117-052-12

NORTH COUNTY LAND USE PLAN  
JUNE 9, 1993



*Page 30, Policy 2.6.3.7, last sentence:*

7. Greenhouses and other agriculture-related operations that are not on-site soil-dependent or which degrade soil capabilities shall not be located on prime and productive agricultural soils in the areas designated for Agricultural Preservation land use. Greenhouses that are on-site soil-dependent shall be located to allow the fullest use of the land for agricultural production. Greenhouses and other agriculture-related operations that do not require on-site soils may be located on Agriculture Conservation and Rural Residential lands on the less agriculturally viable areas of the parcel or in Light Industrial areas or Agricultural Industrial areas (the location of commercial mushroom facilities is specifically defined in Policy 2.6.3.9)

*Page 32, Policy 2.7.2.2:*

2. On-shore aquaculture facilities are encouraged as a desirable and permitted use in the areas designated Light Industry or Agricultural Industrial on the land use plan maps, consistent with other LUP resource protection policies.

*Page 50, add a new subsection "O"*

**O. Agricultural Industrial**

Areas which provide for activities necessary to support agricultural, aquacultural, and farming industries while also maintaining compatibility with the rural agricultural character of the coastal zone. A minimum parcel size of 2.5 acres is required.

*Page 52, amend Policy 4.3.2, 12<sup>th</sup> paragraph to read as follows:*

Industrial development in the rural areas of the coastal zone is generally not appropriate. However, there is a coastal-dependent industry, PG&E, in the planning area on Dolan Road. An oil tank farm is located on this property. This site and a portion of an adjacent property containing auto wrecking yards is recommended for Heavy Industry and Light Industry Categories. Also, agricultural related industries such as greenhouses, warehouses, packing sheds, storage facilities for farm related equipment, etc. may be appropriate in the Agricultural Industrial Category. The industrial uses allowed must be compatible with agriculture and the preservation of the resources of Elkhorn Slough. The Armstrong Ranch area east of Highway 1 is designated for Light Industry. Special Treatment Areas are designated for the Dolan property and the Armstrong Ranch. Agriculture-related or coast-dependent industries are recommended for these light industrial special treatment areas. In the case of the Dolan property, this designation is not intended to prohibit the wrecking yards from continued operation. Renewal of use permits for these operations will be based on the merits of the specific proposal and feasible mitigation measures to offset any adverse impacts of continued operation.

*Page 55, amend Policy 4.3.6.B.3 to read as follows:*

3. Development of agriculture-related uses such as farm labor housing, greenhouses, warehouses, packing sheds, mushroom farms, etc., that are not on-site soil dependent shall be located in Light Industrial or Agricultural Industrial areas, or as a conditional use in Rural Residential and Agricultural Conservation areas. In Agricultural Conservation or Rural Residential areas, such uses shall be permitted only on the portions of the property that do not contain viable prime or productive soils. The existing mushroom farms and egg farm on Trafton and Bluff Roads are non-conforming uses that, if destroyed by fire or natural disaster, may be rebuilt on the same site. Three commercial agricultural uses (sales stands at the Highway One corners of Jensen and Molera Roads, and a packing operation between Struve and Jetty Road) are necessary adjuncts to agricultural lands surrounding them, and will be permitted uses under this plan.

*Page 55, amend Policy 4.3.6.B.4 to read as follows:*

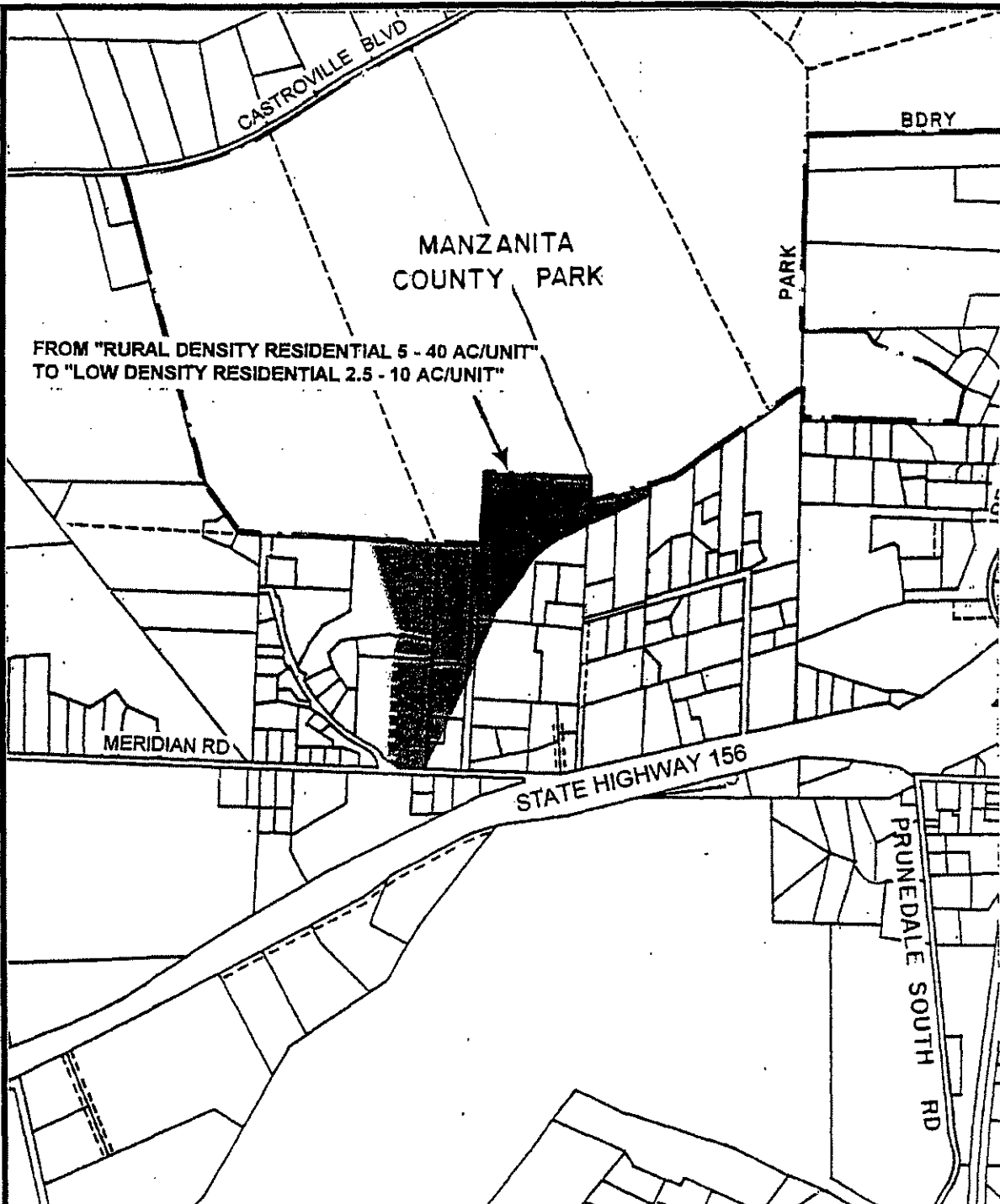
4. On parcels of 40 acres in Agricultural Preservation and Agricultural Conservation areas shown on the Land Use Plan Map, a second family residence may be developed in addition to one existing family residence without requiring a land division if no division of interest in the land results. The development of an additional family residence shall not diminish the agricultural viability of the land. Reclassifications to and subdivisions of land to "AI" (Agricultural Industrial) shall require the preparation of an agricultural viability report demonstrating that the land does not consist of prime and productive agricultural land and that the reclassification or subdivision is consistent with the resource protection policies of Chapter 2.

*Page 61, amend Policy 4.3.6.F.3 to read as follows:*

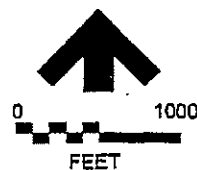
3. Development of new agricultural facilities of an industrial nature shall be located in areas designated for Light Industry or Agricultural Industrial, or as a conditional use in Rural Residential and Agricultural Conservation areas. In Agricultural Conservation or Rural Residential areas, such uses shall be permitted only in the portions of the property that do not contain viable prime or productive farmlands.

UPDATE INDEX #13  
MAP CHANGE - APN 129-021-002

NORTH COUNTY LAND USE PLAN  
JUNE 9, 1993



NORTH COUNTY  
LAND USE PLAN AMENDMENT  
(PC92160)





July 7, 2017

Dayna Bochco, Chair  
and Members of the California Coastal Commission  
45 Fremont St., #2000  
San Francisco, CA 94105

**FR6a**

Re: Appeal No. A-3-MCO-09-009 (Rancho Los Robles Subdivision,  
North Monterey Co.). Support recommendation; deny application.

Dear Chair Bochco and Members of the Coastal Commission:

We represent appellant Friends, Artists and Neighbors of Elkhorn Slough (FANS), citizens committed to preserving and enhancing the Elkhorn Slough, its watershed and the surrounding North Monterey County area.

FANS urges you to find substantial issue and deny the application for the 54-unit Rancho Los Robles residential subdivision in the severely overdrafted Pajaro Valley Groundwater Basin. Groundwater levels in much of the area are below sea level.

Attorney and coastal law expert Bill Yeates represented FANS from 2000 to 2011. Mr. Yeates opposed the project at the administrative level and filed the FANS appeal to this Commission. Mr. Yeates' letters to the County Board of Supervisors and Planning Commission are attached to this letter as Exhibit A. Those letters discuss the project's fundamental inconsistencies with the LCP.

FANS' co-founder Mari Kloeppel and current legal counsel Molly Erickson appeared before you in November 2016, January 2017, and March 2017 and described the severe decades-long water problems in North County. At those meetings the Commission unanimously denied the proposed residential subdivisions (Sunridge, Rancho Roberto, Mayr) in North County. Consistent with the recent denials, the water problems, and the LCP policies, the Commission should deny the Rancho Los Robles subdivision in North County.

The LCP policies affirmatively require denial of the project.

- North Monterey County has had severe groundwater overdraft problems for decades.
- The LCP requires development to be served by an identifiable, adequate, long-term water supply, and only allows new residential subdivisions when the basin is in its safe yield extraction state (i.e., not overdrafted).
- The project is a new residential subdivision which would demand water from the severely overdrafted groundwater basin.

- The project cannot be found to have a long-term and adequate water supply, and cannot be found to be served by water from a basin in a safe yield state, as the LCP requires.
- Most of the existing water use at the site is for Coastal Act and LCP priority agricultural use. It is not LCP consistent to convert such priority use to non-priority use in an area with known water supply deficiencies.
- When water deficiencies such as these exist, the LCP affirmatively requires the proposed development to be denied.

Because the proposed subdivision will make additional demand on the already severely overdrawn aquifer and there is no proof of an assured long term sustainable water supply, the subdivision is not in conformity with the certified Local Coastal Program. The project is simply not approvable and must be denied under LCP policies.

The project is inconsistent with LUP Policy 2.5.1, which states "The water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long-term water supplies." The project does not have an available long-term water supply. The project would exacerbate the overdraft that is causing severe water quality problems.

The project is inconsistent with LUP Policy 2.5.2.3 which prohibits existing water supplies from being "committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured." The project is in an overdrafted sub-basin that is being pumped far beyond its safe long term yield with no relief in sight.

The LUP does not allow approval of non-priority development in areas of severely overdrafted water supply. Residential subdivision is not a priority use. The project is inconsistent with LUP Policies 2.5.3.A.2, 4.3.5.4 4.3.5.7 and North County IP sections 20.144.140.A.1, 20.144.070.E.11 and 20.144.020.VVVV.

The County warned the applicant:  
Water supply and water quality were major obstacles.

In 2000, the County warned the applicant that "North Monterey County was experiencing severe overdraft conditions resulting in falling water levels and seawater intrusion." The County was alarmed because water use in 2000 had led to overdraft of more than twice the then-estimated safe yield. The County stated that "ANY subdivision in" the North Monterey County hydrogeologic area which would intensify water use has the potential to result in a significant cumulative as well as a project specific impact to water quality and quantity." (Exh. B [July 28, 2000 County memo], emphasis in original.) The County warned that applicants were "advised that a subdivision project

may be denied because of” potentially significant cumulative impacts to water quantity and quality. (*Ibid.*, emphasis in original.)

In 2000, the County official in charge of making water supply determinations clearly stated his official interpretation of the LUP policies:

The North County Land Use Plan policies dictate that new development be phased so that existing water supplies are not committed beyond their safe long-term yields. Further the plan states that development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured.

Accordingly, it is [my] position . . . that it is not possible to support a finding of a long-term water supply for development in an area of significant, chronic overdraft.

(Exh. C [Oct. 10, 2000 memo from County Director of Environmental Health Walter Wong], emphasis added.) The County has long acknowledged the overdraft. (Exh. D [Oct. 1995 North Monterey County Hydrogeologic Study excerpts].)

Also in 2000, the Monterey County Planning Commission voted 9-0 to deny the nearby Rancho Roberto subdivision project due to water supply overdraft concerns. In 2003, the County admitted that its Salinas Valley Groundwater project, the SVWP will not solve water supply issues of the Salinas Highlands area. The Highlands areas needs localized projects which to this day are neither planned nor funded. Until those projects are online, the County “recommended that growth [in the Highlands area] should not be intensified.” (Exh. E.)

In the face of all these warning signs, the applicant chose to proceed with an application for and preparation of an EIR for the Rancho Los Robles project. The applicant was aware of the risk of denial. The applicant’s representative is a sophisticated realtor. (Exh. F.) The applicant is a limited partnership called “Heritage/Western Communities LTD,” whose general partner is “Heritage Development Corporation” according to the Secretary of State business records database.

EIR found significant and unavoidable impacts on the overdrafted water supply.

The project EIR concluded that the north Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured. The EIR found that the project would have significant and unavoidable impacts on regional groundwater and seawater intrusion, as well as traffic congestion on Highway 1. The EIR stated as follows:

The north Monterey County hydrogeologic area is currently in overdraft, and reductions in groundwater pumping are necessary to restore balance and halt the advance of seawater intrusion.

The EIR also admitted the significant unavoidable impacts of this project:

Because of the condition of the aquifer, uncertainly in regard to the PVWMA's major water projects, . . . the County has determined that the proposed project would contribute to a potentially significant and unavoidable cumulative hydrologic impact to the regional water supply and seawater intrusion, owing to the existing condition of the aquifer.

Monterey County admits that North County is in severe overdraft.

For decades, County of Monterey officials have admitted that the North Monterey County does not have a sustainable water supply. The County has denied several other residential subdivisions on the basis of lack of long term water supplies in the Highlands North subarea (See Exh. G [County documents regarding the denied Spanish Congregation, Heritage Oaks, and Rocha subdivisions].)

The North Monterey County area is being far overdrafted over its safe yield. According to Monterey County Code section 19.02.143: "Safe yield is the amount of water that can be extracted continuously from the basin or hydrologic sub-area without degrading water quality, or damaging the economical extraction of water, or producing unmitigatable adverse environmental impacts."

The project is not consistent with IP section 20.144.070(E)(11) which prohibits approval of a development if the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer. Monterey County code sections 19.03.015(L) and 19.07.020.K provide that "the applicant shall also provide proof of an assured, long-term water supply in terms of sustained yield and adequate quality for all lots which are proposed to be created through subdivisions." This project is not consistent with those requirements.

The Coastal Commission reached out to the County of Monterey to discuss North County coastal water supply problems, to no avail.

On April 26, 2006, the California Attorney General's office, acting on behalf of the Coastal Commission staff, as well as for developers and environmental organizations including FANS, wrote to the County of Monterey. The letter asked for Monterey County's help in evaluating, consulting, and recommending to the County Board regarding the adequacy of water supplies in North Monterey County coastal zone, and

the process for consideration of residential development proposals until long term adequate water supplies can be secured. (See Exh. H.)

That was more than ten years ago. The County has not responded to the Attorney General's letter.

The project proposes to develop ESHA for residential purposes.

The project proposes to subdivide 16.5 acres of oak woodland ESHA into residential lots, and to convert a 0.6 acre wetland into a stormwater detention pond to service the residential uses. This is inconsistent with the LCP protections of ESHA, including North County LUP policies 2.3.2.1, 2.3.2.2, 2.3.2.3, 2.4.3.6, 2.3.2.B.1, 2.3.2.B.2, 2.3.2.B.4, and IP section 20.144.040.B.3.

The two dissenting County Supervisors were aware of LCP policies.

The County Board of Supervisors approved the subdivision project on a split 3-2 vote, the slimmest majority possible, over the objections of two County supervisors: the supervisor for the North County district, Lou Calcagno, and the supervisor for the Monterey/Big Sur district, Dave Potter. The two dissenting supervisors had served on past Coastal Commissions and were well aware of Coastal protections and mandates.

County water projects in the *Salinas Valley* Groundwater Basin cannot and do not help the North Monterey County areas in the *Pajaro Valley* Groundwater Basin where this proposed residential subdivision is located.

Monterey County claims it has water projects but the County's projects have NOT helped the water situation of North County residential uses in the Pajaro Groundwater Basin, contrary to the County's claims. The Monterey County projects at most help only lowlands in the Salinas Valley Groundwater Basin, and do not even help upland North County subbasins located in the Salinas Valley at higher elevations than the valley floor. (E.g., see Exh. E.) The County presents no evidence to the contrary.

Water projects in the Salinas Valley cannot and will not help the North County uplands for at least two reasons. First, water does not flow uphill from the Salinas Valley floor and there is no distribution system proposed that would deliver water to the uplands, and there is no funding in any event. Second, pursuant to state law, water cannot be exported from the Salinas Valley Groundwater Basin into the Pajaro Valley Groundwater Basin, which is where the Rancho Los Robles project is proposed. (Calif. Water Code App., Ch. 52 [MCWRA Act], § 52-21.)

Future projects claimed by County are theoretical, are not funded, and have not received environmental review. The County has had numerous water projects dissolve under their own weight in the planning stages, long before they ever had environmental review, much less funding. In addition to the collapse of the proposal to import Central

Valley to the Pajaro Basin, the North Monterey County area has not received state water, and other County projects have expired long before becoming reality. In 2009, Monterey County approved the “Regional Desalination Project” which rapidly collapsed after the County fought with its so-called project partners, the EIR was determined by the Monterey Superior Court to be fatally flawed, and the San Francisco Superior Court determined that a member of the Monterey County Water Resources Agency (MCWRA) Board of Directors had a Government Code section 1090 conflict that meant the MCWRA project approvals were void ab initio.

The Pajaro Valley Water Management Agency (PVWMA) is the water management agency with authority over the North Monterey County subbasins that are in the Pajaro Valley Groundwater Basin, including the project site. The Pajaro Valley wastewater recycling program has made only a tiny dent, if at all, in the massive overdraft of the groundwater basin, provides little help to upland areas like the Highlands North sub-basin where this project is located, and has not provided recycled water to residential uses in any event.

The recent attempts by the applicant to claim a “water balance” do not and cannot fix the fundamental inconsistencies with LCP policies.

The Rancho Los Robles applicant has made last-minute attempts to change the project and to propose new elements that were not evaluated in the County’s EIR. The efforts fails because the project fundamentally conflicts with the LCP policies. In any event, the last-minute proposals are not consistent with Monterey County Board of Supervisors’ actions to deny other subdivisions in the Highlands North subarea on the basis of lack of long term water supplies, the inability of a proposed “recharge” system to recharge the aquifer in a verifiable manner, and the lack of reliability of rainfall. (See Exh. G.)

The applicant’s last-ditch efforts fail. The applicant makes assumptions and conclusions that are highly suspect and unreliable about a new recharge scheme that would be entirely dependent on rainfall. The last-ditch claims make unbelievable and unsupported claims about site recharge and rainfall.

The applicant’s claims about site recharge are highly speculative and unreliable, and are directly contradicted by the County records. The Board of Supervisors found that onsite recharge was “not feasible” and specifically found as follows:

Percolation of water on-site is severely limited by the project site geology. Infiltration of water at the base of the slope at the center of the project site raises concerns with land sliding and liquefaction, and is not considered feasible. Storm water run-off would flow offsite to Cameros Creek and Elkhorn Slough.



Nothing has been stated to rebut the conclusion that on-site percolation is “severely limited.” To make matters worse, the last-minute applicant claim merely claims what might be possible under assumed ideal situations that are unrealistic. The applicant does not and cannot show any guarantee of any specific amount of recharge. The County denied another residential subdivision proposed for the Highlands North sub-basin because a residential subdivision could not be relied upon to ensure recharge took place. (See Exh. G [Board of Supervisors’ denial of the Heritage Oaks subdivision].) In any event, any onsite recharge is not measurable. Thus, mitigation for the severe impacts, if there is any mitigation at all, is not ensured or verifiable, thus cannot be considered mitigation. And the onsite recharge would not be a positive benefit to the severely overdrafted basin because onsite recharge takes place now at the site. To make matters worse, there is no project condition for an enforceable water cap in perpetuity, so the actual project water demand could far exceed the EIR estimates, causing significant further unanalyzed harm to the groundwater resources.

The applicant’s assumptions about rainfall are not believable or reliable, because the actual precipitation is much less, and the applicant’s claims to not take into account the significant and irreversible severe harm to the aquifer that would take place during drought years such as 2011-2014. Rainfall in North County is far less than the amount assumed by the applicant of more than 19 inches. That assumption was based on 1969 data, which is nearly 50 years out of date. The assumption is not reasonable and not based on the on-the-ground conditions. Our diligent research efforts show in 2013 Pajaro received only 3.58 inches of rain and in 2015 only 9.21 inches. (Exh. I [Pajaro Rainfall].) Historically, nearby Salinas has also not received 19 inches per year. From 1999-2013, nine years had less than 19 inches. (Exh. J [Salinas Rainfall].) The records for Pajaro and for the Elkhorn Slough Natural Reserve show actual rainfall. The Elkhorn Slough records show rainfall from 2011-2012 through 2014-2015 of 10.00, 11.38, 5.94, and 13.43 inches, respectively. (See Exh. K [ESF Rainfall].) The groundwater basin has been even more severely overdrafted due to the ongoing years of drought that far outnumber very wet years. The actual rainfall would neither recharge the aquifer naturally nor attain anywhere near the benefits claimed by the applicant.

This Commission should reject the new and highly speculative claims about site-specific “recharge” and “water balance,” as the Commission has done in other cases. The Courts have upheld the Commission’s denial of a residential subdivision in similar circumstances. In *Pratt Construction v. California Coastal Commission* (2008) 162 Cal.App.4th 1068, the Court of Appeal upheld the Commission’s denial of a 41-unit residential subdivision on each of the grounds stated by the Commission. One of the Commission’s reasons for denial was the rejection of the applicant’s claimed “water balance” involving assumptions about on-site recharge.

In upholding this Commission’s denial, the Court of Appeal stated as follows:

Pratt argues there is no basis for the Commission's combined water and sewer objections. Pratt points out that

the environmental impact report (EIR) for the project concludes that the water usage and replenishment for the project are essentially in balance.

The final EIR for the project states that the groundwater basin on which the project would rely is in overdraft. The final EIR also states, however, that unlike most projects, Pratt's project would actually increase recharge of the groundwater basin. . . .

In rejecting the EIR's conclusion, the Commission stated:  
"Based on the assumed increase in recharge that would result from the project, and the expectation that this recharge will exceed the consumptive water use of the project, the EIR concludes that the project will result in a net increase of available water resources, and no significant impacts to water resources will occur. . . . The Commission can not agree with this assumption, based upon the highly speculative nature of the amount of recharge being assumed by the EIR. It appears scientifically unfounded that the proposed development, which will cover open space areas comprised of sandy soils and drought tolerant vegetation with impervious surfaces, will increase the amount of groundwater recharge that is currently occurring on the site. . . ."

Pratt cites no authority that the Commission is bound by the findings in the EIR. Here the Commission simply rejected a conclusion that seems at best highly suspect. In any event, even if the project balanced water usage and replenishment, that would not affect the LCP's policy giving priority to other uses.

Each of the Commission's reasons for denying the permit is supported by the record. Any one of them is sufficient to sustain the denial.

(*Pratt Construction v. California Coastal Commission* (2008) 162 Cal.App.4th 1068, 1079-1080, emphasis added.) The same reasons apply here. The Commission is on solid ground to reject the Rancho Los Robles applicant's water claims.

A "will serve" letter is not proof of a long term sustainable water supply.

A hypothetical will-serve letter is neither relevant nor meaningful to the essential analysis of water quantity and water quality. A will-serve letter does not guarantee that



water can be supplied or address the environmental circumstances thereof. (See *Tarbet v. East Bay Municipal Utility District* (2015) 236 Cal.App.4th 352, fn. 3, 358.)

In any event, Cal Water is not a public water agency or district. Cal Water does not have jurisdiction over management of water supplies and does not monitor the overdraft. Cal Water is a private for-profit business that pumps and delivers water, without taking responsibility for the overdrafted aquifer or for increased overdrafting.

No vested rights.

This Commission applies state law and policies to determine whether the development permit complies with the LCP. Under Government Code section 66498.6(b), such state laws and policies are not subject to the vesting provisions of Government Code section 66498.1(b). (*Pratt Construction Co., Inc. v. California Coastal Commission*, *supra*, 162 Cal App 4th 1068.) Accordingly, to the extent the applicant may make claims about vesting, the claims are not supported by law.

The County's EIR is inadequate.

FANS has a tolling agreement with the County and the project applicant that tolls the statute of limitations for FANS to challenge the County's EIR certification and project approvals until after this Commission's action.

Request:

Deny the application; support the recommendation; grant the appeal.

The LCP does not allow residential subdivisions, particularly a subdivision that will convert an existing agricultural operation and ESHA, when the groundwater basin from which water supply will be provided is overdrafted beyond its safe yield level, as is the case in North Monterey County. These were the same LCP constraints that necessitated the Commission's recent denials in 2016 and 2017 of the Sunridge, Rancho Roberto and Mayr residential subdivision projects. (See Exhs. L, M and N to this letter.) They are the same fundamental LCP inconsistencies that require denial of this much larger subdivision project as well.

For each and every reason stated in the appeals, the staff report, and public comment, the project should be denied and the appeals should be upheld. Thank you.

Very truly yours,

STAMP | ERICKSON

  
Molly Erickson

<u>Table of Exhibits</u>	
A	December 4, 2008 letter from attorney Bill Yeates on behalf of Friends, Artists, & Neighbors of Elkhorn Slough to County of Monterey Board of Supervisors
B	July 28, 2000 Monterey County memo from James Colangelo, CAO's office
C	October 10, 2000 Monterey County Health Department memo authored by Walter Wong, Director, Health Department
D	October 1995 North Monterey County Hydrogeologic Study – excerpts
E	December 9, 2003 Monterey County Water Resources Agency – staff report and Board of Supervisors' resolution.
F	Information about project applicant Chuck Allen
G	County records denying residential subdivision applications (Spanish Congregation, Heritage Oaks, and Rocha) proposed for North Monterey County due to area-wide water supply problems and lack of reliability of onsite recharge schemes.
H	April 20, 2006 letter from California Attorney General's office to County of Monterey regarding North County groundwater problems. The County never responded to the letter.
I	Pajaro rainfall data summary – actual rainfall
J	Salinas rainfall data – actual rainfall
K	Elkhorn Slough Foundation rainfall summary – actual rainfall
L	Coastal Commission denial of Rancho Roberto subdivision (Jan. 2017)
M	Coastal Commission denial of Mayr subdivision (Mar. 2017)
N	Coastal Commission denial of Sunridge subdivision (Nov. 2016)



CHARITY KENYON  
BILL YEATES



JASON FLANDERS  
CHRISTINA MORKNER BROWN

2001 N STREET, SUITE 100, SACRAMENTO, CALIFORNIA 95811  
916.609.5000 FAX 916.609.5001  
WWW.KENYONYEATES.COM

December 4, 2008

Sent via facsimile and electronic mail

Fernando Armenta, Chair and Members  
Monterey County Board of Supervisors  
168 West Alisal St.  
Salinas CA 93901

Re: *Rancho Los Robles* (Project File No. PLN970159) December 9, 2008 – Agenda Item S-6

Dear Supervisors:

On behalf of Friends, Artists, and Neighbors of Elkhorn Slough we provide these comments on the Rancho Los Robles project and Environmental Impact Report ("EIR"). These comments are in addition to our previous comments on the draft EIR ("DEIR"), recirculated DEIR ("RDEIR"), and final EIR ("FEIR"), which are incorporated herein by reference.

**I. NO ADEQUATE WATER SUPPLY EXISTS TO SERVE THE PROJECT'S WATER DEMANDS.**

The EIR admits that the project will have a cumulatively significant adverse impact to groundwater. The RDEIR states that "[t]he north Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water *cannot* be assured." (RDEIR 1-15 [emphasis added].) Accordingly, the Board must deny approval of this project, as further significant impacts to the North County groundwater basin would be imprudent and illegal.

Indeed, the proposed project is directly inconsistent with the North Monterey County Land Use Plan / Local Coastal Program ("LUP/LCP"), and the Monterey County Coastal Implementation Plan ("CIP"), both designed to protect available water sources.

First, the project is inconsistent with the North County LUP/LCP, policy 2.5.1, which states that "new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies." In addition, policy 2.5.2.3 requires new development "to be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured." Here, the EIR admits that there is no identifiable, available, long-term water supply to safely serve the proposed project's demands, and the proposed project is, therefore, in direct conflict with these policies.



Monterey County Board of Supervisors  
December 4, 2008  
Page 2 of 5

Second, the project is inconsistent with Monterey County CIP section 20.144.070 (E) (11), which prohibits development that "will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer." Again, the EIR admits that the proposed project's expected water demand cannot be safely served by the over drafted groundwater basin, and that the project's impacts to the basin would be significant and unavoidable.

Third, the proposed project is also inconsistent with CIP section 20.144.140(B)(3)(a), which limits development to 50% of buildout of the North County Land Use Plan area, *unless* information shows that even 50% of buildout would adversely impact groundwater supply. Here, the EIR admits that "the current demand for water in north Monterey County is approximately double the sustainable supply," and expects overdraft estimates to continue to increase. (RDEIR 2-7, 2-8.) Therefore, this development, as part of the 50% buildout of the North County Land Use Plan area, would "adversely impact groundwater supply," and is inconsistent with CIP section 20.144.140(B)(3)(a). (See also LUP/LCP Policy 2.5.3 (A)(2).)

Fourth and finally, the project is inconsistent with the North Monterey County Subdivision Ordinance, section 19.03.15 (L), which requires conclusions regarding adequacy of a long-term water supply.

**I. THE ADVERSE IMPACTS OF THIS PROPOSED PROJECT GREATLY OUTWEIGH ITS PURPORTED BENEFITS.**

As the Planning Commission rightly found, there are no great public benefits stemming from the proposed project that would outweigh the significant and adverse environmental impacts that the proposed project would cause to the County. The North County groundwater basin is severely over drafted, and the County would act irresponsibly to create any new, long-term water demands from this aquifer until the overdraft conditions are ameliorated. In addition to the proposed project's groundwater impacts, existing traffic on State Route 1, and the G12 corridor, causes considerable delay and frustration for local residents, and the proposed project would only worsen these already bad conditions.

While CEQA does provide for the approval of projects where consideration of public benefits outweigh and override a project's significant and unavoidable environmental impacts (CEQA Guidelines, § 15093), it is the policy of this state to *avoid* such impacts where possible. Enacting CEQA, the state legislature found that "capacity of the environment is limited," and that "it is the policy of the state to . . . [t]ake all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise." (Pub. Resources Code, §§ 21000, subd. (d), 21001, subd. (b).)

Consequently, the Planning Commission's recommendation to deny approval of the proposed project is the most appropriate course of action, consonant with clearly established state and local policies.



Monterey County Board of Supervisors  
 December 4, 2008  
 Page 3 of 5

## II. PAYMENT OF A HYDROLOGICAL IMPACT FEE DOES NOT PROVIDE AN ADEQUATE WATER SOURCE.

The EIR incorrectly asserts that the project's payment of "the hydrological impact fee," required at the time the project application was deemed to be complete eight years ago, provided the project with "alternatives and/or mitigation measures that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer." This claim is simply wrong. Payment of a hydrological impact fee does not produce any change in the groundwater condition, does not mitigate the project's significant and unavoidable impact to less-than-significant levels, and does not reasonably render the project consistent with the CIP. As the EIR admits, even *with* the payment of this fee, the project would *still* "generate a water demand for which a long-term sustainable supply of water supply cannot be assured." Therefore, the hydrological impact fee does not "reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer," as CIP section 20.144.070.E.11 requires. (See also *Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, 1397 [the promise to undertake future studies is not feasible mitigation under CEQA].)

The RDEIR does state that the fee may be used for "implementation of the *North Monterey County Comprehensive Water Resources Management Plan*." However, RDEIR also acknowledges that the *North Monterey County Comprehensive Water Resources Management Plan* recommends implementation of the *PVWMA Revised Basin Management Plan* to address concerns in the PVWMA subareas, but that "one key element [of the *Revised Basin Management Plan*], the import of water from the Central Valley Project, is not expected to occur," and that "a significant portion of the funding to implement the *Revised Basin Management Plan* is not available to the PVWMA." (RDEIR 2-2, 2-3, 2-17.) Therefore, there is no evidence to show that the hydrological impact fee has or will *actually* mitigate the Project's water demand to a level that does not contribute to long-term overdraft of the aquifer.

The County is wrong to rely on its interpretation of the impact fee at the time of the project application, pursuant to the Subdivision Map Act. The Subdivision Map Act only applies to rules in place at the time of the application; it does not apply to historic interpretations of rules, especially when those interpretations are unsupported by facts, or any language in the LUP/LCP or CIP. Also, the coastal plan is a matter of state policy, and a recent Court of Appeal decision held that the subdivision map act did not require application of coastal policies in place at the time the application was completed. (*Charles A. Pratt Construction Co., Inc. v. California Coastal Commission* (2008) 162 Cal.App.4th 1068.) Finally, the Project has no vested right to develop, yet the EIR repeatedly misleads the public and decision-makers to believe otherwise.

## III. THE EIR AND WATER SUPPLY ASSESSMENT FAIL TO DESCRIBE THE PROJECT'S SIGNIFICANT PHYSICAL IMPACTS.

The Water Supply Assessment ("WSA") for the project is arbitrary and incomplete, admitting significant and ongoing groundwater overdraft and seawater intrusion, yet asserting that adequate water is available for the project, without describing the physical impacts of relying on the existing, over drafted groundwater supply. The EIR states that



Monterey County Board of Supervisors  
 December 4, 2008  
 Page 4 of 5

[California Water Service Company] prepared a WSA that states they are able to provide adequate water supplies to the proposed project from their existing wells and storage facilities. Because CWSC is a large water purveyor with significant resources, it should be able to maintain a water system that delivers adequate water quality and quantity for the long term.

(RDEIR 2-33.) However, neither the EIR nor the WSA explain how CWSC can provide adequate water quality and quantity for the long term, when the EIR acknowledges that the project would have a significant and unavoidable cumulative impact on the existing groundwater source. The failure to evaluate the project's environmental impacts on the available water supply and foreseeable alternative water supply fails to satisfy CEQA's purpose. As the California Supreme Court recently stated in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova*:

An EIR that neglects to explain the likely sources of water and analyze their impacts, but leaves long-term water supply considerations to later stages of the project, does not serve the purpose of sounding an environmental alarm bell."

((2007) 40 Cal.4th 412, 441 [internal quotations omitted].)

For example, the EIR does not consider how far or how fast seawater will advance into the groundwater subbasin with the additional overdraft caused by the significant and unavoidable cumulative impact of the project. Will seawater intrusion accelerate due to rising sea levels associated with global climate change? How else will the additional drawdown of groundwater levels cause groundwater quality to change, such as by increasing the concentration of groundwater contaminants? How much aquifer storage capacity will be lost? What foreseeable replacement or alternative water sources may be sought if the groundwater becomes contaminated due to increased seawater or other contaminants? What are the environmental impacts of providing water to the project and the area with these replacement or alternative sources? How will these impacts adversely affect existing landowners and uses that depend upon this groundwater? The EIR and WSA fail to specifically answer these questions. Given the Project's significant and unavoidable cumulative impacts on the existing groundwater supply, the EIR must analyze, to the extent reasonably possible, the significant environmental impacts of providing groundwater to the project as its short and long term supply.

#### IV. CONCLUSION.

The Planning Commission properly recommended that the Board of Supervisors deny this proposed project. The project is inconsistent with the North County Land Use Plan and the Coastal Implementation Plan, the EIR is inadequate, and the community-wide environmental impacts of the project far outweigh any purported benefits to the project applicant. As the proposed project is being presented to the Board of Supervisors at this time, FANS strongly opposes this project and encourages the Board to support the Planning Commission's recommendation.

Monterey County Board of Supervisors  
December 4, 2008  
Page 5 of 5

However, in the alternative FANS is willing to work with Monterey County staff and officials, Coastal Commission staff, and the proponents of the "pipeline projects" within the North County coastal zone that do not need an amendment to the North County LCP to proceed on a programmatic solution for North County that addresses North County's severe water supply problems, the other natural resources and infrastructure constraints in North County, and the equities of the affected property owners, including the pipeline project proponents and existing residents. FANS believes a programmatic solution for North County is far superior to project-by-project review at the County level, which may ultimately be appealed to the Coastal Commission. FANS believes all interested parties would benefit from a careful review of options that could lead to a fair and equitable programmatic resolution of differences over these "pipeline projects."

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Yeates", with a long horizontal line extending to the right.

Bill Yeates

On behalf of Friends, Artists, Neighbors of Elkhorn Slough

enclosures

cc: Marie Kloeppel, Fans (via U.S. Mail)  
Alana Knaster, Deputy Director (via email)  
Mike Novo, Director of Planning (via email)  
Carl Holm, Assistant Director of Planning (via email and overnight mail)  
Leslie Girard, Assistant County Counsel (via email)

**ENCLOSURES**



CHARITY KENYON  
BILL YEATES



2001 N STREET, SUITE 100, SACRAMENTO, CALIFORNIA 95811  
916.609.5000 FAX 916.609.5001  
WWW.KENONYEATES.COM

**Via Electronic Mail**

October 27, 2008

Monterey County Resource Management Agency  
Planning Commission  
c/o Mike Novo, Planning Director  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901  
[novom@co.monterey.ca.us](mailto:novom@co.monterey.ca.us)

Re: *Support of Recommendation to Deny Rancho Los Robles Subdivision Project*

Dear Planning Commissioners and Director Novo:

On behalf of Friends, Artists, and Neighbors of Elkhorn Slough ("FANS"), we submit these comments in strong support of the recommendation of the Planning Commission, and Planning Staff, to recommend that the Board of Supervisors denies approval the proposed project.

As the Planning Commission and Planning Staff rightly found, the adverse, significant, and unavoidable impacts of the propose project far outweigh the perceived on-site benefits of the proposed development. The North County groundwater basin is severely overdrafted, and the County would act irresponsibly to create any new, long-term water demands from this aquifer until the overdraft conditions are ameliorated. Indeed, the County's Coastal Implementation Plan expressly embodies this policy, prohibiting any new development where a long-term sustainable water supply cannot be assured. (CIP, § 20.144.070 (E)(11); see also North County Land Use Plan, key policy 2.5.1, mandating that "[t]he water quality of the North County groundwater aquifers shall be protected, and new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies.") In addition to groundwater impacts, existing traffic on State Route 1 causes considerable delay and frustration for local residents, and the proposed project would only worsen this already bad condition.

Perhaps confusingly, the October 29, 2008 Staff Report begins with a list of supposed environmental benefits of the proposed project. However, a review of these supposed benefits shows that they are speculative, minimal, and narrowly limited in scope to the confines of the proposed project site. In contrast, the project's significant and unavoidable impacts would adversely affect County residents beyond the project's boundaries, and worsen the County's already intractable groundwater and traffic problems.

While CEQA does provide for the approval of projects where consideration of public benefits outweigh and override a project's significant and unavoidable environmental impacts (CEQA Guidelines, § 15093), it is the policy of this state to *avoid* such impacts where possible. Enacting

**Monterey County Planning Commission**

October 27, 2008

Page 2 of 2

CEQA, the state legislature found that "capacity of the environment is limited," and that "it is the policy of the state to . . . [t]ake all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise." (Pub. Resources Code, §§ 21000, subd. (d), 21001, subd. (b).)

Consequently, the Planning Commission and Planning Staff's recommendation to deny approval of the proposed project is the most appropriate course of action, consonant with clearly established state and local policy.

Sincerely,

/s/ Jason R. Flanders

On behalf of FANS

cc: Carl Holm, Assistant Planning Director  
[holmcp@co.monterey.ca.us](mailto:holmcp@co.monterey.ca.us)



CHARITY KENYON  
BILL YEATES

*kenyon yeates* LLP

JASON FLANDERS

3400 COTTAGE WAY, SUITE K, SACRAMENTO, CALIFORNIA 95825  
916.609.5000 FAX 916.609.5001  
WWW.KENONYEATES.COM

October 8, 2008

Monterey County Resource Management Agency  
Planning Commission  
168 West Alisal St.  
Salinas CA 93901

Re: *Rancho Los Robles Development Permit and EIR*

Dear Planning Commissioners:

On behalf of Friends, Artists, Neighbors of Elkhorn Slough we are providing comments on the Rancho Los Robles project and Final Environmental Impact Report. The comments we provide are in addition to our previous comments on the DEIR and RDEIR, which we incorporate herein by reference.

First, the Commission's notice for this hearing incorrectly states that all project impacts have been "mitigated below a level of significance." This is untrue. The EIR expressly states that "The proposed project would result in significant and unavoidable cumulative impacts on the regional groundwater supply and seawater intrusion." Because this hearing notice misleads members of the public who may have otherwise attended this hearing, the hearing should be re-noticed and re-scheduled.

The project is inconsistent with the North County Land Use Plan, which states that "new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies," and the project is inconsistent with the Coastal Implementation Plan, which prohibits development that "will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer." The EIR admits that the project will have a cumulatively significant impact to groundwater, and that a safe, long-term water supply cannot be assured. Payment of a hydrological impact fee does not produce any change in the groundwater condition, does not mitigate the project's significant and unavoidable impact to less-than-significant levels, and does not reasonably render the project consistent with the CIP.

The County is wrong to rely on its interpretation of the impact fee at the time of the project application. The subdivision map act only applies to rules in place at the time of the application; it does not apply to historic interpretations of rules, especially when those interpretations are unsupported by facts, or any language in the NCLUP or CIP. Also, the coastal plan is a matter of state policy, and a recent Court of Appeal decision held that the subdivision map act did not require application of coastal policies in place at the time the application was completed. (*Charles A. Pratt Construction Co., Inc. v. California Coastal Commission* (2008) 162

**Monterey County Planning Commission**

October 8, 2008

Page 2 of 2

Cal.App.4th 1068.) Finally, the Project has no vested right to develop, yet the EIR repeatedly misleads the public and decision-makers to believe otherwise.

The Water Supply Assessment for the project is arbitrary and incomplete, admitting significant and ongoing groundwater overdraft and seawater intrusion, yet asserting that adequate water is available for the project, without describing the physical impacts of relying on overdrafted groundwater. Given the Project's significant and unavoidable cumulative impacts on the existing groundwater supply, the EIR must analyze, to the extent reasonably possible, the significant environmental impacts of providing groundwater to the project as its long term supply. These significant adverse impacts include the impact on existing landowners and uses that depend upon this groundwater, and decreasing groundwater quality due to seawater intrusion.

The EIR is wrong to assert that global warming is too speculative to analyze. The EIR admits that temperatures and sea levels will rise, within a foreseeable range, resulting in increased water demands and decreased supplies. While the *exact* temperature and sea level increases are impossible to calculate, *some* increase is foreseeable, and the EIR misleads the public by relying on water supply and demand calculations that do not account for these foreseeable climatic changes. The FEIR fails to respond to comments on this point.

The project is inconsistent with the North County Land Use Plan, the EIR is inadequate, and the project should be denied.

Sincerely,



Jason Flanders

On behalf of Friends, Artists, Neighbors of Elkhorn Slough





# MONTEREY COUNTY

## PLANNING AND BUILDING INSPECTION DEPARTMENT

P. O. BOX 1208 SALINAS, CALIFORNIA 93902 (831) 755-5025

DATE: **July 28, 2000**

TO: Planning Permits Team & Permit Assistance Team Staff

FROM: James Colangelo, Assistant County Administrative Officer  
Environmental Resources Policy Division

SUBJECT: Significant Cumulative Impacts to Water Quantity & Quality in the North Monterey County Hydrogeologic Study Area

Effective immediately, applicants for ALL subdivisions proposed in the North Monterey County Hydrogeologic Study Area (see attached map) should be advised that a focused EIR might be required for a project due to potentially significant cumulative impacts to water quantity and quality in that area. More importantly, applicants need to be advised that a subdivision project may be denied because of these conditions. This applies to new applications, as well as to projects in process where the Initial Study has not been prepared or is incomplete.

During the last Planning Commission meeting on July 12, 2000, the Commission voted unanimously (9 to 0) to deny a 26-lot subdivision in part due to potentially significant adverse cumulative water and traffic impacts in North County. At the same time, the Commission directed staff to return in late August with recommendations for future subdivisions in North County in light of the cumulative impacts.

*Rancho Roberto*

Staff has reevaluated the potential for cumulative impacts to water resources in North County due to intensification of water use and has determined that the impact may be significant. This determination is based on the following facts: 1) completion of the Comprehensive Water Resources Management Plan for North County has taken longer than anticipated; 2) a large number of subdivisions are in process in the impacted area; and 3) there has been an ongoing high level of subdivisions during the past several years due, in part, to the bustling economy. In addition, we now know that the County has exceeded our AMBAG population projections for 2005, if the approved projects are constructed as expected.

North Monterey County is experiencing severe overdraft conditions resulting in falling water levels and seawater intrusion. The current water use is estimated to exceed the average recharge by more than 100 percent. In addition, nitrate contamination levels are increasing and have also had a significant impact on domestic water supply in North County. This water constraint applies specifically to the North Monterey County Hydrogeologic Study Area. As a result, ANY subdivision in this area, which would intensify water use, has the potential to result in a significant cumulative, as well as a project specific, impact to water quality and quantity.

Any Initial Study prepared for a subdivision proposed in this impacted area of North County shall reference the 1995 Fugro-West report and state that the project will result in a significant cumulative effect on water quality and supply. For your information, attached is an excerpt from an Initial Study prepared for a subdivision located in this impacted area. This excerpt is intended to be used as a sample for the environmental setting and cumulative impact analysis in the Initial Study.

Should you have any questions, please see your Supervisor. A full size map, with the hydrogeologic study area highlighted in yellow, is located at the front counter.

Memo prepared by Ann Towner & Mike Novo

cc: Board of Supervisors; Sally R. Reed; Annette Chaplin; Adrienne Grover; Walter Wong;  
Curtis Weeks

Exhibits: 1) North County Hydrogeologic Study Area  
2) Initial Study Excerpt for a Subdivision in the North County Hydrogeologic Study Area

AT: Cumulative H2O Impacts In North County/Subdivisions  
Revised 7/24/00



EXHIBIT 1





## Exhibit 2

### **Initial Study Excerpt for a Subdivision in the North County Hydrogeologic Study Area: Environmental Setting & Cumulative Impacts**

**Note:** This particular project is located in the Granite Ridge sub basin. Obviously, your analysis in the Initial Study will vary based on the particular sub basin and the proposed water use for the project.

#### **Excerpt from Environmental Setting Section**

The project site is located in the Granite Ridge groundwater sub basin of North County. North County has been identified as an area in a state of overdraft, with a deficit of 11,700 acre-feet identified in the *Fugro-West Inc. report, North Monterey County Hydrogeologic Study, Volume 1, Water Resources*, prepared in October 1995 (References 22 and 23). That study showed the Granite Ridge sub basin in balance. However, this project could potentially contribute an additional 10.2 acre-feet in overdraft to the groundwater basin.

#### **Excerpt from Cumulative Impact Section**

There presently exists in the North Monterey County area a serious overdraft in the aquifers, together with seawater intrusion problems in the North County Coastal Zone and nitrate pollution problems throughout the area. The North County Area Plan recognizes the existence of these problems and directs that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption. The proposed project, current agricultural practices, as well as future urban development accommodated through subdivisions in the North County area, and potential conversion of land to agricultural use, creates a potentially significant cumulative groundwater impact.

This project will contribute to the North County Overdraft identified in the Fugro-West Inc. report, *North Monterey County Hydrogeologic Study, Volume 1, Water Resources*, prepared in October 1995. According to Monterey County Health Department, this project will contribute to the overdraft in the Granite Ridge sub area, which had a sustainable yield of 610 acre-feet and a historical use of the same amount in 1995 (Reference 22). Information supplied with this application demonstrates that the project will contribute an additional overdraft of 10.2 acre-feet per year. The applicant proposes to recharge groundwater by percolation pits in the bottom of retention and detention ponds (Reference 28), but this will not reduce cumulative impacts to a level of insignificance.

Ordinance #3496 (and as amended by Ordinance #4005) of the County of Monterey adds Chapter 18.51 to the Monterey County Code to establish a Water Impact Fee for development in the North Monterey County Area to assist in financing a study and management plans relating to the safe yield of the North Monterey County aquifers. The impact fee funds the development of a long-range "Comprehensive Water Management Plan" and "Water Issues Action Plan." The "Comprehensive Water Management Plan" is presently being prepared by a consultant and is due to be completed and approved later this year (i.e., 2000). The "Water Issues Action Plan" has been modified, and is presently undergoing CEQA review before a Planning Commission recommendation is made to the Board of Supervisors. Because agriculture is a permitted use in the zoning district, commercial agricultural use on this property could contribute to the groundwater



overdraft situation in North County. Compliance with the following mitigation measures would reduce this potentially significant cumulative impacts BUT not to a level of insignificance (Reference 24). Exh. B, p. 5 of 5

Mitigation Measure

35. The applicant shall pay the appropriate financial contribution in accordance with Ordinance 4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address ground water overdraft and water resources in the project area. The fees shall be paid prior to issuance of building permits.
36. Prior to filing the Final Map, the applicant shall record a deed restriction prohibiting any commercial agricultural uses on the property.

**COUNTY OF MONTEREY**  
**HEALTH DEPARTMENT****MEMORANDUM****ENVIRONMENTAL HEALTH DIVISION****October 10, 2000**

TO: Monterey County Planning Commission  
 FROM: Walter Wong, MPH, REHS Director of Environmental Health *WW*  
 SUBJECT: **Position regarding North County Water**

Title 19, the Subdivision Ordinance, currently designates the Health Department as lead agency with regard to proof of water and requires proof of water prior to an application being deemed complete. This code requires that the applicant provide hydrogeologic evidence of proof of an assured, long-term water supply in terms of sustained yield for all lots. The North County Land Use Plan policies dictate that new development be phased so that existing water supplies are not committed beyond their safe long-term yields. Further the plan states that *development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured.*

Accordingly, it is the position of the Environmental Health Division that it is *not* possible to support a finding of a long-term water supply for development in an area of significant, chronic overdraft. Further, it is not prudent to place additional citizens at risk by allowing residential development in an overdraft area even when the development demonstrates water savings over previous use.

Prior to recent changes (5/16/00) to Title 19, Subdivision Ordinance, proof of water for development was determined after a project was deemed complete but prior to circulation of an environmental document and a public hearing. Findings of a long-term sustainable water supply were proven to the satisfaction of the Planning Commission or the Director of Planning and Building Inspection. The Water Resources Agency was the lead agency in evaluating water demand and in determining the adequacy of existing regional hydrogeological information to demonstrate a long-term source of water for the development. The Health Officer was responsible for evaluating the development's water well with respect to getting the water out of the ground of adequate quality and quantities.

The 1996 Fugro Study concluded that four of the five North County Subbasins were in significant overdraft. Monterey County Water Resources Agency recommended approval of projects based on a mitigation of \$1000 dollar per lot to fund a Comprehensive Water Management Plan.

Subdivision applications deemed complete prior to the effective date of Title 19 changes (6/16/00) were reviewed and processed in accordance with the old process. As such, a recommendation of approval by staff was accomplished under the provisions of the old ordinance. Because these projects were deemed complete under the old ordinance the Environmental Health Division cannot require additional information of the applicant at this point in time, however the hearing body may not be precluded from requiring any additional reports it deems necessary to make a finding regarding a long-term, sustainable water supply.

Cc: Jim Colangelo  
 Jerold Malkin

Post-it Fax Note	7671	Date	10/24/00	# of pages	1
To	Al Mulhall and	From	MO		
Co./Dept.		Cc.			
Phone #		Phone #	5045		
Fax #	424-7435	Fax #	5283		



FUGRO WEST, INC.

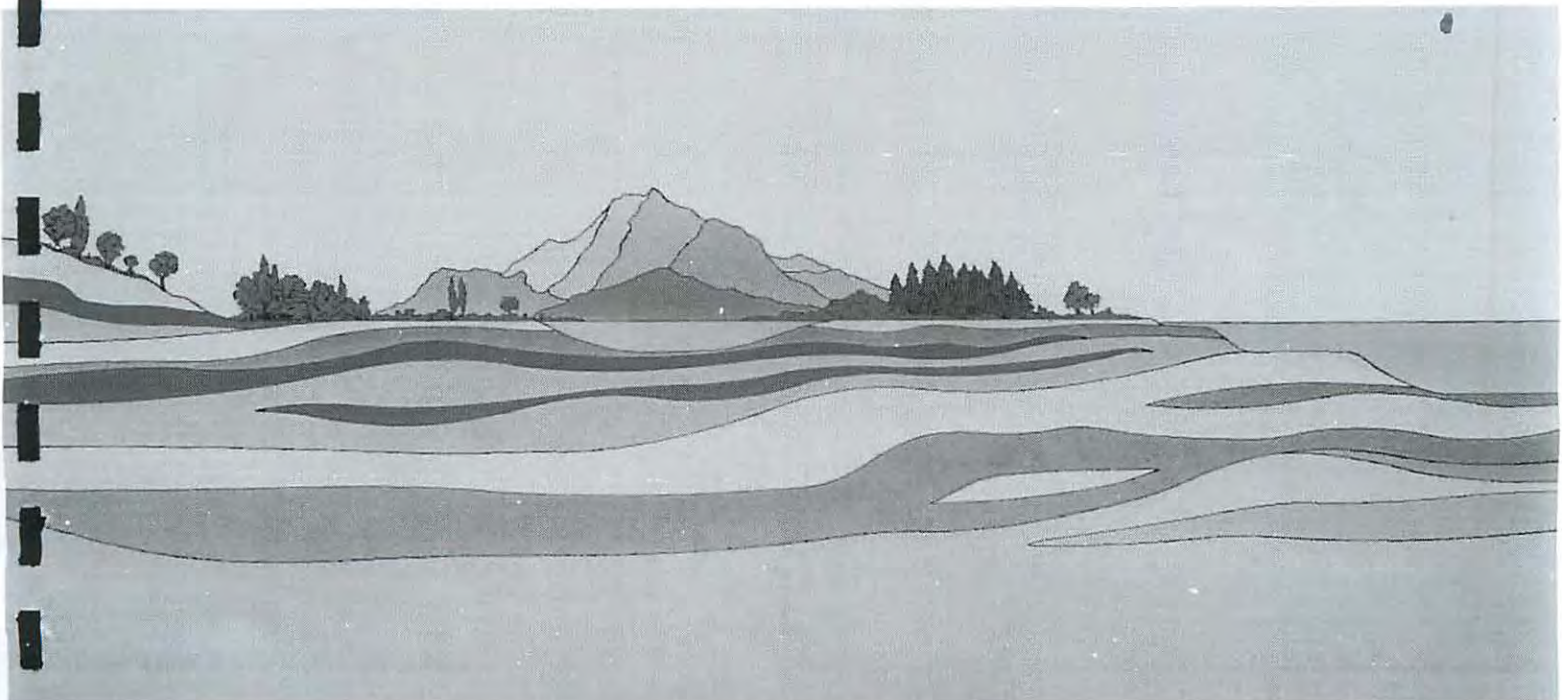


# **NORTH MONTEREY COUNTY HYDROGEOLOGIC STUDY**

## **Volume I Water Resources**

Prepared for:  
**MONTEREY COUNTY WATER RESOURCES AGENCY**

October 1995





Recharge in the study area is limited to the infiltration of rainfall, streamflow, and applied water. In the undeveloped areas, the annual infiltration of rainfall is estimated at between 0.9 and 1.8 inches and results in an average value of approximately 6,800 AF/Y. These values are consistent with the previous suggested values discussed above. In the developed areas, recharge is also derived from applied agricultural water and septic return flows and is estimated as an additional 6,780 AF/Y. This estimated return flow is a function of land use and will change if land uses are converted to uses with differing consumptive uses. With the exception of the Pajaro subarea, stream recharge is not a significant component of recharge to any of the subareas. In the Pajaro subarea, infiltration from the Pajaro River is the major component of recharge and is estimated at 4,254 AF/Y.

**Sustainable Yield.** Utilizing the model results, MW developed estimates of the sustainable yield of the study area and various subareas were developed. Sustainable yield is defined as the amount of annual pumping not causing additional ground water declines from 1992 conditions and/or not causing additional seawater intrusion. These estimates are presented in Table 11 - Sustainable Yield.

**Table 11. Sustainable Yield**

Subarea	Historical Pumping (AF/Y)	Sustainable Yield (AF/Y)	Difference (AF/Y)	Percent Reduction
Highlands South	5,020	4,390	-630	13
Granite Ridge	610	610	0	0
Highlands North	4,780	2,920	-1,860	39
Pajaro	9,030	6,490	-2,540	28
Springfield	6,670	0	-6,670	100
Totals:	26,110	14,410	-11,700	45

The estimates above show that to achieve sustainable yield, significant reductions in pumping will need to occur in all of the subareas with the exception of the Granite Ridge subarea. The required reductions range from no reduction in the Granite Ridge subarea to complete cessation of agricultural pumpage in the Springfield subarea. The cessation of agricultural extractions in Springfield is required because, although recharge does occur, water levels needs to rise above sea level in order to avoid further seawater intrusion. It is assumed that minor pumpage for domestic supply will continue. The complete cessation in agricultural pumpage in Springfield is consistent with the recommendations of the Pajaro Valley Water Management Agency Basin Management Plan (MW, 1993). No expansion of pumpage can occur in the Granite Ridge subarea, as it is estimated to be at sustainable yield.





**BOARD OF SUPERVISORS OF THE  
MONTEREY COUNTY WATER RESOURCES AGENCY**

<b>MEETING:</b> December 9, 2003	<b>AGENDA NO.:</b>
<b>SUBJECT:</b> Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.	
<b>DEPARTMENT:</b> Water Resources Agency	

**RECOMMENDATION:**

It is recommended that the Board of Supervisors of the Monterey County Water Resources Agency (Agency) take the following actions:

Receive report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.

**SUMMARY:**

The Salinas Highlands Area (also known as Highlands South and Granite Ridge subareas of the North County Hydrogeologic Area) was included in the formation of the Agency Zone 2C due to its hydrogeologic connection with the Salinas Valley Ground Water Basin (Basin). Runoff and percolating ground water from this area become part of the overall supply of ground water within the Basin and are positively impacted by the existing operation of the Nacimiento and San Antonio Reservoirs and the proposed Salinas Valley Water Project (SVWP).

The implications are that the Salinas Highlands area will have a long-term water supply for the future. Even though the hydrologic analysis that defines the formation of the Agency Zone 2C indicates the entire Basin will be balanced with the implementation of the SVWP, **it is likely that additional focused projects will be necessary in the future to solve specific localized water supply issues.**

**DISCUSSION:**

In today's California post-Proposition 218 legislative setting, if the County, or County Department wishes to build a project, it is first necessary to determine which parcels of land would benefit from the proposed project. If a parcel were to receive benefit from the proposed project, it would then be charged with a proportional amount of the project's cost that is commensurate to the amount of benefit received from the proposed project. The project may move forward only if the project is approved by a popular vote weighted by the same proportion of benefit.

During the development of the SVWP and Proposition 218 process, a review of the Basin geology and hydrology was necessary to evaluate the amount of special benefit received by parcels overlying the Basin. This review of the geology and hydrology of the Basin verified that the Highlands South and portions of the Granite Ridge subareas were in hydrologic connection with the Basin. As part of



a previous analysis (Agency Historic Benefits Analysis – 1997), this area was shown to receive benefit from years of reservoir operation.

The benefit comes from the alluvial soils in the Salinas Highlands area that are in connection with the soils in the East Side and Pressure subareas of the Basin; in short, water that runs off or percolates into the soil moves from the Salinas Highlands area towards the Basin. As the operation of the SVWP increases the ground water table in the East Side and Pressure subareas, there will be less of a gradient for water to move from the Salinas Highlands area to the Basin, thus allowing more water to remain in storage in the Salinas Highlands area.


It will take time to build up storage in the Basin. **Implementation of the SVWP will not immediately solve all water supply issues of the Salinas Highlands area.** During this time, the Agency is committed to the planning of additional follow-on projects that will springboard from the foundation developed from the SVWP. Localized projects that will augment natural supplies will facilitate improved water supply option for the North County area. **Until such a time, it is recommended that growth should not be intensified.**

The Agency is currently searching for additional resources to plan follow-on projects for increased water supplies in Monterey County. The Agency is initiating work on a "Monterey County Integrated Water Management Plan" that will provide a regional planning tool for water management into the future. This plan will provide the forum necessary to propose, evaluate, and coordinate water supply project options for the future.

#### OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this report as to form

#### FINANCING:



Curtis V. Weeks  
General Manager

12/2/03

Date

Attachments:

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

Receive report describing the formation of the )  
Monterey County Water Resources Agency )  
Zone 2C and its impacts on long-term water )  
supply for the Salinas Highlands Area of )  
North County .....)

Upon motion of Supervisor Johnsen, seconded by Supervisor Calcagno, and unanimously carried, the Board hereby:

Receives report describing the formation of the Monterey County Water Resources Agency Zone 2C and its impacts on long-term water supply for the Salinas Highlands Area of North County.

PASSED AND ADOPTED on this 9<sup>th</sup> day of December, 2003, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Lindley, Johnsen, Potter

NOES: None

ABSENT: None

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 71, on Tuesday, December 9, 2003.

DATED: December 22, 2003

SALLY R. REED, Clerk of the Board of Supervisors,  
County of Monterey, State of California

By: *Anna D. Anderson*  
Deputy

**Chuck Allen Commercial**

## Agricultural, Industrial, and Commercial Real Estate

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Mobile:  
**831-818-1069**  
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**831-761-8543**

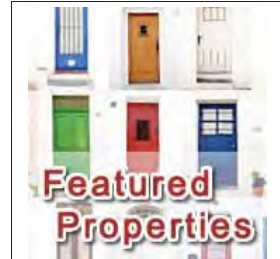
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I have been a full time real estate sales, development, and management professional since 1969. My knowledge and experience spans the Industrial, Agricultural, Commercial, and Hospitality industries.

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2012 Wall Street Journal Top 200 Real Estate Producers in the US.  
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Career Accomplishments:  
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President/ Co-owner Landark Real Estate Company (1983-2009)  
Co-owner Watsonville Red Roof Inn (1999-2009)  
President/ Co-owner Key Realty Inc. (1973-1983)  
Land Specialist/ Floor Trader, National Real Estate Exchange, Inc. (1969-1973)  
BS Agricultural Business Management, Cal Poly, San Luis Obispo

Board and Association Service:  
Watsonville Food Processor's Association (10 years)  
Accor Hospitality Corporation, National Advisory Board (7 years)  
Ca. Regional Water Quality Control Board, Region 3 (17 years)  
Santa Cruz County Visitor Convention Council (4 years)  
Salvation Army Advisory Board (22 years)  
Pajaro Valley Rescue Mission, Director  
Teen Challenge Monterey Bay, Director

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**STATE OF CALIFORNIA**  
**CERTIFICATE OF LIMITED PARTNERSHIP—FORM LP-1**  
**IMPORTANT—Read instructions on back before completing this form**

This Certificate is presented for filing pursuant to Chapter 3, Article 2, Section 15621, California Corporations Code.

<b>1. NAME OF LIMITED PARTNERSHIP</b> <b>HERITAGE/WESTERN COMMUNITIES LTD.</b>			
<b>2. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE</b> 44 Brennan Street		<b>3. CITY AND STATE</b> Watsonville, CA	<b>4. ZIP CODE</b> 95076
<b>5. STREET ADDRESS OF CALIFORNIA OFFICE IF EXECUTIVE OFFICE IN ANOTHER STATE</b>		<b>6. CITY</b> CALIF.	<b>7. ZIP CODE</b>

**8. COMPLETE IF LIMITED PARTNERSHIP WAS FORMED PRIOR TO JULY 1, 1984 AND IS IN EXISTENCE ON DATE THIS CERTIFICATE IS EXECUTED.**  
 THE ORIGINAL LIMITED PARTNERSHIP CERTIFICATE WAS RECORDED ON 7/26 19 83 WITH THE  
 RECORDER OF Monterey COUNTY. FILE OR RECORDATION NUMBER G 32627

**9. NAMES AND ADDRESSES OF ALL GENERAL PARTNERS: (CONTINUE ON SECOND PAGE, IF NECESSARY)**  
 NAME: **HERITAGE DEVELOPMENT CORPORATION**  
 ADDRESS: 44 Brennan Street  
 CITY: Watsonville STATE CA ZIP CODE 95076

**9A.**  
 NAME:  
 ADDRESS:  
 CITY: STATE ZIP CODE

**9B.**  
 NAME:  
 ADDRESS:  
 CITY: STATE ZIP CODE

**10. NAME AND ADDRESS OF AGENT FOR SERVICE OF PROCESS**  
 NAME: Scott L. Johnson  
 ADDRESS: 44 Brennan Street  
 CITY: Watsonville STATE CA ZIP CODE 95076

**11. TERM FOR WHICH THIS PARTNERSHIP IS TO EXIST**  
 Until 12/31/2013

**12. FOR THE PURPOSE OF FILING AMENDMENTS, DISSOLUTION AND CANCELLATION CERTIFICATES PERTAINING TO THIS CERTIFICATE, THE**  
 ACKNOWLEDGMENT OF ☒ GENERAL PARTNERS IS REQUIRED.

**13. ANY OTHER MATTERS THE GENERAL PARTNERS DESIRE TO INCLUDE IN THIS CERTIFICATE MAY BE NOTED ON SEPARATE PAGES AND BY**  
 REFERENCE HEREIN IS A PART OF THIS CERTIFICATE. NUMBER OF PAGES ATTACHED ☐ This Partnership has not  
 elected to be governed by the new law.

**14. IT IS HEREBY DECLARED THAT I AM (WE ARE) THE PERSON(S) WHO EXECUTED THIS CERTIFICATE OF LIMITED PARTNERSHIP, WHICH EXECUTION IS MY (OUR) ACT AND DEED (SEE INSTRUCTIONS)**  
**HERITAGE DEVELOPMENT CORPORATION**  
*Charles B. Allen*  
 by Charles B. Allen President

SIGNATURE OF GENERAL PARTNER	DATE	SIGNATURE OF GENERAL PARTNER	DATE
SIGNATURE OF GENERAL PARTNER	DATE	SIGNATURE OF GENERAL PARTNER	DATE
SIGNATURE OF OTHER THAN GENERAL PARTNER	DATE	TITLE OR DESIGNATION	DATE

**15. THIS SPACE FOR FILING OFFICER USE (FILE NUMBER, DATE OF FILING)**  
 8422700219  
**FILED**  
 In the office of the Secretary of State  
 of the State of California  
 AUG 14 1984  
*March Fong Eu*  
 MARCH FONG EU  
 SECRETARY OF STATE

**16. RETURN ACKNOWLEDGMENT TO:**  
 NAME  
 ADDRESS  
 CITY AND STATE  
 ZIP CODE  
 HERITAGE DEVELOPMENT CORPORATION  
 44 Brennan Street  
 Watsonville, CA 95076

FORM LP-1—FILING FEE \$70  
 Approved by the Secretary of State *JCA*



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

In the matter of the application of:

**Jehovah Witnesses South Spanish Congregation  
(PLN080185/ZA006672)**

**Resolution No.: 11-079**

1. Adopt Resolution declaring: )
  - a. The stay of the Board's March )  
23, 2010 decision has expired, )  
thereby making final the March )  
23, 2010 decision to grant the )  
appeal by Marjorie Kay and )  
deny the application for a )  
Coastal Development Permit )  
(PLN080185/Jehovah )  
Witnesses South Spanish )  
Congregation); )
  - b. The findings and evidence are )  
adopted, memorializing the )  
Board's decision of March 23, )  
2010..... )
- (Appeal – PLN080185/Jehovah Witnesses )  
South Spanish Congregation) )

WHEREAS, an application consisting of a Coastal Development Permit (PLN080185 (ZA06672)/Spanish Congregation) for a Tentative Parcel Map (Minor Subdivision) to subdivide 20 acres into four parcels of 3 acres, 3 acres, 3 acres and 11 acres ("Project") was approved by the Minor Subdivision Committee on January 31, 2008.

WHEREAS, Marjorie Kay timely appealed from the January 31, 2008 Minor Subdivision Committee approval.

WHEREAS, the appeal and application came on for public hearing at the Board of Supervisors on April 22, May 6, May 13, July 8, August 19, September 9, September 30, October 14, October 28, and November 18, 2008, and January 27, March 17, March 24, 2009, and March 23, 2010.

WHEREAS, on March 23, 2010, the Board considered a draft resolution, containing proposed findings and evidence upholding the appeal and denying the Coastal Development Permit (Exhibit B to the March 23, 2010 staff report).

WHEREAS, on March 23, 2010, the Board directed a revision to Finding #5 to add, "The first phase of new development shall be limited to a level not exceeding 50% of the remaining buildout as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies". (Additional wording is underlined in Finding #5, attached hereto).



S-2

WHEREAS, the findings and evidence considered and modified by the Board on March 23, 2010 are attached hereto as Attachment 1.

WHEREAS, on March 23, 2010, on the basis of those findings and evidence, the Board made the following decision:

- a. Granted the appeal by Marjorie Kay from the Minor Subdivision Committee's adoption of a Mitigated Negative Declaration and approval of a Coastal Development Permit PLN080185 (ZA06672/Jehovah Witnesses South Spanish Congregation);
- b. Denied Coastal Development Permit (PLN080185/Jehovah Witnesses South Spanish Congregation) consisting of a Tentative Parcel Map creating four parcels of 3 acres, 3 acres, 3 acres, and 11 acres; and
- c. Appeal to be held in stay for one year until the Coastal Commission hears and makes a ruling; if the Coastal Commission does not make a ruling on the other projects, this project will be placed on the list and this appeal takes effect.

WHEREAS, the Coastal Commission did not make a ruling on the other projects within the one year period from March 23, 2010.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors declares:

1. The stay of the Board's March 23, 2010 decision has expired, thereby making final the March 23, 2010 decision to grant the appeal by Marjorie Kay and deny the application for a Coastal Development Permit (PLN080185/Jehovah Witnesses South Spanish Congregation);

2. The findings and evidence set forth in Attachment 1, attached hereto, are adopted, memorializing the Board's decision of March 23, 2010.

PASSED AND ADOPTED on this 29th day of March, 2011, upon the motion of Supervisor Calcagno, seconded by Supervisor Potter, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on March 29, 2011.

Dated: March 30, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy

Pursuant to section 1094.6(f) of the California Code of Civil Procedure, notice is hereby provided that the time within which judicial review must be sought of this decision is governed by section 1094.6 of the California Code of Civil Procedure.



## Attachment 1 to EXHIBIT A

## I. FINDINGS

1. **FINDING: CONSISTENCY** – The Project (PLN080185/ZA006672, Jehovah Witnesses South Spanish Congregation) conforms to the policies, requirements, and standards of the Monterey County General Plan and zoning (Coastal Implementation Plan, Part 1(Title 20)), but it does not conform to the policies, requirements and standards of the North County Land Use Plan or Coastal Implementation Plan (Part 2).

**EVIDENCE:**

- (a) The application consists of a Coastal Development Permit for a Tentative Parcel Map (Minor Subdivision) to subdivide 20 acres into four parcels of 3 acres, 3 acres, 3 acres and 11 acres ("Project").
- (b) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. Conflicts were found to exist.
- (c) The project is located at 125 Sill Road (Kinghall Road) (Assessor's Parcel Number 412-071-003-000), Las Lomas, North County Area, Coastal Zone. The total project area consists of one 20-acre parcel with an existing church facility. Access is provided by a 60-foot wide access.
- (d) The 60 foot wide access way that would serve the parcel is zoned Medium Density Residential with a density of 4 units per acre (MDR/4). The remaining 19-plus acres is zoned Rural Density Residential with a minimum of five acres per unit (RDR/5) which could allow up to four units on the property. (MCC Title 20) The land use designation in the North County Land Use Plan allows for residential uses in this area and density is the amount of units allowed on the property. Therefore, the proposed project is consistent with respect to Land Use/Density.
- (e) The project is located within the Las Lomas community and is identified in the North County Land Use Plan (NCLUP) as a preferred area for development growth (*Finding 2*). However, **Policy 2.5.1 NCLUP states that the water quality of the North County groundwater aquifers shall be protected, and "new development shall be controlled to a level that can be served by identifiable, available, long term water supplies."** Policy 2.5.2.3 states, **"Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured."** The Board finds that the project is not consistent with these policies (*see Finding 5*).
- (f) **The project is not consistent with the County's Coastal Subdivision Ordinance (Section 19.07.020.K of Title 19 (coastal) of the Monterey County Code) (See Finding 6).**
- (g) The project planner conducted a site inspection on July 11, 2007 to verify that the project on the subject parcel conforms in relation to density to the plans listed above.
- (h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File ZA06672 and PLN080185.

2. **FINDING: SITE SUITABILITY** – The site is not physically suitable for the use proposed.



**EVIDENCE:**

- (a) Although the site is physically suitable in some respects for the use proposed, the site is not physically suitable due to the Project's intensification of water use in a groundwater basin where existing water use has exceeded the safe yield.
- (b) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency.
- (c) The project would be serviced by California Water Service who has issued a "can and will serve" letter. The California Water Service Company (Cal Water) is the designated water supplier that provides potable water to the existing Las Lomas area; however, its wells are located in the overdrafted Pajaro groundwater basin. The Pajaro Valley Water Management Agency (PVWMA) does not have a foreseeable project or program to balance the Pajaro groundwater basin. This Project would result in an increase in water demand of approximately 2.4 af/year, absent reductions based on xeriscape landscaping, low flow fixtures, and applicant's proposed stormwater retention system. The applicant's stormwater retention system cannot be reliably depended upon to reduce net water demand to zero, for the reasons explained below. (See Finding #5). Therefore, the Project would impact the overdrafted Pajaro groundwater basin.
- (d) Pursuant to Monterey County Code 15.20, the applicant would be required to hook up to Pajaro County Sanitation District #382 to provide sewage disposal for future development of each of the three lots and conversion of the existing church. The District has noted that connection is based on a first come-first serve basis. Currently there is enough capacity within the system to annex the proposed project.
- (e) Technical reports by outside archaeological, traffic, and geologic consultants indicated that there are no other environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following reports have been prepared:
  - i. "Preliminary Archaeological Reconnaissance" prepared by Archaeological Consulting, Salinas, CA, dated December 15, 1997.
  - ii. "Sill Road Minor Subdivision Traffic Analysis" prepared by Higgins Associates, Gilroy, CA, dated August 1, 2005.
  - iii. "Renteria/Sill Road Properties 8 lot subdivision" prepared by Engineering Consulting Services, Santa Cruz, CA, dated May 26, 1998.
  - iv. "Preliminary Geologic Study" prepared by Earth Systems Consultants, Hollister, CA, dated January 24, 1998.
  - v. "Geotechnical and Percolation Investigation" prepared by Soil Surveys, Inc., dated February 15, 1999.
- (f) Technical reports by outside hydro-geologic consultants were prepared addressing water supply and improvements to offset the intensification of use. The Board finds that these reports indicate that the site has water supply constraints such that the site is not physically suitable for the proposed subdivision. The following reports have been prepared:
  - i. "Project Specific Hydrogeologic Report" prepared by Geomatrix Consultants, Fresno, CA, dated August 26, 2003.



S-2

ii. November 17, 2008 letter from Tunstall Engineering Consultants, Inc. re: summary of water balance offsets.

- (g) Staff conducted a site inspection on July 11, 2007.
- (h) Materials in Project File ZA06672 and PLN080185.

3. **FINDING: CEQA (Exempt):** The project is statutorily exempt from environmental review because the County is denying the application.

**EVIDENCE:**

- (a) The Monterey County Planning Department prepared an Initial Study pursuant to CEQA. A draft mitigated negative declaration (MND) was circulated for public review from November 9, 2007 to December 9, 2007. The Minor Subdivision Committee adopted the MND. The appeal from the Committee's decision stays the proceedings and effective date of the decision until the appeal is resolved by the Board of Supervisors (MCC, Section 20.86.090).
- (b) An Errata to the MND was prepared to address applicant's water offset proposal, and was attached to staff's December 16, 2008 report to the Board. The Board finds that the offset program proposed by the applicant cannot be reliably depended upon to reduce net water demand of the project to zero. (See Finding 5).
- (c) A project that will be disapproved by the lead agency is statutorily exempt from CEQA. (Public Resources Code Section 21080(b) (5); CEQA Guidelines Section 15061(b)(4)). The project is exempt from CEQA because the County is disapproving the project. Granting the appeal nullifies the Minor Subdivision Committee's adoption of the Mitigated Negative Declaration that was prepared on the project. The Board cannot find that there is no substantial evidence that the project, as designed, could potentially have a significant effect on the environment, and therefore declines to adopt the Mitigated Negative Declaration.

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

**EVIDENCE:** Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

5. **FINDING: WATER SUPPLY -** The project would generate water demand exceeding the safe yield of the groundwater basin and is not consistent with managing development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

**EVIDENCE:**

- (a) Policy 2.5.3.A.2 of the North County Land Use Plan (NCLUP) states that "the County's long term policy shall be to limit ground water use to the safe yield level. The first phase of new development shall be limited to a level

not exceeding 50% of the remaining buildout as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural



water supplies". The policy establishes a safe-yield build out limit cap at 50% of the potential build out for the North County coastal planning area. Chapter 20.144, Coastal Implementation Plan, Part 4, states, "A total of 2,043 new lots or units may be created after certification of the NCLUP in June, 1982. Between the time of NCLUP certification (June, 1982) and Coastal Implementation Plan preparation (July, 1987), a total of 168 lots were approved and a total of 119 final building permits were issued. As well, there were a total of 405 vacant residential parcels as of July, 1987. (These figures were calculated through use of County Planning Department and Assessor computer records). Subtracting these figures from the 2,043 new lots or units provided the remaining build-out that may be permitted after county assumption of coastal development permitting authority, exclusive of one single family dwelling on a vacant lot of record. That remaining build-out figure is 1,351 new lots or units. This figure includes senior citizen units, caretaker units, multiple family dwelling, employee housing, and lots created through subdivision approved after County assumption of permitting authority, but excludes development of a single family dwelling on a vacant lot of record." To date, County records show that since the Local Coastal Program (LCP) was adopted, 1,233 units/lots have been added, and thus, the County is now 118 units/lots below this cap with the project. The project is consistent with Policy 2.5.3.A.2 because it is within the potential build out limit established by the NCLUP Policy 2.5.3.A.2 as well as Policy 4.3.3 relating to the buildout. However, the project is not consistent with NCLUP Policy 2.5.2.3 which states, "New development shall be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured." The project is inconsistent with Policy 2.5.2.3 because the North County Highlands North sub-basin is in overdraft, the Pajaro Valley Water Management District (PVWMA) has no foreseeable solution or plan in place to bring the basin into balance, and the project will result in an intensification of water use in the basin.

- (b) The project is located in the Highlands North sub-basin. Based on the North Monterey County Hydrogeologic study, prepared by Fugro West, Inc. (October, 1995) this sub-basin has useable storage of 13,169 af/y, historical pumping of 4,780 af/y, and a sustainable yield of 2,920 af/y. In 1995, Highlands North was being over pumped by 1,860 af/y. The project is not located in Zone 2C, which is the area of benefit identified for the Salinas Valley Water Project. There is currently no identifiable new water source for the Highlands North sub-basin area, and the PVWMA has no foreseeable project in place to balance the Pajaro groundwater basin.. The Board does not support a project creating increased water demand in an overdrafted groundwater basin with no reliable new water source identified.
- (c) Policy 2.5.1 of the North County Land Use Plan establishes policies to protect the water quality of the North County aquifers, and provides that

new development "shall be controlled to a level that can be served by identifiable, available long term water supplies." The proposed project is not consistent with this policy. The projected increase in water demand without xeriscape landscaping and low flow fixtures would be approximately 2.4 acre feet based on the North Monterey County Hydrogeologic study, prepared by Fugro West, Inc. and dated



October, 1995, which estimates the gross water demand for suburban residential (1-10 acre lots) at .8 acre feet per year (afy) per lot. The applicant estimates that proposed subdivision would result in an increased net water demand of 1.44 acre feet per year, absent the applicant's stormwater retention proposal, based on an assumed 40% reduction for xeriscape landscaping and installation of low flow fixtures. The 40% calculation relies on a California Coastal Commission decision on the Sunridge Views application, another subdivision in North Monterey County; however, the Coastal Commission cautioned that, given the uncertainty of success with the no-net water use approach and given that it does not address the overdraft problem, the approach afforded to Sunridge Views should not be used as a "global solution" to allowing more lots to be created in North Monterey County, and the Coastal Commission noted that North Monterey County is in an overdraft situation that must be resolved. Assuming some reduction for xeriscape landscaping and low flow fixtures but not relying on the 40% calculation, the subdivision's estimated water use would fall within the range of 1.44 and 2.4 afy, absent applicant's additional proposed stormwater retention system. **Although 1.44 af/y to 2.4 af/y is a minimal amount of water, it is an intensification of water use, and as such, the County finds that this project is inconsistent with controlling growth to a level that can be served by an identifiable, available, long-term water supply.**

- (d) Per the Board's direction, the applicant proposed a stormwater retention system in an effort to reduce net water demand to zero and to offset the estimated intensification of water use. Two offsets were proposed: 1) the use of captured storm water runoff for irrigation purposes, and 2) the routing of captured storm water runoff through leach field systems on each of the residential parcels in lieu of the sanitary sewer effluent commonly expected in rural areas. The first offset was proposed to directly decrease the amount of water used on the overall project by the amount of water used for irrigation of the landscaping on the church parcel and the three residential parcels. The second offset method was an effort to achieve the ground water recharge that would normally have resulted from the use of septic leach fields; because the project was proposed to be served by sewer, it would not achieve that ground water recharge without the proposed leach field system. The applicant contended that, as a result of the offsets, the project would result in a net water savings of 0.028 af/y. However, **the Board finds that actual effectiveness and reliability of the offset mechanisms are uncertain and the results are not predictable.**
- (e) **The effectiveness of the water offset proposal is dependent on a number of factors, including the amount of rainfall received, the effectiveness of the offset mechanisms, and the actual recharge to the aquifer. Recharge programs cannot enhance the overdraft situation.** To ensure effectiveness, the applicant would need the technical, managerial, and financial ("TMF")

capability to install, monitor, and maintain the system in perpetuity. An operations and maintenance plan, with a permanent revenue stream, would need to be in place. The Board finds that the organizational and operational requirements, complexity, and cost for permanent maintenance and monitoring are not feasible for this project, a four lot subdivision. The applicant's offset program requires one collective retention pond on the church lot, with that pond to supply water for landscaping to all four lots, while the individual lots would also be required to route impervious surface stormwater runoff into individual retention trenches on



S-2

individual lots. Three single family homeowners do not have the requisite TMF to implement, monitor, and maintain the proposed program in perpetuity, and the actual benefits cannot be calculated with certainty. Therefore, the Board finds that it cannot depend upon the water offset proposal to reduce the project's net water demand to net zero. In addition, the applicant's calculation of an estimated net water savings of .028 af/y begins with the assumption of an estimated water demand of 1.44 af/y, (the .028 savings is based on subtracting the projected savings produced by the stormwater retention system from the estimated water demand); however, as discussed above, the estimate of 1.44 af/y is itself dependent on an assumed 40% reduction from xeriscape landscaping and low flow fixtures. There are too many unknowns, both in the estimates of reduction of water demand and the estimates of benefit from the stormwater system, to conclude that the project will result in a net water savings. Materials in project file ZA06672 and PLN080185.

6. **FINDING: SUBDIVISION ORDINANCE (TITLE 19)** – Per Government Code Section 66474(part of the Subdivision Map Act) and Monterey County Code Section 19.04.025.E (Subdivision Coastal Ordinance), the tentative parcel map must be denied if one of seven findings for denial are made. The evidence supports the following findings for denial.

**EVIDENCE:**

- (a) The map and its design and improvements are not consistent with the North County Land Use Plan, and Coastal Implementation Plan (see *Findings 1 and 5*).
- (b) The site is not physically suitable for the type and density of development due to the lack of an assured, long-term water supply in terms of sustained yield. (See *Findings 2 and 5*).
- (c) The design and improvements are likely to cause substantial environmental damage because the project results in an intensification of water use in a sub-basin in overdraft and the applicant's proposed water offset program is not an effective or reliable means to reduce the net water demand of the project to zero. (see *Finding 5*)
- (d) The County's Coastal Subdivision Ordinance provides that "[n]o land shall be subdivided and developed for any purpose which is inconsistent with the Local Coastal Plan or any applicable specific plan of the County or which is not permitted by Title 19.1 and 20 (Zoning)." (Monterey County Code (MCC), section 19.01.015). The proposed subdivision is inconsistent with the North County Land Use Plan as described above. (See *Finding 5*.)
- (e) The County's Coastal Subdivision Ordinance further provides that "[t]he applicant shall provide proof of an assured, long-term water supply in terms of sustained yield and adequate quality for all lots which are proposed to be created through subdivision." (MCC, section 19.07.020.K.) The project is located in an area that is in overdraft (Highlands North sub-basin), and the project would result in a net increase in water demand of between 1.44 and 2.4 af/year. The applicant has not adequately proven a reliable, water offset program. (See *Finding 5*)
- (f) Application, plans and support materials, including technical reports in Project File ZA06672 and PLN080185.

**FINDINGS FOR THE APPEAL**



7. **FINDING:** The Minor Subdivision Committee conducted a public hearing on the application and adopted a Mitigated Negative Declaration and approved a Coastal Development Permit for a Tentative Parcel Map subdividing 20 acres creating four parcels of 3 acres, 3 acres, 3 acres and 11 acres project.

**EVIDENCE:**

- (a) The Minor Subdivision Committee conducted a duly noticed, full, fair, and impartial public hearing on the application on December 13, 2007 and January 31, 2008. All members of the public wishing to speak on the project were afforded the opportunity to speak and to submit written testimony.
- (b) Minutes and audio recording of Minor Subdivision Committee on December 13, 2007 and January 31, 2008.

8. **FINDING:** The appeal was timely filed pursuant to Chapter 20.86 of the Monterey County Code.  
**EVIDENCE:**

- (a) On February 29, 2008, Marjorie Kay filed an appeal from the January 31, 2008, decision of the Minor Subdivision Committee adopting the MND and approving a Coastal Development Permit for a Minor Subdivision of 20 acres creating four parcels of 3 acres, 3 acres, 3 acres and 11 acres.
- (b) Said appeal was filed with the Clerk of the Board of Supervisors within the 10-day time period prescribed by Monterey County Code Chapter 20.86.

9. **FINDING:** The Board of Supervisors has conducted duly noticed, timely, fair and impartial public hearings on the appeal.

**EVIDENCE:**

- (a) The hearing before the Board of Supervisors on the appeal is de novo. (MCC, section 20.86.070.) The appeal has the effect of staying the proceedings and the effective date of the decision of the Minor Subdivision Committee until the appeal is resolved by the Board of Supervisors and/or the California Coastal Commission. (MCC, section 20.86.090.)
- (b) Staff had originally scheduled the hearing on the appeal for April 29, 2008 but the hearing was bumped on the Board's schedule to April 22, 2008. The April 22, 2008 hearing was duly noticed. Notices of the hearing before the Board of Supervisors were published in the Monterey County Herald and the Pajaronian, and were also posted on and near the property and mailed to

property owners within 300 feet of the subject property. The public hearing before the Board began on April 22 and has been duly continued since that date to May 6, May 13, July 8, August 19, September 9, September 30, October 14, October 28, and November 18, 2008, and January 27, March 17, March 24, 2009 and March 23, 2010.

- (c) Because the April 22, 2008 date did not give staff sufficient time to prepare the staff report, staff requested a continuance to May 6, 2008. The appellant and applicant agreed to the May 6 continuance, effectively waiving the 60-day deadline for bringing the appeal to the Board of Supervisors for hearing. On April 22, 2008, the Board continued the hearing to May 6, 2008. On April 25, 2008, the applicant requested a continuance to May 13, and appellant did not object. At the May 6 hearing, the Board continued the hearing to May 13. On May 13, 2008, the Board held the first substantive public hearing on the project and directed staff to return in two months



with alternative solutions to reduce the net water demand for the project. On July 8, 2008, on return to the Board, the applicant requested a continuance of the hearing to August 19, and applicant subsequently requested continuances to September 9, 2008, September 30, 2008, and October 14, 2008 in order to gather information to develop their water offset proposal. On October 14, County staff requested and the Board granted a continuance to October 28, 2008 to enable staff to evaluate data recently received from the applicant related to the proposed water offset program. On October 28, staff outlined issues that remained unresolved regarding applicant's water offset proposal and recommended continuing the hearing to a date uncertain to allow time to resolve the questions; however, at applicant's request, the Board continued the hearing to November 18, 2008.

- (d) On November 12, 2008, the applicant requested a continuance to December 9 or 16. Due to appellant's unavailability on December 9, staff informed the applicant that the continuance date would have to be December 16. In an email to the applicant dated November 12, 2008, staff also informed the applicant that in order for staff on November 18 to support the December 16 continuance request, staff would need applicant's water offset plan by November 17 in time for staff to evaluate the information and prepare a timely staff report for a December 16 hearing date. While a second email from staff on November 12 stated "the project has been continued to December 16", attached to that email was the November 18 staff report which recommended that the Board continue the hearing to December 16.
- (e) On November 18, 2008, because staff had not received the information from the applicant that staff had requested to receive by November 17, staff recommended the Board continue the hearing to the first available date in January. The applicant and appellant were not present at the November 18, 2008 hearing. The Board continued the hearing to January 27, 2009. Staff then informed the applicant and appellant that the Board had continued the hearing to January 27, 2009.
- (f) On November 24, applicant stated that they had not agreed to a continuance beyond December 16, and requested staff to schedule and notice the next hearing on the project for December 16, 2008. Staff scheduled the hearing on the Board of Supervisors' December 16 agenda and attempted to provide public notice of it. Public notice of the December 16 hearing was posted at

the site and mailed to the list of property owners/residents within 300 feet of the property on Friday, December 5, 2008. On Friday, December 5, 2008, staff e-mailed the public hearing notice to the applicant, appellant and interested parties. The public hearing notice was not published in the Salinas Californian until Monday, December 8, 2008, one day short of the 10 day notification period. On December 11, 2008, the appellant informed the Planning Department that she had just returned home the previous night from a business trip, had just learned of the December 16 hearing date from staff's email and that she was not available on December 16. The appellant attended the December 16 hearing but objected based on lack of time to prepare because she received notice of the hearing belatedly. On December 16, the Board declined to reconsider its prior action to continue the hearing to January 27, 2009.

- (g) On December 19, 2008, applicants contended that the Board had forfeited its jurisdiction over the project, thereby lifting the stay of the Minor Subdivision Committee's approval, because the Board did not render a decision by December 16, 2008. The Board does not agree. The project was not deemed approved by operation



of law. Applicants waived any applicable time limit by agreeing to and asking for continuances. In addition, under state law and County regulations, the Board had discretion to continue the hearing. (Gov't Code sec. 65095; Monterey County Code sec. 20.86.070.B.) The Subdivision Map Act and the County's subdivision ordinance do not set a time limit on completion of hearings on subdivision proposals, and any time limits for decision on a tentative map are triggered only upon completion of the hearing. (Gov't Code sec. 66452.5(c)(2) and (d)(2); MCC sec. 19.01.050.C and D; see also January 22, 2009 letter from the Office of County Counsel to John Bridges, on file with the Planning Department.) The Board had not completed its hearing on the project prior to December 16, 2008, so the time limits in the Map Act for action on the tentative map do not apply. The Board acted well within its discretion when it chose not to act on the application until the Board was able to consider all of the relevant information and appellant had a full opportunity to appear and be heard. Moreover, the deficiencies in the notice for the December 16 hearing could have rendered any Board decision on the project legally invalid.

- (h) The Board held the continued hearing on the project on January 27, 2009, at which time the applicant's water offset program was presented and the Board considered the project with that information. The Board adopted a motion of intent to grant the appeal and deny the project and continued the hearing to March 17, 2009 to enable staff to prepare a resolution with findings and evidence consistent with the motion of intent.
- (i) On March 17, 2009, the Board continued the matter to March 24, 2009 when all Board members would be present.
- (j) The Board held the continued hearing on the project on March 24, 2009, at which time the Board questioned some findings and then voted to grant a one-year continuance in order for applicants to pursue solutions to water recharge options; however, the Board reiterated an intent to deny the project on March 23, 2010, unless an acceptable solution to the water issues affecting the project was identified and proposed by the applicants, or unless additional time was granted by the Board of Supervisors.
- (k) The Board of Supervisors conducted a duly noticed, full, fair, and impartial public hearing on the application and related approvals on March 23, 2010. Notices of the hearing before the Board of Supervisors were published in the Monterey County Herald and the Salinas Californian and were also posted on and near the property and mailed to property owners within 300 feet of the subject property.
- (l) Minutes, recording of the Board of Supervisors from the aforelisted meeting dates; staff reports and Board orders from the aforelisted hearing dates; Planning Department files on the project ZA06672 and PLN080185.

10. **FINDING:** The Board of Supervisors has reviewed, evaluated, and considered the appeal and responds as follows:

**Appellants' Contention 1:**

*The findings or decisions or conditions are not supported by the evidence; specifically, Finding 5, Evidence c and d. QUESTION: When does an insignificant impact become a significant impact when the groundwater aquifer has been documented in overdraft for decades?*

S-2

***STAFF RESPONSE:***

For all of the reasons set forth above, the Board finds that this project, as proposed and designed, would result in an intensification of water use and therefore would generate water demand exceeding the safe yield of the groundwater basin and not be consistent with managing development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption. Therefore, the Board finds that the appeal has merit.



**WATER RESOURCES AGENCY****MEMORANDUM****Monterey County****DATE:** August 16, 2007**TO:** Mary Anne Dennis (MCDEH)**FROM:** Howard Franklin/Peter Kwiek**SUBJECT:** Heritage Oaks Draft Revised Hydrogeologic Assessment (Revised)

The Agency has reviewed the draft report "Revised Hydrogeologic Assessment of the Proposed Heritage Oaks Subdivision," Aromas, Monterey County, California, Kleinfelder, Inc. (consultant), July 27, 2007. The proposed project would subdivide a 79.47-acre property into 32 parcels for 31 single-family residences and four apartments. The project is located within the Highlands North Hydrogeologic Subarea of North Monterey County (Highlands North), an area in chronic overdraft, for which a long-term sustainable water supply currently does not exist. Our review concludes that the consultant has acknowledged this lack of a sustainable water supply. Additionally, more data are needed to determine the viability of a proposed storm water runoff retention system.

Water Balance & Supply

The Agency assumes that water supplied for the proposed subdivision would involve increased extractions from wells within Highlands North, a hydrogeologic subarea that continues to experience chronic overdraft, with water demand far exceeding available supplies (Fugro, 1995). To date no long-term sustainable water supply exists within the subarea. As in the previous report (Heritage Oaks Hydrogeologic Assessment, May, 2006) the consultant highlights this problem with area groundwater hydrographs showing long-term water level declines.

Given these hydrogeologic constraints, the project applicant proposes that annual net demand estimates (based on the permanent requirement that no pasture, crops or other irrigation-intensive use be made of the acreage surrounding the proposed development) will be balanced in perpetuity by the capture, retention and recharge of storm water runoff from the project's planned impervious improvements. However, as noted by the consultant, no infiltration design or maintenance plans are available for evaluation. Moreover, the consultant's contention that shallow groundwater observed in on-site boring data may be perched on impermeable lenses is corroborated by the widespread occurrence of shallow clay layers logged in lithologic data from nearby wells. These observations raise uncertainties as to the viability of on-site aquifer-of-extraction recharge. We therefore concur with the consultant's recommendation that site specific percolation

studies be conducted to determine whether or not infiltration of storm water runoff is possible and if so, at what specific locations. Once such tests are conducted, engineering details of proposed infiltration facilities, including design storm parameters and calculations, should be included in a revised hydrogeologic report so that recharge viability may be evaluated.

#### Water Quality

The consultant points out that infiltrated captured storm water runoff could introduce contaminants to the source aquifer. The Agency agrees with the Consultant's recommendation that, should the development proceed as planned, water quality be monitored and, if necessary, pre-percolation treatment of storm water runoff be required. Moreover, if the proposed retention strategy ultimately proves to be viable, the Agency recommends construction of a dedicated monitoring well to track post-development changes in water levels and quality.

#### Conclusions

1. The Agency agrees with the consultant that a long term sustainable water supply does not exist due to the regional hydrogeologic imbalance within the Highlands North Subarea.
2. More geologic and drainage engineering data are needed, as specified above, to determine if the applicant's design of the retention-recharge facilities will perform as assumed. In the absence of supporting data, impervious surface recharge values presented in the subject report could not be verified.
3. As acknowledged by the consultant, *"possible future uses of the property including small orchards, landscaping, and animal husbandry, gross water use could be over 2 acre-feet annually for each unit"* the scenario upon which the applicants water balance is based assumes limited, fixed (in perpetuity) demand values.



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

**Resolution No: 10 – 240**

Resolution by the Monterey County Board of Supervisors denying an appeal from the )  
Planning Commission denial of an application for a Combined Development Permit )  
consisting of a Standard Subdivision to divide approximately 79 acres into 32 parcels )  
ranging in size from 1.0 acres to 15.91 acres, including one lot (Lot 32) with four )  
inclusionary rental units; Use Permit for removal of approximately 367 protected oak )  
trees (271 for roads and up to 96 on the individual lots); Use Permit for four )  
inclusionary rental units; and grading (approximately 5,100 cubic yards cut and 5,100 )  
cubic yards fill). )  
(PLN980503/Heritage Oaks) )

The appeal by Wayne Holman for Heritage Oaks LLC from the Planning Commission's denial of the Heritage Oaks application (PLN980503) came on for public hearing before the Monterey County Board of Supervisors on December 8, 2009, March 2, 2010, April 20, 2010, June 15, 2010 and July 27, 2010. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The project, as conditioned, is inconsistent with some of the applicable plans and policies.
- EVIDENCE:** a) The project has been reviewed for consistency with the text, policies, and regulations in the Monterey County General Plan, as amended, North County Area Plan, as amended; North County Area Plan Inventory and Analysis; Monterey County Subdivision Ordinance (Title 19); Monterey County Code Section 18.50; Monterey County Code Section 18.51, and the Monterey County Zoning Ordinance (Title 21). Conflicts were found to exist as set forth below.
- b) The project consists of the subdivision of two parcels totaling 79.5 acres into 32 lots with 31 single family homes and 4 inclusionary (apartment) units. The project site is located between San Juan Road and Rea Avenue in the Aromas area (APN: 267-123-031-000 and 267-051-014-000). The General Plan Land Use Map (Figure 13a) and the North County Area Plan designate the site for "Residential - Low Density, 5-1 acres per unit. Consistent with the land use plan designations, the Monterey County Zoning Ordinance designates the project site as "LDR/2.5" or Low-Density Residential, 2.5 acres per unit. The lots range in size from 1.0 to 15.9 acres, for an average density of 2.27 acres per dwelling unit. As part of the application, the applicant requested a density bonus pursuant to Government Code Section 65915 (State Density Bonus Law) which requires that the



County provide a density bonus for qualified projects. Government Code Section 65915(g) defines density bonus as "...a density increase over the otherwise maximum allowable residential under the applicable zoning ordinance and land use element of the general plan as of the date of application to the city, county, or city and county." This project proposes to provide four low income rental units on the site (i.e., 11% of the total units) or a 21.5% density bonus. This project qualifies for the density bonus by providing four low income rental units on the site. The project would be allowed up to a total of 31.8 units without a density bonus and 38.6 units with a density bonus.

c) The proposed project is inconsistent with the following General Plan goals, objectives and policies:

- **Goal 53 (Water Service) - To promote adequate water service for all county needs.**
- **Objective 53.1 - Achieve a sustained level of adequate water services.**
- **Policy 53.1.3 - The County shall not allow water consuming development in areas which do not have proven adequate water supplies.**

d) The project would receive potable water from the Aromas Water District (AWD) via groundwater sources as confirmed in a "can and will serve" letter dated July 25, 2006. The project does not have proven adequate water supplies because the area in which the Aromas Water District's wells are located is in a state of overdraft. In addition, although the AWD currently has capacity to provide water for the project, that capacity may be needed for homes that are already built and whose wells are going dry and other homes where the well production has decreased. Recently, private wells have gone dry in North County, particularly along Oak Ridge Drive and Via Del Sol. Consideration has been given to expanding the jurisdiction of the Aromas Water District in order to provide water service to these areas. Because the Highlands North Subarea currently lacks a sustained level of adequate water supply and would remain in this condition with project implementation, and because the Pajaro Valley Water Management Agency no longer has a reasonably foreseeable funded program to provide additional water to the area, the proposed project is inconsistent with Goal 53, Objective 53.1 and related policies (see Finding 2.d.).

e) The following North County Area Plan policies apply to the proposed project:

- **Policy 6.1.4 - New development shall be phased until a safe, long-term yield of water supply can be demonstrated and maintained. Development levels that generate water demand exceeding safe yields of local aquifers shall only be allowed once additional water supplies are secured.**

The site lies within the north Monterey County hydrogeologic area known as the Pajaro Valley Groundwater Basin. Overdraft conditions in North County were identified by the North Monterey County Hydrogeologic Study, Volume 1 prepared by Fugro West, Inc., dated October 1995 (i.e., the Fugro Report), reiterated in the Revised Hydrogeologic Assessment prepared by Kleinfelder (i.e., Kleinfelder Report), and acknowledged by the Recirculated Draft EIR. The Fugro Report documents the chronic overdraft, falling water levels, seawater intrusion and excessive nitrate loadings in North Monterey County, including Highlands North. The report concludes that the study area is severely overdrafted, with annual groundwater extractions exceeding average annual recharge. Because the Highlands North Subarea currently lacks a sustained level of adequate water supply, and would remain in this condition with project implementation, the subdivision could cause serious public health problems in the long term.

The site lies within the Highlands North subbasin of the Pajaro Valley groundwater basin. According to the Fugro Report (page 79), there are 912,247 acre-feet of total ground water in storage in Highlands North. The total ground water in storage is defined as "*the volume of water existing within void space of the water bearing materials*" (Fugro Report, page 78). Based on this figure, there would be a water supply in Highlands North for 490 years. However, according to the Fugro Report (page 79), this volume can be misleading since the majority of this water is located below sea level. Alternatively, useable ground water in storage is defined as "*the volume of ground water above sea level*" (Fugro Report, page 79). The Fugro report indicates that historical pumping in the Highlands North subbasin exceeds the sustainable yield (i.e., "*the amount of annual pumping not causing additional groundwater declines from 1992 conditions and/or not causing additional seawater intrusion*") by 1,860 acre feet/year (Fugro Report, page 77). According to the Kleinfelder Report (page 39), increased rates of overdrafting the basin may increase the rate of seawater intrusion in the Highlands North area. Using the inland migration of seawater suggested in the Fugro (1995) study, the Kleinfelder Report found that groundwater in the vicinity of the Heritage Oaks site will be adversely affected by saline influence in the future. Based on the Fugro Report, the seawater front appears to have been moving at about ½ mile per year between 1979 and 1993. At this estimated rate, deterioration of groundwater could be expected now or in the near future in the vicinity of the Heritage Oaks property.

In a letter dated September 6, 2005, the Planning Department informed the applicant that the Water Resources Agency had "*determined that there might not be a long-term sustainable use of water for the Heritage Oaks Subdivision.*" This was based on the



Pajaro Valley Water Management Agency's (PVWMD) inability to secure an additional source of water for the area. The letter also states that "*can and will serve*" letter from the Aromas Water District means that the District, located within the PVWMD area, may not have a sustainable water supply to serve this project for the long-term, even though the District may have enough connections to serve the project.

Seawater intrusion in North County resulting from overdrafted aquifer conditions was identified in the Fugro Report, reiterated in the Kleinfelder Report and acknowledged in the Recirculated Draft EIR. Seawater intrusion is a complex regional problem that has been occurring for years and will likely continue to occur-with or without implementation of the proposed project (see Final EIR, Master Response 11, page 3-8). According to the Pajaro Valley Water Management Agency (Introduction to the Groundwater Basin, page 6), the majority of the basin's groundwater is currently below sea level all year. During the fall, about two thirds of the basin is at or below sea level. Groundwater levels below sea level create a landward gradient allowing seawater intrusion. The amount of groundwater in storage continues to decline. Inland water levels have fallen up to 100 feet in some locations within the last 50 years despite higher than average rainfall of the same period. Inland water levels range from 10-20 feet above sea level. Pajaro Valley Water Management Agency hydrologists are especially concerned about drought years. An analysis of the 5-year drought ending in 1992 showed that the water levels fell significantly and did not fully recover. A similar drought cycle would cause water levels to fall further below sea level and the basin may not be able to recover because there is now inadequate storage from higher inland areas to compensate. This could cause rapid advancement of the seawater intrusion front and leave significantly depressed groundwater levels. Long-term intrusion rates range from 130 feet per year (San Andreas Terrace area) to 230 feet per year at the Pajaro River mouth.

According to the Kleinfelder Report (page 38), the projected increase in the water balance after development of the project (i.e., 1.3 af/y positive balance) is predominately dependent on the quantity of average rainfall and on the magnitude of the drainage-capture factor. If the water collected and directed to the infiltration trenches is assumed to be 90% in the calculation, then there is an increase in water balance after development of the project. However, if the project's infiltration and stormwater facilities are not properly maintained and the percentage of actual recharge of collected drain water is reduced to 85% or less, the water balance will be negative and the project would contribute to the ongoing decline in groundwater in the basin.

The Kleinfelder Report and the Fall Creek Report used average

rainfall data. According to page 24 of the Kleinfelder Report, the average rainfall from 1971 through 2000 at the Chittenden Pass located about three miles northeast of the site was 18.56 inches. The Water Resources Agency has indicated that if rainfall were reduced to half of the average annual rainfall (i.e., 9.28 inches/year rather than 18.56 inches/year), the project would result in a negative water balance of 4.30 acre feet/year rather than a positive balance of 1.3 acre feet/year (see Exhibit A-2 of the staff report for the Board of Supervisors meeting of April 20, 2010). According to the Pajaro Valley Water Management District, an analysis of the 5-year drought ending in 1992 showed that the water levels fell significantly and did not fully recover. A similar drought cycle would cause water levels to fall further below sea level and the basin may not be able to recover because there is now inadequate storage from higher inland areas to compensate. This could cause rapid advancement of the seawater intrusion front and leave significantly depressed groundwater levels.

The site is within the jurisdiction of the Pajaro Valley Water Management Agency (PVWMA) which does not have a funded program to provide additional water to the area. In 2003-2004, the PVWMA attempted to purchase the Broadview Water District lands and the associated Central Valley Project (CVP) water contracts. However, negotiations were unsuccessful and discussions with Broadview ended in November, 2004.

The PVWMD has been seeking to finance its efforts through a combination of state and federal grants and water augmentation charges paid by all users of water in the basin. However, in 2007 a portion of the augmentation charges was deemed invalid under Proposition 218 and the charges were cut in half. According to a memorandum from the County of Santa Cruz Health Services Agency, this leaves the agency without adequate funding to maintain current programs or implement the additional measures needed to bring the basin into balance.

The North County Area Plan does not contain a definition of "safe, long term yield of water supply." However, the rules in effect in October 1999 when the application was deemed complete included a definition in the County's Subdivision Ordinance, Title 19. Section 19.02.143 (Ordinance 3855, 1996) defines long term water supply (safe yield) as "the amount of water that can be extracted continuously from the basin or hydrogeologic sub-area without degrading water quality, or damaging the economical extraction of water, or producing unmitigatable adverse environmental impacts."

There are two major components to proof of long term water supply (safe yield). The first aspect requires that the source of supply be available to meet peak day demand, or in other words, the well(s) will produce sufficient quality and quantity to supply the domestic needs

of the subdivision. The second aspect involves addressing the security of the groundwater supply or adverse impacts resulting from this withdrawal of groundwater. The Planning Commission and Board of Supervisors find that the recharge scheme is not verifiable and if the project's infiltration and stormwater facilities are not properly maintained and the percentage of actual recharge of collected rain water is reduced to 85% or less, the water balance will be negative and the project would contribute to the ongoing decline in groundwater in the basin. As discussed above, a drought cycle would cause water levels to fall further below sea level and the basin may not be able to recover because there is now inadequate storage from higher inland areas to compensate. This could cause rapid advancement of the seawater intrusion front and leave significantly depressed groundwater levels which would be an adverse impact resulting from the withdrawal of groundwater. Because the Highlands North Subarea currently lacks a sustained level of adequate water supply and would remain in this condition with project implementation, and because the PVWMD is without adequate funding to maintain current programs or implement the additional measures needed to bring the basin into balance, the proposed project is inconsistent with Policy 6.1.4.

- **Policy 26.1.4.3 - A standard tentative subdivision map and/or vesting tentative and/or preliminary project review subdivision map application for either a standard or minor subdivision shall not be approved until: 1) The applicant provides evidence of an assured long term water supply in terms of yield and quality for all lots which are to be created through subdivision. A recommendation on the water supply shall be made to the decision making body by the County's Health Officer and the General Manager of the Water Resources Agency, or their respective designees; and 2) The applicant provides proof that the water supply to serve the lots meets both the water quality and quantity standards as set forth in Title 22 of the California Code of Regulations, and Chapters 15.04 and 15.08 of the Monterey County Code subject to the review and recommendation by the County's Health Officer to the decision making body.**

The project includes infiltration trenches designed to retain and treat runoff to recharge the local groundwater system. According to the EIR, the proposed project could result in a 1.3 acre-foot-year net increase in groundwater balance compared to existing conditions. However, the Planning Commission and Board of Supervisors did not agree with the findings in the EIR regarding the effectiveness of the infiltration trenches and questioned whether the project would result in a net benefit to the aquifer. If the infiltration trenches do not function as designed, the project would have a negative water

balance. Because the applicant has not submitted evidence of an assured long term water supply in terms of yield for all lots which are to be created through subdivision, the proposed project is inconsistent with Policy 26.1.4.3.

- f) The North Monterey County Hydrogeologic Study – Volume I and II prepared by Fugro dated October 1995 and May 1996.
- g) Revised Hydrogeologic Assessment of the Proposed Heritage Oaks Subdivision prepared by Kleinfelder dated October 21, 2008.
- h) Heritage Oaks Subdivision Draft EIR dated October 17, 2008, Heritage Oaks Subdivision Recirculated Portion of the Draft EIR dated December 26, 2008, Heritage Oaks Subdivision Final EIR dated August 11, 2009 and Appendices prepared by Michael Brandman Associates.
- i) The application, project plans, correspondence from members of the public, testimony at the Planning Commission public hearings on September 30, 2009 and October 28, 2009 and at the Board of Supervisors public hearing on June 15, 2010 and related support materials submitted to the Monterey County Resource Management Agency – Planning Department regarding the proposed development found in Project File PLN980503.

**2. FINDING:**

**SUBDIVISION ORDINANCE (TITLE 19)** – Four of the findings requiring denial of a subdivision set forth in Government Code Section 66474 and Section 19.03.025.F of the Subdivision Ordinance can be made.

- EVIDENCE:**
- a) Government Code Section 66474 and Section 19.03.025.F require that the subdivision be denied if any one of the findings is made.
  - b) **The proposed tentative map is not consistent with the applicable general plan, area plan, coastal land use plan or specific plan.** The tentative map is inconsistent with Goal 53, Objective 53.1, Policy 53.1.3 and Policy 53.1.5 of the Monterey County General Plan or Policy 6.1.4 and Policy 26.1.4.3 of the North County Area Plan. (see Findings 1.c. and d.).
  - c) **The design or improvement of the proposed subdivision is not consistent with general plan, area plan, coastal plan or specific plan.** The design or improvement of the proposed subdivision is inconsistent with Goal 53, Objective 53.1, Policy 53.1.3 and Policy 53.1.5 of the Monterey County General Plan or Policy 6.1.4 and Policy 26.1.4.3 of the North County Area Plan (see Findings 1.c. and d.).
  - d) **The design of the subdivision or type of improvements is likely to cause serious public health problems.**



- e) The design of the subdivision or type of improvements is likely to cause serious public health problems because the Highlands North Subarea currently lacks a sustained level of adequate water supply and would remain in this condition with project implementation, because the PVWMD is without adequate funding to maintain current programs or implement the additional measures needed to bring the basin into balance and because the applicant has not submitted evidence of an assured long term water supply in terms of yield for all lots which are to be created through subdivision (see Findings 1.c. and 1.d.).
- f) **The subdivision does not meet the requirements or conditions of the Subdivision Map Act and the Subdivision Ordinance (Title 19).** The subdivision does not meet the findings for approval as set forth in Government Code Section 66474 or Section 19.03.025.F of the Monterey County Subdivision Ordinance.
- g) See Finding 1.

**3. FINDING:**

**EVIDENCE:**

- a) **CEQA – CEQA does not apply to the proposed project.** Pursuant to Public Resources Code Section 21080 and CEQA Guidelines Section 15270, CEQA does not apply to projects which are disapproved. The County of Monterey prepared a Final Environmental Impact Report (Final EIR) in compliance with CEQA, but the Final EIR was not certified by the Board of Supervisors.
- b) This application was submitted on May 17, 1999 and deemed complete on October 21, 1999. After multiple hearings before the Standard Subdivision Committee and the Planning Commission, the Planning Commission adopted a resolution denying the application without prejudice on December 13, 2000. One of findings in the resolution states that *“The proposed project may be improved by redesigning the project, taking into account the issues discussed and the findings herein by the Planning Commission, and may be resubmitted with additional evaluation and evidence that may be covered in a focused EIR that addresses traffic, access and egress, water impacts, biology and habitat preservation.”* This action was defined as the applicant could prepare an EIR and go back through the hearing. The applicant elected to prepare an EIR.
- c) A Draft EIR (SCH2006051020) was prepared to assess the potential adverse environmental impacts from the project and was circulated starting on October 17, 2007. The public review period ended on December 13, 2007. Issues analyzed in the Draft EIR include: land use, geology and soils, biological resources, cultural resources, transportation and circulation, air quality, noise, hydrology and water quality, aesthetics, light and glare, public services and utilities and

wastewater disposal.

- d) A Recirculated Portion of the Draft EIR (RDEIR) was prepared to address new significant information that resulted in revisions to the Hydrologic Assessment prepared for the project. The comment period for the RDEIR was from December 29, 2008 to February 13, 2009. Issues analyzed in the RDEIR include: hydrology and water quality and public services and utilities.
- e) The Responses to Comments dated August 11, 2009 was prepared by Michael Brandman Associates and responds to all significant environmental points raised by persons and organizations that commented on the DEIR and RDEIR. Together, the DEIR, RDEIR and Responses to Comments constitute the Final EIR on the project. The project was denied by the Planning Commission on October 28, 2009. The Planning Commission did not certify the EIR.
- f) Heritage Oaks Subdivision Draft EIR dated October 17, 2008, Heritage Oaks Subdivision Recirculated Portion of the Draft EIR dated December 26, 2008, Heritage Oaks Subdivision Final EIR dated August 11, 2009 and Appendices prepared by Michael Brandman Associates.

**4. FINDING**

The County has processed the application in accordance with due process and all statutory requirements (see Finding 3).

**EVIDENCE:**

- a) The Planning Commission conducted a public hearing on the application and adopted a resolution denying the project.
- b) The Planning Commission conducted a noticed, full, fair and impartial public hearing on the application on September 30, 2009 and October 28, 2009. All members of the public wishing to speak on the project were afforded the opportunity to speak and to submit written testimony. On September 30, 2009, the Planning Commission adopted a motion of intent to deny the application and directed staff to return on October 28, 2009 with a resolution of denial. On October 28, 2009, the Planning Commission adopted a resolution denying the project.
- c) Notice of the Planning Commission hearing was published in the Monterey County Herald on August 11, 2009. A public hearing notice was posted on August 15, 2009. Notices were mailed to property owners within 300 feet of the site at least 10 days prior to the hearing. A revised public hearing notice was published in the Californian on September 19, 2009. A revised public hearing notice was posted on September 18, 2009. Revised notices were mailed to property owners within 300 feet of the site at least 10 days prior to the hearing.
- d) Minutes and audio recording of the Planning Commission meetings on September 30, 2009 and October 28, 2009.

**5. FINDING:**

The appeal was timely filed pursuant to Chapter 21.80 of the Monterey County Code.

**EVIDENCE:**

- a) On November 9, 2009, Wayne Holman for Aromas Heritage Oaks



LLC, represented by attorney John Bridges, filed an appeal from the October 28, 2009 decision of the Planning Commission denying the project.

- b) Said appeal was filed with the Clerk of the Board of Supervisors within the 10-day time period prescribed by Monterey County Code Chapter 21.80.

6. **FINDING:** The Board of Supervisors has conducted a duly noticed, timely, fair and impartial public hearing on the appeal.

- EVIDENCE:**
- a) The public hearing before the Board of Supervisors on the appeal is de novo (MCC, Section 21.80.070.B). The appeal has the effect of staying the proceedings and the effective date of the decision of the Planning Commission until the appeal is resolved by the Board of Supervisors.
  - b) On December 8, 2009, the Board of Supervisors continued the public hearing to March 2, 2010 to give staff time to respond to letters dated November 24, 2009 and December 7, 2009 from the appellant. On March 2, 2010, the Board continued the public hearing to April 20, 2010 to give staff time to prepare a thorough and complete staff report. On April 20, 2010, the appellant requested that the Board continue the public hearing to June 15, 2010. It was the appellant's first request for a continuance and timely made under the Board's continuance policy. Pursuant to the continuance policy, the Board continued the hearing to June 15, 2010. On June 15, 2010 the Board adopted a Resolution of Intent to deny the appeal and directed staff to return on July 27, 2010 with findings and evidence denying the appeal.
  - c) Notice of the Board of Supervisors' December 8, 2009 public hearing was published in the Californian on November 27, 2009. A public hearing notice was posted on November 20, 2009. Notices were mailed to property owners within 300 feet of the site on November 17, 2009. The Board subsequently continued the hearing as described above. Additionally, on June 4, 2010, a notice of the June 15, 2010 hearing was posted and was mailed to property owners within 300 feet of the site on June 4, 2010.
  - d) Minutes and audio recording of the Board of Supervisors meetings on December 8, 2009, March 2, 2010, April 20, 2010, June 15, 2010 and July 27, 2010.

8. **FINDING:** The Board of Supervisors has reviewed, evaluated and considered the appeal by Wayne Holman for Heritage Oaks LLC and responds as follows:

**Appellant's Contention #1:**

*The Planning Commission's denial of the project is contrary to law (e.g., the Planning Commission failed to consider the project under the applicable ordinances, policies, and standards as required under Government Code Section 66474.2). The Board of Supervisors*



*has in the past consistently applied ordinances, policies and standards in effect in 1999 as it has reviewed and approved other "pipeline" projects.*

**STAFF RESPONSE:**

Under Government Code Section 66474.2, the County must apply "only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete...." The application for the proposed project was deemed complete on October 21, 1999. The appellant contends that the decision of the Planning Commission is illegal because it does not apply the ordinances, policies, and standards in effect as of the 1999 application completeness date. The Board finds that appellant's contention is without merit. The Planning Commission and this Board are applying the ordinances, policies, and standards in effect as of 1999. The General Plan policies with which this Board finds that the project is inconsistent -- Goal 53, Objective 53.1, and Policy 53.1.3 -- were all in effect in October 1999 and continue to be in effect today. The North County Area Plan policies with which this Board finds that the project is inconsistent -- Policy 6.1.4 and Policy 26.1.4.3 --- were also in effect in October 1999 and remain in effect today.

The Board's finding of inconsistency with of the Heritage Oaks application with these General Plan and North County Area Plan policies is based on the application of these policies to the specific facts of this project under the circumstances as they exist today. The Map Act does not eliminate the Board's discretion, which is fundamental to the adjudicative process, to arrive at a project-specific decision based on application of ordinances, policies and standards to the specific project. Indeed, the Map Act requires denial of the project if certain findings are made, including the finding that the subdivision is likely to cause serious public health problems. (See Gov't Code Sec. 66474(f). As indicated by findings 1 and 2 of this resolution, the evaluation of this project application -- under the rules in effect in 1999 -- indicates that the project must be denied because it is inconsistent with those rules and likely to cause serious public health problems.

Circumstances have changed since these other so-called "pipeline" projects were considered by the County. Prior to 2005, it was reasonably foreseeable that the PVWMA would have a program in place to supply additional water to the overdrafted Pajaro groundwater basin. That prediction has changed based on events that have since transpired. In 2003-2004, the PVWMA was planning to purchase the Broadview Water District lands and the associated Central Valley Project (CVP) water contracts. However, negotiations were unsuccessful and discussions with Broadview ended in November, 2004. More recently, private wells have gone dry in North County, particularly along Oak Ridge Drive and Via Del Sol. Consideration has been given to expanding the jurisdiction of the Aromas Water District in order to provide water service to these areas. Unlike Heritage Oaks, several of the projects deemed complete in the same time frame as the subject application are in the Coastal Zone and are subject to different water policies. For example, the North County Local Coastal Plan has policies regarding allocation of the North County Coastal Zone's limited groundwater resources, including limiting new development to 50% of the remaining buildout. Below is a comparison of the projects that are referred to in the letters from the appellant which demonstrates that the conditions related to each of these projects are different.



Danbom (PLN000360) – This is not a pipeline project because it was deemed complete on November 19, 2002 after Chapter 18.51 had expired. The site is in the Pajaro and Highlands North subbasins.

Walker (PLN970472) – This is a four lot minor subdivision in Highlands North that was approved on November 16, 2000. Water would be provided by the Vega Road Mutual Water System. The site is in the Highlands North subbasin.

Rancho Roberto (PLN980685) – This is subdivision with 26 lots in the Springfield Terrace subwatershed that was approved on March 6, 2005. The site is within the Coastal Zone and the application is on appeal to the Coastal Commission. The project is estimated to have a 1.5 to 4.5 af/y negative water balance. Development would be phased. Water would be provided by the Pajaro Sunny Mesa Water District. The site is in the Rancho Roberto subbasin.

Rancho Los Robles (PLN970159) – This is an 80-lot subdivision in Highlands North that was approved on December 9, 2008. The site is within the Coastal Zone and the application is on appeal to the Coastal Commission. The project is estimated to have a 33.3 af/y positive water balanced. Development would be phased. Water would be provided by the California Water Service Company. The site is in the Highlands North subbasin.

Fredrickson (965329MS) – This is not a pipeline project since it was deemed complete on October 24, 1996.

Other North County pipeline projects are as follows:

Sunridge (PLN990391) – This is a 10-lot subdivision in Highlands North that was approved on July 13, 2004. The site is within the Coastal Zone. The project is estimated to have a 24 af/y net benefit. Water would be provided by wells on the individual lots. The site is in the Highlands North subbasin.

Mayr (PLN020464) – This is a four lot minor subdivision in Pajaro and Highlands North that was approved on March 10, 2005. Water would be provided by the San Juan Road #20 water system. The site is in the Pajaro and Highlands North subbasins.

The project is subject to payment of the water impact fee under MCC Chapter 18.51 because it was in effect when the project was deemed complete. Monterey County Code Section 18.51, originally enacted by Ordinance 3496, established a development impact fee for the purpose of funding further study and monitoring of groundwater conditions in the north Monterey County area. The fee is applicable to projects located in the north Monterey County hydrogeologic area for which applications were filed prior to January 1, 2001 (i.e., Ordinance 3856 extended the date to projects filed by January 1, 1998 and Ordinance 4005 extended the date to January 1, 2001). Chapter 18.51 is not applicable to projects filed after January 1, 2001.

The letters from the appellant refer to several North County pipeline projects (i.e., projects outside Zone 2C that were deemed complete when Monterey County Code Section 18.51 was in effect). Each of these projects was evaluated on its own facts based on the circumstances in

existence at the time of project consideration. None of these actions by the Board of Supervisors add up to a "standard" that would be binding on the Board's decision on the application now before the Board.

The amount of the water impact fee for the project is \$32,000 (\$1,000 for each parcel approved in a subdivision). Section 18.51.040.C allows for the amount of the fee to be reduced by the cost of any hydrological reports, including the hydrological component of an EIR. In this case, the applicant paid over \$32,000 for the hydrogeologic component of the EIR and therefore will not be required to pay an additional fee. Accordingly, the applicant has complied with the requirements of this ordinance.

**Appellant's Contention #2:**

*The Planning Commission findings for denial of the project are not supported by the substantial evidence in the record which record reflects a) there is an adequate long-term water supply available for the project; and b) as originally recommended by staff and the Subdivision Committee and as affirmed in the EIR, the project is consistent with Goal 53, Objective 53.1, and Policy 53.1.3 of the General Plan, and Policy 6.1.4 and Policy 26.1.4.3 of the North County Area Plan, and all provisions of the applicable version of Monterey County Subdivision Ordinance Title 19.*

**STAFF RESPONSE:**

The Subdivision Committee recommendation for approval of the project, the staff recommendation for approval to the Subdivision Committee and the conclusion of the EIR that the project would not have a significant impact on water resources were all predicated on the assumption that the proposed groundwater infiltration system and drainage plan would work effectively. However, the Board of Supervisors did not agree with the findings in the EIR regarding the effectiveness of the infiltration trenches and questioned whether the project would result in a net benefit to the aquifer. If the infiltration trenches do not function as designed, the project would have a negative water balance. For all of the reasons set forth above, the Board of Supervisors finds that denial of the project is supported by the substantial evidence in the record which record reflects a) there is not an adequate long-term water supply available for the project; and b) the project inconsistent with Goal 53, Objective 53.1, and Policy 53.1.3 of the General Plan, and Policy 6.1.4 and Policy 26.1.4.3 of the North County Area Plan..

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors does hereby deny the appeal of Wayne Holman for Heritage Oaks LLC from the Planning Commission's denial and denies the application (Aromas Heritage Oaks, LLC/PLN980503) for a Combined Development Permit consisting of a Standard Subdivision to divide approximately 79 acres into 32 parcels ranging in size from 1.0 acres to 15.91 acres, including one lot (Lot 32) with four inclusionary rental units; Use Permit for removal of approximately 367 protected oak trees (271 for roads and up to 96 on the individual lots); Use Permit for four inclusionary rental units; and grading (approximately 5,100 cubic yards cut and 5,100 cubic yards fill).



PASSED AND ADOPTED on this 27<sup>th</sup> day of July, 2010, upon motion of Supervisor Parker, seconded by Supervisor Potter, by the following vote, to-wit:

AYES: Supervisors Calcagno, Parker, Potter

NOES: Supervisors Armenta, Salinas

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on July 27, 2010.

Dated: August 23, 2010

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By   
Deputy

Pursuant to section 1094.6(f) of the California Code of Civil Procedure, notice is hereby provided that the time within which judicial review must be sought of this decision is governed by section 1094.6 of the California Code of Civil Procedure.

# MONTEREY COUNTY

DEPARTMENT OF HEALTH LEN FOSTER, Director

ADMINISTRATIVE  
ANIMAL SERVICES  
BEHAVIORAL HEALTH

CLINIC SERVICES  
COMMUNITY HEALTH  
EMERGENCY MEDICAL SERVICES

ENVIRONMENTAL HEALTH  
OFFICE OF THE HEALTH OFFICER  
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN



February 3, 2009

Gilles and Lombardo  
Cayuga Street  
Salinas, CA 93901

Subject: PLN080066, Rocha

Dear Mr. Lombardo:

On November 26, 2008, you provided the County of Monterey with a list of projects outside of Zone 2C which have been approved by the County between 1999 and 2007. This list intends to demonstrate that the County found projects similar to the Rocha application consistent with General Plan Policy 53.1.3, which states, "The County shall not allow water consuming development in areas which do not have proven water supplies." This list also includes an application for another property owned by Mr. Rocha immediately adjacent to the subject parcel.

The list identified twenty (20) applications for second units including ten (10) projects for a guesthouse, a senior citizen unit or a caretaker unit. Guesthouses are not considered second units and the other two types of entitlements have limitations including a maximum square footage. Therefore, we find that these applications are not relevant to the Rocha proposal as it is for two (2) new single-family dwellings. The other ten (10) applications were processed based on conditions and information known at that time, and the list included projects approved as far back as 1999.

For a number of years, the Pajaro Valley Water Management Agency (PVWMA) had several projects that the County considered, if implemented, would address the water basin overdraft in North Monterey County. By June 2006, project findings changed to reflect that PVWMA no longer had projects that could be relied upon for future water sources. All discretionary permit applications submitted after June 2006 and located outside Zone 2C have been considered as having no long-term water supply due to these changing conditions. Pending discretionary permit applications were allowed to proceed based on the rules in place when the application was deemed complete.

For purposes of the subject Rocha application, County staff holds that a long-term water supply does not exist in three of the North County hydrogeologic sub-basins: Granite Ridge, Highlands North and Springfield Terrace. Development that intensifies use of water in North County has been restricted to parcels within Zone 2C; therefore, our findings for the Rocha application, PLN080066, are consistent when compared to similar applications since June 2006.

Sincerely,

*Richard LeWarne*  
Richard LeWarne, REHS  
Assistant Director  
Environmental Health Division

cc: Supervisor Calcagno, 3<sup>rd</sup> District Supervisor  
Leslie Girard, Assistant County Counsel  
Wendy Strimling, Deputy County Counsel  
Mike Novo, Director of Planning Department  
Carl Holm, Assistant Director of Planning Department  
Allen Stroh, Director of Environmental Health  
Mary Anne Dennis, Supervisor, Environmental Health



**BILL LOCKYER**  
Attorney General

*State of California*  
**DEPARTMENT OF JUSTICE**



1511 CLAY STREET, 20<sup>TH</sup> FLOOR  
OAKLAND, CA 94612

Public: (510) 622-2060  
Telephone: (510) 622-2136  
Facsimile: (510) 622-2270  
E-Mail: tara.inueller@doj.ca.gov

**April 20, 2006**

Mr. Jerry Smith  
Chairman of the Board of Supervisors  
County of Monterey  
2616 1<sup>st</sup> Ave.  
Marina, CA 93933

RE: Request for Staff Referral or Appointment of Board Subcommittee Regarding Water Supply and Land Use Planning Issues in the Coastal Zone of North Monterey County

Dear Mr. Smith:

I am writing this letter on behalf of staff to the California Coastal Commission, as well as representatives of Mr. Stephen Bradshaw, LandWatch, and Friends and Neighbors of Elkhorn Slough (FANS) to request that the Monterey County Board of Supervisors refer the issue of the availability of long-term, adequate water supplies in the North Monterey County coastal zone to your staff (e.g. the Monterey County Planning & Building Inspection Department, Water Resources Agency, and County Counsel) for an evaluation and recommendation to the Board. Specifically, we request that staff be authorized to evaluate, consult with interested parties and provide a report and recommendation to the Board regarding: (1) the availability of long-term, adequate water supplies for the North Monterey County coastal zone to accommodate the remaining build out authorized under the North Monterey County Land Use Plan (LUP); and (2) if current water supplies are found to be inadequate, the process for consideration of new and pending residential development proposals in the North Monterey County coastal zone until long-term, adequate water supplies can be secured for this area of North Monterey County.

This request stems from a lawsuit filed by Mr. Bradshaw in February of 2005, challenging the California Coastal Commission's denial, in December of 2004, of Mr. Bradshaw's application for a coastal development permit (CDP) to subdivide his 25-acre parcel into ten lots. The Bradshaw property is located in the coastal zone of northern Monterey County. (*Bradshaw v. California Coastal Commission*, Monterey County Superior Court Case No. M73177.) The County Board of Supervisors approved the permit in July of 2004. LandWatch, FANS, and two members of the Commission then appealed the Board's decision to the Commission in August of 2004. The Commission denied the CDP in part based on its conclusion that, because the groundwater demand in the North Monterey County coastal zone now significantly exceeds the safe yield of the underlying aquifer, approval of the CDP would



Mr. Jerry Smith  
April 20, 2006  
Page 2

violate policy 2.5.2.3 of the North Monterey County Land Use Plan, among others. As you are aware, this policy requires development to be phased so that groundwater use does not exceed the safe yield level of local aquifers.

Since Mr. Bradshaw filed his lawsuit challenging the Coastal Commission's denial of his permit, the parties have been engaged in extensive settlement negotiations. As part of those negotiations, the parties have consulted with the environmental organizations that initially appealed Mr. Bradshaw's CDP application to the Commission. Although the Bradshaw litigation has recently been resolved by a settlement between the Commission and Mr. Bradshaw, this settlement is structured so that it does not provide a precedent or template for any other project. At the same time, all interested parties agree that the issues raised by this matter will certainly be raised again, most likely in the very near future. Further litigation on these issues, both at the County and the Commission level, is likewise foreseeable. Indeed, the Commission currently has before it appeals of the County's approval of the Rancho Roberto and Tanglewood residential subdivisions in North Monterey County. We understand that applications for several other residential subdivisions in the North Monterey County coastal zone are currently pending before the County, all of which have the potential to be appealed to the Commission.

Therefore, the Coastal Commission staff, Mr. Bradshaw's counsel, FANS and LandWatch believe that it is in the best interests of all concerned, including the County, to attempt to resolve the broader question of the availability of long-term, adequate water supplies for the North Monterey County coastal zone, and the process for considering residential development proposals pending the availability of such supplies. We understand that the Board is considering an updated general plan that may have some bearing on this issue. However, since that plan and the corresponding revised implementing ordinances are unlikely to be completed in the near future, and the proposed revised plan is not specifically intended to address coastal zone issues, and given that there are a number of pending subdivision applications in North Monterey County coastal zone, we believe that it is necessary and appropriate to move forward on the North Monterey County groundwater issue at this time.

Toward this end, we respectfully request that the Board refer this matter to its staff to provide a report and recommendation to the Board on these issues, or address this matter in an appropriate alternative manner, such as by appointing a subcommittee of the Board to investigate and address these issues and to meet and confer with interested parties. The purpose of this effort would be to engage in a constructive dialogue with all interested parties in an effort to develop a mutually acceptable solution to the ongoing concern about the adequacy of available groundwater supplies to serve new development in the North Monterey County coastal zone. Assuming the County accepts this request, Coastal Commission staff, counsel to Mr. Bradshaw, and representatives of FANS and LandWatch agree to actively participate in the ensuing dialogue and discussion.

Mr. Jerry Smith  
April 20, 2006  
Page 3

We appreciate the County's consideration of this request. Please contact me at 510-622-2136 if you have any questions. Thank you.

Sincerely,

*Tara Mueller/s.w.*

TARA MUELLER  
Deputy Attorney General

cc: John Bridges, Esq., Fenton & Keller  
Charles Lester, California Coastal Commission  
Rick Hyman, California Coastal Commission  
Bill Yeates, Esq., Law Offices of J. William Yeates  
Chris Fitz, LandWatch Monterey County  
Mari Kloeppel, Friends, Artists and Neighbors of Elkhorn Slough  
Charles McKee, Monterey County Counsel  
Alana Knaster, Monterey County Planning Director  
Curtis Weeks, Monterey County Water Resources Agency General Manager

Michael W. Stamp  
Molly Erickson

**STAMP | ERICKSON**  
**Attorneys at Law**

Exh. I, p. 1 of 1  
479 Pacific Street, Suite One  
Monterey, California 93940  
T: (831) 373-1214  
F: (831) 373-0242

January 6, 2017

Subject: Pajaro Rainfall Data

CIMIS Region Monterey Bay for Pajaro Station 129 shows the total rainfall for 2013 as 3.58 inches and the total rainfall for 2015 as 9.21 inches.

The raw CIMIS data is 96-pages. They are in our possession. Due to the length, we are not providing the raw data here. We would be happy to provide that to the Coastal Commission on request.



Annual Climatological Summary  
(2013)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: **SALINAS, CA US**

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)													Precipitation (inches)									
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP		TSNW	MXSD		DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Snow, Sleet			Number Of Days					
											Max >=90	Max <=32	Min <=32			Min <=0	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0		
1	64.2	37.5	50.8	-0.1	432	1	77	21	27	14	0	0	7	0	0.95	-2.14	0.73	06	0.0			2	1	0
2	62.9X	37.7	50.3X	-2.4		0	81	15	31	10	0	0	2	0	0.60	-2.38	0.38	19	0.0			2	0	0
3	67.0	43.3	55.2	1.0	298	0	83	13	34	23	0	0	0	0	0.72	-2.02	0.35	08	0.0			3	0	0
4	68.7	45.5	57.1	1.5	229	0	84	21	38	18	0	0	0	0	0.36	-0.67	0.14	04	0.0			2	0	0
5	71.0	48.8	59.9	1.7	159	7	88	03	40	24	0	0	0	0	0.00T				0.0			0	0	0
6							82	30	46	01	0	0	0	0	0				0.0					
7	70.5	54.4	62.5	0.3	78	6	78	01	52	19	0	0	0	0	0.00T				0.0			0	0	0
8	72.9	54.4	63.6	0.3	55	20	82	25	50	22	0	0	0	0	0.07	0.03	0.04	07	0.0			0	0	0
9	76.1	52.8	64.4	1.3	34	24	85	28	42	27	0	0	0	0	0.14	-0.05	0.14	21	0.0			1	0	0
10	72.1	46.1	59.1	-1.4	192	17	92	06	39	19	2	0	0	0	0.23	-0.41	0.18	28	0.0			1	0	0
11	69.2	43.1	56.2	1.0	258	0	83	06	35	04	0	0	0	0	0.49	-1.27	0.45	20	0.0			1	0	0
12	67.2	35.4	51.3	0.4	417	0	82	26	25	05	0	0	10	0	0.32	-2.12	0.28	07	0.0			1	0	0
Annual	69.3*	45.4*	48.3	0.3	2152*	75	92	Oct	25	Dec	2*	0*	19*	0*	3.88	-11.03	0.73*	Jan*	0.0*			13*	1*	0*

Notes

- (blank) Data element not reported or missing.
- + Occurred on one or more previous dates during the month. The date in the Date field is the last day of occurrence. Used through December 1983 only.
- A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).
- B Adjusted total. Monthly value totals based on proportional available data across the entire month.
- E An estimated monthly or annual total.
- X Monthly means or totals based on incomplete time series. 1 to 9 days are missing. Annual means or totals include one or more months which had 1 to 9 days that were missing.
- T Trace of precipitation, snowfall, or snowdepth. The precipitation data value will equal zero.
- Elem Element types are included to provide cross-reference for users of the NCDC CDO system.
- Station Station is identified by: COOP ID, Station Name, State
- S Precipitation amount is continuing to be accumulated. Total will be included in a subsequent monthly or yearly value. Example: Days 1-20 had 1.35 inches of precipitation, then a period of accumulation began. The element TPCP would then be 00135S and the total accumulated amount value appears in a subsequent monthly value.
- \* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2012)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: **SALINAS, CA US**

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)													Precipitation (inches)									
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP	Greatest Observed		TSNW	MXSD	DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total		Depart. from Normal	Snow, Sleet			Number Of Days				
											Max >=90	Max <=32	Min <=32	Min <=0	Total Fall		Max Depth	Max Date	>= 10	>= 50	>=1.0			
1	66.5	38.2	52.4		383	0	81	13	26	18	0	0	4	0	1.01		0.90	21	0.0			2	1	0
2		40.3			349	0	79	09	32	26	0	0	2	0	0.92		0.31	13	0.0			2	0	0
3	66.7X	42.1X	54.4X			0	83	04	31	07	0	0	1	0	2.37X		1.63	17	0.0			3	1	1
4	67.3	44.7	56.0		267	5	87	21	34	06	0	0	0	0	2.04A		0.66	13	0.0			6	2	0
5	67.6	46.8	57.2		234	0	83	07	39	05	0	0	0	0	0.12		0.12	04	0.0			1	0	0
6	70.0	48.6	59.3		167	2	85	16	42	06	0	0	0	0	0.00A				0.0			0	0	0
7	68.4X	53.5X	61.0X			0	73	01	50	12	0	0	0	0	0.00T				0.0			0	0	0
8	70.6X	52.5X	61.6X				78	28	45	27	0	0	0	0	0.04X		0.03	18	0.0			0	0	0
9	69.3X	51.9X	60.6X			0	74	02	46	23	0	0	0	0	0.00T				0.0			0	0	0
10							90	17	41	24									0.0					
11	70.6X	45.9X	58.3X				94	05	34	12	1	0	0	0	3.09		2.48	30	0.0			3	1	1
12	59.6	41.6	50.6		436	0	72	10	30	19	0	0	3	0	3.97		1.12	26	0.0			9	2	1
Annual	67.7*	46.0*	23.0		1836*	7	94	Nov	26	Jan	1*	0*	10*	0*	13.56		2.48*	Nov*	0.0*			26*	7*	3*

Notes

- (blank) Data element not reported or missing.
- + Occurred on one or more previous dates during the month. The date in the Date field is the last day of occurrence. Used through December 1983 only.
- A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).
- B Adjusted total. Monthly value totals based on proportional available data across the entire month.
- E An estimated monthly or annual total.
- X Monthly means or totals based on incomplete time series. 1 to 9 days are missing. Annual means or totals include one or more months which had 1 to 9 days that were missing.
- T Trace of precipitation, snowfall, or snowdepth. The precipitation data value will equal zero.
- Elem Element types are included to provide cross-reference for users of the NCDC CDO system.
- Station Station is identified by: COOP ID, Station Name, State
- S Precipitation amount is continuing to be accumulated. Total will be included in a subsequent monthly or yearly value. Example: Days 1-20 had 1.35 inches of precipitation, then a period of accumulation began. The element TPCP would then be 00135S and the total accumulated amount value appears in a subsequent monthly value.
- \* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2009)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: SALINAS, CA US

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)													Precipitation (inches)									
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP	Greatest Observed		TSNW	MXSD	DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Snow, Sleet			Number Of Days					
											Max >=90	Max <=32	Min <=32			Min <=0	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0		
1	68.1	39.2	53.7	2.0	345	0	84	16	28	04	0	0	3	0	1.52	-1.48	0.86	22	0.0	0	4	1	0	0
2	63.0	42.1	52.6	-0.9	343	0	81	02	33	10	0	0	0	0	4.36	1.44			0.0	0	10	2	0	0
3	64.2	41.6	52.9	-1.6	366	0	77	28	31	10	0	0	1	0	1.83	-0.94	0.77	04	0.0	0	5	1	0	0
4	67.8	44.4	56.1	-0.1	293	36	99	20	33	04	3	0	0	0	0.22	-0.78	0.13	08	0.0	0	1	0	0	0
5	67.9	49.6	58.8	0.7	190	4	88	16	44	10	0	0	0	0	0.33	-0.01	0.23	02	0.0	0	1	0	0	0
6	71.2	52.6	61.9	1.2	90	4	85	27	44	22	0	0	0	0	0.07	-0.02	0.06	13	0.0	0	0	0	0	0
7	70.2	53.1	61.7	-0.6	99	2	82	13	48	07	0	0	0	0	0.00	-0.04	0.00	31	0.0	0	0	0	0	0
8	74.4	54.3	64.4	1.1	52	40	99	28	49	08	3	0	0	0	0.43	0.36	0.35	06	0.0	0	1	0	0	0
9	75.0	52.2	63.6	0.1	59	24	88	26	43	30	0	0	0	0	0.10	-0.08	0.10	14	0.0	0	1	0	0	0
10	71.8	48.4	60.1	-0.7	157	14	87	16	37	29	0	0	0	0	2.03	1.29	1.05	13	0.0	0	2	2	1	0
11	69.3	40.4	54.9	-0.3	305	7	88	02	34	22	0	0	0	0	0.24	-1.61	0.18	21	0.0	0	1	0	0	0
12	60.5	40.2	50.4	-0.8	445	0	70	20	28	09	0	0	5	0	1.90	-0.22	0.65	07	0.0	0	5	1	0	0
Annual	68.6*	46.5*	57.6	0.0	2744*	131	99	Aug	28	Dec	6*	0*	9*	0*	13.03	-2.09	1.05*	Oct*	0.0*	0*	31*	7*	1*	1*

Notes

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- + Occurred on one or more previous dates during the month. The date in the Date field is the last day of occurrence. Used through December 1983 only.
- A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).
- B Adjusted total. Monthly value totals based on proportional available data across the entire month.
- E An estimated monthly or annual total.
- X Monthly means or totals based on incomplete time series. 1 to 9 days are missing. Annual means or totals include one or more months which had 1 to 9 days that were missing.
- T Trace of precipitation, snowfall, or snowdepth. The precipitation data value will equal zero.
- Elem Element types are included to provide cross-reference for users of the NCDC CDO system.
- Station Station is identified by: COOP ID, Station Name, State
- S Precipitation amount is continuing to be accumulated. Total will be included in a subsequent monthly or yearly value. Example: Days 1-20 had 1.35 inches of precipitation, then a period of accumulation began. The element TPCP would then be 00135S and the total accumulated amount value appears in a subsequent monthly value.
- \* Annual value missing; summary value computed from available month values.



Annual Climatological Summary  
(2008)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: SALINAS, CA US

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)														Precipitation (inches)									
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP	Greatest Observed		TSNW	MXSD	DP01	DP05	DP10	
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Snow, Sleet			Number Of Days		DP01	DP05	DP10		
											Max >=90	Max <=32	Min <=32			Min <=0	Total Fall	Max Depth						Max Date	
1	59.3	39.4	49.4	-2.3	478	0	73	01	31	16	0	0	1	0	5.33	2.33	1.26	04	0.0	0	12	4	1		
2	62.2	40.6	51.4	-2.1	388	0	75	12	31	05	0	0	1	0	2.64	-0.28	0.96	03	0.0	0	5	2	0		
3	64.6	40.7	52.7	-1.8	375	0	74	10	36	21	0	0	0	0	0.34	-2.43	0.25	15	0.0	0	1	0	0		
4	67.2	42.3	54.8	-1.4	307	9	90	12	34	21	1	0	0	0	0.24	-0.76	0.12	23	0.0	0	2	0	0		
5	67.5	46.8	57.2	-0.9	255	23	95	16	37	01	2	0	0	0	0.00T	-0.34	0.00	31	0.0	0	0	0	0		
6	72.1	50.1	61.1	0.4	148	36	103	20	42	08	2	0	0	0	0.04	-0.05	0.04	21	0.0	0	0	0	0		
7	71.1	53.5	62.3	0.0	85	9	80	09	47	26	0	0	0	0	0.02	-0.02	0.02	11	0.0	0	0	0	0		
8	72.7	53.4	63.1	-0.2	69	15	88	29	47	11	0	0	0	0	0.00T	-0.07	0.00	31	0.0	0	0	0	0		
9	76.0	51.2	63.6	0.1	64	29	90	02	44	22	1	0	0	0	0.03	-0.15	0.03	20	0.0	0	0	0	0		
10	76.9	47.9	62.4	1.6	100	29	94	23	37	12	3	0	0	0	0.23X		0.21	04	0.0	0	1	0	0		
11	70.2	47.1	58.7	3.5	204	23	92	16	38	23	1	0	0	0	1.07	-0.78	0.73	26	0.0	0	2	1	0		
12	61.2	38.5	49.9	-1.3	464	0	77	06	29	17	0	0	6	0	2.67	0.55	0.83	15	0.0	0	7	2	0		
Annual	68.4*	46.0*	57.2	-0.4	2937*	173	103	Jun	29	Dec	10*	0*	8*	0*	12.61		1.26*	Jan*	0.0*	0*	30*	9*	1**		

Notes

- (blank) Data element not reported or missing.

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A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).

B Adjusted total. Monthly value totals based on proportional available data across the entire month.

E An estimated monthly or annual total.
- X Monthly means or totals based on incomplete time series. 1 to 9 days are missing. Annual means or totals include one or more months which had 1 to 9 days that were missing.

T Trace of precipitation, snowfall, or snowdepth. The precipitation data value will equal zero.

Elem Element types are included to provide cross-reference for users of the NCDC CDO system.

Station Station is identified by: COOP ID, Station Name, State
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\* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2007)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: SALINAS, CA US

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Temperature (F)													Precipitation (inches)												
Date	Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP	Greatest Observed		TSNW	MXSD	DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Snow, Sleet			Number Of Days		>= 10	>= 50	>=1.0		
											Max >=90	Max <=32	Min <=32			Min <=0	Total Fall	Max Depth						Max Date	
1	61.6	34.8	48.2	-3.5	515	0	81	09	22	13	0	0	11	0	1.07	-1.93	0.44	04	0.0	0	0	4	0	0	
2	63.1	42.6	52.9	-0.6	335	0	81	17	34	24	0	0	0	0	2.60	-0.32	0.50	28	0.0	0	0	8	1	0	
3	68.3	43.9	56.1	1.6	270	4	85	12	33	01	0	0	0	0	0.39	-2.38	0.28	27	0.0	0	0	2	0	0	
4	65.6	44.5	55.1	-1.1	293	0	84	27	36	13	0	0	0	0	1.03	0.03	0.36	14	0.0	0	0	4	0	0	
5	66.9	48.2	57.6	-0.5	235	11	91	07	40	22	1	0	0	0	0.13	-0.21	0.11	04	0.0	0	0	1	0	0	
6	69.3	49.8	59.6	-1.1	161	4	85	14	43	25	0	0	0	0	0.00	-0.09	0.00	30	0.0	0	0	0	0	0	
7	71.2	54.2	62.7	0.4	72	10	81	22	49	12	0	0	0	0	0.00T	-0.04	0.00	31	0.0	0	0	0	0	0	
8	72.9	54.1	63.5	0.2	55	18	82	30	47	13	0	0	0	0	0.01	-0.06	0.01	30	0.0	0	0	0	0	0	
9	75.3	51.9	63.6	0.1	60	24	91	26	43	29	1	0	0	0	0.55	0.37	0.49	22	0.0	0	0	1	0	0	
10	71.7	48.0	59.9	-0.9	168	16	94	23	38	06	2	0	0	0	0.98	0.24	0.46	17	0.0	0	0	3	0	0	
11	68.3	43.9	56.1	0.9	263	4	88	03	33	23	0	0	0	0	0.46	-1.39	0.40	11	0.0	0	0	1	0	0	
12	59.4	38.0	48.7	-2.5	499	0	71	05	29	27	0	0	0	11	0	1.37	-0.75	0.52	18	0.0	0	4	1	0	
Annual	67.8*	46.2*	57.0	-0.6	2926*	91	94	Oct	22	Jan	4*	0*	22*	0*	8.59	-6.53	0.52*	Dec*	0.0*	0*	0*	28*	2*	0*	

Notes

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- \* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2004)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: SALINAS, CA US

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)												Precipitation (inches)											
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP		TSNW	MXSD		DP01	DP05	DP10	
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Greatest Observed			Snow, Sleet			Number Of Days			
											Max >=90	Max <=32	Min <=32			Min <=0	Day	Date	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0	
1	61.0	41.9	51.5	-0.2	409	0	72	10	32	23	0	0	2	0	1.45	-1.55	0.57	01	0.0	0	0	2	2	0	0
2	61.8	42.5	52.2	-1.3	366	0	72	17	33	08	0	0	0	0	3.86	0.94	1.11	18	0.0	0	0	8	3	1	1
3	72.6	46.6	59.6	5.1	178	18	88	17	38	04	0	0	0	0	0.55	-2.22	0.28	26	0.0	0	0	3	0	0	0
4	70.5	46.0	58.3	2.1	228	33	100	26	38	01	3	0	0	0	0.02	-0.98	0.02	20	0.0	0	0	0	0	0	0
5	70.0	48.5	59.3	1.2	171	0	83	02	42	13	0	0	0	0	0.03	-0.31	0.03	28	0.0	0	0	0	0	0	0
6	70.1	52.2	61.2	0.5	109	1	77	26	48	16	0	0	0	0	0.00T	-0.09	0.00	30	0.0	0	0	0	0	0	0
7	71.9	55.6	63.8	1.5	45	13	81	18	47	15	0	0	0	0	0.03	-0.01	0.03	31	0.0	0	0	0	0	0	0
8	73.8	56.3	65.1	1.8	20	31	91	27	51	28	1	0	0	0	0.00	-0.07	0.00	31	0.0	0	0	0	0	0	0
9	78.4	51.4	64.9	1.4	52	57	98	06	44	21	5	0	0	0	0.03	-0.15	0.02	19	0.0	0	0	0	0	0	0
10	71.1	49.6	60.4	-0.4	156	19	93	13	41	28	2	0	0	0	2.62	1.88	0.84	26	0.0	0	0	5	3	0	0
11	65.9	43.2	54.6	-0.6	304	0	77	02	27	29	0	0	2	0	0.50	-1.35	0.21	27	0.0	0	0	2	0	0	0
12	63.9	40.8	52.4	1.2	382	0	74	18	29	04	0	0	4	0	4.97	2.85	1.17	27	0.0	0	0	7	4	2	2
Annual	69.3*	47.9*	58.6	1.0	2420*	172	100	Apr	27	Nov	11*	0*	8*	0*	14.06	-1.06	1.17*	Dec*	0.0*	0*	0*	27*	12*	3*	3*

Notes

- (blank) Data element not reported or missing.
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- \* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2003)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: **SALINAS, CA US**

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)												Precipitation (inches)											
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP		TSNW	MXSD		DP01	DP05	DP10	
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Greatest Observed			Snow, Sleet			Number Of Days			
											Max >=90	Max <=32	Min <=32			Min <=0	Day	Date	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0	
1	68.7	47.4	58.1	6.4	211	0	78	31	40	01	0	0	0	0	1.25	-1.75	1.00	10	0.0	0		2	1	1	
2	65.5	43.0	54.3	0.8	295	0	77	01	35	08	0	0	0	0	1.13	-1.79	0.50	16	0.0	0		4	1	0	
3	68.7	45.1	56.9	2.4	249	4	87	30	37	07	0	0	0	0	0.82	-1.95	0.58	15	0.0	0		2	1	0	
4	66.0	46.0	56.0	-0.2	263	0	75	09	39	05	0	0	0	0	2.42	1.42	0.46	22	0.0	0		9	0	0	
5	70.6	50.3	60.5	2.4	144	12	91	28	42	09	1	0	0	0	0.53	0.19	0.22	08	0.0	0		3	0	0	
6	73.6	55.2	64.4	3.7	49	39	97	27	46	01	3	0	0	0	0.02	-0.07	0.02	04	0.0	0		0	0	0	
7	74.1	55.6	64.9	2.6	28	33	82	12	50	09	0	0	0	0	0.00T	-0.04	0.00	31	0.0	0		0	0	0	
8	77.2	59.2	68.2	4.9	3	109	89	24	55	08	0	0	0	0	0.13	0.06	0.07	26	0.0	0		0	0	0	
9	79.1	57.8	68.5	5.0	2	112	97	11	52	18	4	0	0	0	0.01	-0.17	0.01	03	0.0	0		0	0	0	
10	78.1	50.8	64.5	3.7	68	59	99	25	43	11	5	0	0	0	0.29	-0.45	0.29	31	0.0	0		1	0	0	
11	67.1	44.0	55.6	0.4	277	0	79	18	33	23	0	0	0	0	0.89	-0.96	0.24	30	0.0	0		5	0	0	
12	63.1	46.4	54.8	3.6	313	0	74	18	34	27	0	0	0	0	4.65	2.53	1.33	30	0.0	0		8	3	1	
Annual	71.0*	50.1*	60.6	3.0	1902*	368	99	Oct	33	Nov	13*	0*	0*	0*	12.14	-2.98	1.33*	Dec*	0.0*	0*	Dec*	34*	6*	2*	

Notes

- (blank) Data element not reported or missing.

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Station Station is identified by: COOP ID, Station Name, State
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\* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(2002)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: **SALINAS, CA US**

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Date		Temperature (F)													Precipitation (inches)									
Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT		DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP		TSNW	MXSD		DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Greatest Observed			Snow, Sleet			Number Of Days		
											Max >=90	Max <=32	Min <=32			Min <=0	Day	Date	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0
1	58.8	37.2	48.0	-3.7	520	0	73	11	29	31	0	0	12	0	0.87	-2.13	0.31	02	0.0X	0		4	0	0
2	67.1	41.9	54.5	1.0	288	0	82	26	32	05	0	0	3	0	0.90	-2.02	0.48	17	0.0	0		3	0	0
3	65.2	42.4	53.8	-0.7	339	0	74	03	33	18	0	0	0	0	1.29	-1.48	0.64	17	0.0	0		5	1	0
4	65.5	47.8	56.7	0.5	241	0	80	22	38	18	0	0	0	0	0.36	-0.64	0.11	17	0.0	0		2	0	0
5	66.9	48.5	57.7	-0.4	216	0	82	24	38	08	0	0	0	0	0.12	-0.22	0.06	21	0.0	0		0	0	0
6	71.2	51.7	61.5	0.8	103	3	86	10	44	10	0	0	0	0	0.00	-0.09	0.00	30	0.0	0		0	0	0
7	72.6	54.3	63.5	1.2	57	18	91	09	49	22	1	0	0	0	0.00	-0.04	0.00	31	0.0	0		0	0	0
8	73.2	56.0	64.6	1.3	37	28	93	09	49	07	2	0	0	0	0.03	-0.04	0.02	03	0.0	0		0	0	0
9	76.0	53.5	64.8	1.3	39	38	89	09	47	08	0	0	0	0	0.00T	-0.18	0.00	30	0.0	0		0	0	0
10	71.8	50.0	60.9	0.1	141	21	94	07	40	31	2	0	0	0	0.00T	-0.74	0.00	31	0.0	0		0	0	0
11	72.3	47.7	60.0	4.8	152	8	87	20	39	01	0	0	0	0	1.77	-0.08	1.34	08	0.0	0		3	1	1
12	62.6	45.3	54.0	2.8	340	0	73	04	33	23	0	0	0	0	5.49	3.37	0.74	19	0.0	0		11	4	0
Annual	68.6*	48.0*	58.3	0.8	2473*	116	94	Oct	29	Jan	5*	0*	15*	0*	10.83	-4.29	1.34*	Nov*	0.0*	0*		28*	6*	1*

Notes

- (blank) Data element not reported or missing.

+ Occurred on one or more previous dates during the month. The date in the Date field is the last day of occurrence. Used through December 1983 only.

A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).

B Adjusted total. Monthly value totals based on proportional available data across the entire month.

E An estimated monthly or annual total.
- X Monthly means or totals based on incomplete time series. 1 to 9 days are missing. Annual means or totals include one or more months which had 1 to 9 days that were missing.

T Trace of precipitation, snowfall, or snowdepth. The precipitation data value will equal zero.

Elem Element types are included to provide cross-reference for users of the NCDC CDO system.

Station Station is identified by: COOP ID, Station Name, State
- S Precipitation amount is continuing to be accumulated. Total will be included in a subsequent monthly or yearly value. Example: Days 1-20 had 1.35 inches of precipitation, then a period of accumulation began. The element TPCP would then be 00135S and the total accumulated amount value appears in a subsequent monthly value.

\* Annual value missing; summary value computed from available month values.

Annual Climatological Summary  
(1999)

U.S. Department of Commerce  
National Oceanic & Atmospheric Administration  
National Environmental Satellite, Data, and Information  
Service

Station: **SALINAS, CA US**

COOP:047668  
Elev: 45 ft. Lat: 36.659° N Lon: 121.666° W

Temperature (F)														Precipitation (inches)										
Date	Elem->	MMXT	MMNT	MNTM	DPNT	HTDD	CLDD	EMXT		EMNT	DT90	DX32	DT32	DT00	TPCP	DPNP	EMXP	Greatest Observed		TSNW	MXSD	DP01	DP05	DP10
Month	Mean Max.	Mean Min.	Mean	Depart. from Normal	Heating Degree Days	Cooling Degree Days	Highest	High Date	Lowest	Low Date	Number Of Days			Total	Depart. from Normal	Snow, Sleet			Number Of Days					
											Max >=90	Max <=32	Min <=32			Min <=0	Total Fall	Max Depth	Max Date	>= 10	>= 50	>=1.0		
1	63.8	40.3	52.1	0.8	392	0	76	10	30	08	0	0	2	0	2.52	-0.12	0.85	31	0.0	0	6	2	0	
2	61.4	40.7	51.1	-2.2	385	0	73	27	32	02	0	0	1	0	3.45	1.20	0.84	09	0.0	0	7	3	0	
3	60.5	41.5	51.0	-3.1	425	0	71	02	34	10	0	0	0	0	2.30	-0.10	0.64	15	0.0	0	8	1	0	
4	64.8	44.4	54.6	-1.3	317	11	90	16	34	09	1	0	0	0	1.33	0.16	0.54	11	0.0	0	3	1	0	
5	63.5	47.6	55.6	-2.6	284	0	74	05	39	05	0	0	0	0	0.04	-0.15	0.02	03	0.0	0	0	0	0	
6	66.4	50.3	58.4	-2.6	193	0	77	28	42	07	0	0	0	0	0.24	0.14	0.21	03	0.0	0	1	0	0	
7	69.7	53.4	61.6	-0.7	103	6	81	13	45	05	0	0	0	0	0.00T	-0.05	0.00	31	0.0	0	0	0	0	
8	71.8	54.4	63.1	-0.4	55	6	80	22	45	31	0	0	0	0	0.02	-0.05	0.02	06	0.0	0	0	0	0	
9	71.2	53.0	62.1	-1.9	87	9	85	27	47	28	0	0	0	0	0.05	-0.13	0.04	09	0.0	0	0	0	0	
10	74.4	49.0	61.7	0.1	111	17	91	10	42	29	1	0	0	0	0.11	-0.58	0.11	28	0.0	0	1	0	0	
11	66.9	45.7	56.3	0.4	259	3	86	01	35	22	0	0	0	0	1.28	-0.77	0.37	17	0.0	0	5	0	0	
12	65.3	37.2	51.3	0.0	420	0	75	28	31	16	0	0	3	0	0.26	-2.00	0.11	09	0.0	0	2	0	0	
Annual	66.6*	46.5*	56.6	-1.1	3031*	52	91	Oct	30	Jan	2*	0*	6*	0*	11.60	-2.45	0.85*	Jan*	0.0*	0*	33*	7*	0*	

Notes

- (blank) Data element not reported or missing.

+ Occurred on one or more previous dates during the month. The date in the Date field is the last day of occurrence. Used through December 1983 only.

A Accumulated amount. This value is a total that may include data from a previous month or months or year (for annual value).

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- S Precipitation amount is continuing to be accumulated. Total will be included in a subsequent monthly or yearly value. Example: Days 1-20 had 1.35 inches of precipitation, then a period of accumulation began. The element TPCP would then be 00135S and the total accumulated amount value appears in a subsequent monthly value.

\* Annual value missing; summary value computed from available month values.



**Elkhorn Slough Foundation (ESF) Rainfall Summary**

Month	2011-12	2012-13	2013-2014	2014-2015
J	0.01	0.00	0.02	0.05
A	0.05	0.00	0.08	0.01
S	0.01	0.00	0.08	0.23
O	2.05	0.33	0.02	1.24
N	1.08	3.25	0.35	1.18
D	0.01	4.92	0.23	8.24
J	0.53	1.18	0.17	0.04
F	0.60	0.64	4.10	1.17
M	2.95	0.63	0.69	0.13
A	2.32	0.37	0.18	1.03
M	0.06	0.00	0.02	0.11
J	0.33	0.06	0.00	0.00
Total	10.00	11.38	5.94	13.43

**CALIFORNIA COASTAL COMMISSION**

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



# Th13d

Appeal Filed: 4/25/2005  
49<sup>th</sup> Day: Waived  
Staff: Kevin Kahn - SC  
Staff Report: 12/23/2016  
Hearing Date: 1/12/2017

## APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

**Application Number:** A-3-MCO-05-027 (Rancho Roberto Subdivision)

**Applicant:** Robert Bugalski

**Appellants:** Commissioners Shallenberger and Wan; and Friends, Artists and Neighbors of Elkhorn Slough

**Local Government:** Monterey County

**Local Decision:** Monterey County Coastal Development Permit Application Number PLN980685, approved by the Monterey County Board of Supervisors on March 1, 2005.

**Project Location:** 66 Fruitland Avenue (south of Salinas Road), Royal Oaks, North Monterey County (APN 117-131-032-000)

**Project Description:** Subdivision of a 13.3-acre parcel into 27 lots (26 residential lots ranging in size from 6,649 square feet to 10,765 square feet, plus one open space parcel of 6.61 acres placed in conservation easement); construction of a stormwater detention basin within a wetland in the open space parcel; 2,400 cubic yards of grading; construction of road, water, and sanitary sewer infrastructure; demolition of a single-family dwelling, barn, and several accessory buildings.

**Staff Recommendation:** Substantial Issue Exists; Denial

---

**Important Hearing Procedure Note:** The Commission will not take testimony on this “substantial issue” recommendation unless at least three Commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. (14 CCR § 13115(c).) If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally (and at the discretion of the Chair) limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. (14 CCR § 13117.) Others may submit comments in writing. (*Id.*) If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony. (14 CCR § 13115(b).)

## SUMMARY OF STAFF RECOMMENDATION

Monterey County approved a coastal development permit (CDP) authorizing the subdivision of a 13.3-acre parcel into 27 lots, 26 of which would be available for future residential development (i.e., each future residence would need a separate CDP approval), and one parcel left predominantly in open space, in the unincorporated Royal Oaks area of North Monterey County. Royal Oaks is a rural area of rolling hills consisting of open space, agriculture, and very low density residential development. Most of the project site is undeveloped land that has historically been used for grazing and other agricultural uses. The residential lots would all be located within 6.69 acres on the northern portion of the existing parcel, and would range in size from 6,649 square feet to 10,765 square feet. The County’s approval also authorizes the construction of a circular loop road, requires the abandonment of an existing well and connection to new infrastructure providing a potable water supply, new sanitary sewer connections, and demolition of an existing single-family dwelling, barn, and accessory structures. Per the County’s conditions of approval, the 6.61-acre open space parcel, which contains a riparian drainage swale, spring, and wetland, would occupy the southern half of the project site. The wetland would be converted into a stormwater detention basin, and the entire open space parcel would be placed in a conservation easement with restrictions on the types of allowed development.

Two appeals were filed with the Commission, contending that the County-approved project is inconsistent with the LCP’s water supply and groundwater resources policies. Specifically, the Appellants contend that the approved project cannot be served by an identifiable, available, and long-term water supply, including because the underlying groundwater basin from which the project is slated to receive water is already overdrafted and extracted at a level that exceeds its LCP-required safe yield amount. Therefore, a subdivision that will necessitate an additional permanent demand of water for 26 new residences from an already overdrafted groundwater source is both inconsistent with LCP policies that only authorize a level of development that can be served by the groundwater basin’s safe yield amount, and with policies that dictate residential subdivision to be the lowest priority land use to receive water when supplies are scarce (coastal-dependent uses being the highest priority). Furthermore, the Appellants contend that the assumptions made in the County’s findings regarding water supply are inadequate, including that the County arbitrarily used 20 years as a standard to define “long-term water supply,” which is not supported by the LCP, and calculated there to be 162 years of water supply based on how

long it would take to extract *all* of the water within the basin at the existing water extraction level, which is precisely the scenario the LCP's policies are meant to prevent through the safe-yield concept, including by ensuring that groundwater resources and the development it supports are not adversely impaired.

**Staff recommends that the Commission find that the appeals raise a substantial issue and that the Commission take jurisdiction over the CDP application. Staff further recommends that the Commission, on de novo review, deny the CDP.**

North Monterey County has had severe groundwater overdraft problems for decades. Virtually all of the agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells. The LCP requires development in North County to be served by an identifiable, adequate, long-term water supply, and only allows new development, particularly residential subdivisions, when the groundwater basin is in its safe yield extraction state. However, it is unclear whether the proposed project even has an identifiable and available water supply, including because the water provider in the area has voiced concern over whether it would be able to provide a will-serve letter to any new proposed connection from its existing wells, including due to detection of chromium 6 in exceedance of water quality standards. The proposed project would authorize a subdivision allowing for 26 future residences, which would demand water from an already severely overdrafted groundwater basin. Thus, the project cannot be found to have a long-term and adequate water supply, and cannot be found to be served by water from a groundwater basin in a safe yield state. Furthermore, the proposed 26-lot residential subdivision represents a low LCP-priority land use in an area with known water supply deficiencies. When such a combination results, the LCP affirmatively requires the proposed development to be denied. Therefore, because the project proposes 26 new residential lots within a groundwater basin that is severely overdrafted, the proposed project is inconsistent with the LCP's water supply and priority land use policies, and must be denied.

Furthermore, the project proposes to convert an existing riparian drainage swale into an underground culvert, and replace an existing wetland with an engineered stormwater detention basin with a headwall and weir. Neither use is allowed in riparian corridors and wetlands per the LCP. The project would also authorize extensive grading and landform alteration to convert the area's scenic natural wetland and riparian habitats into engineered, structural elements, and would replace the site's existing grazing lands with future residential development, inconsistent with LCP requirements to protect North County's agricultural landscape, which consists of scenic rolling hills and the open space viewshed of Elkhorn Slough.

In short, the project proposes a large suburban-style residential subdivision in a predominantly rural, agricultural area with severe water supply deficiencies. Thus, staff recommends that the Commission deny a CDP for the proposed residential subdivision project. The motions are found on page 5 below.

## TABLE OF CONTENTS

<b>I. MOTIONS AND RESOLUTIONS.....</b>	<b>5</b>
<b>II. FINDINGS AND DECLARATIONS .....</b>	<b>6</b>
A. PROJECT LOCATION .....	6
B. PROJECT DESCRIPTION.....	6
C. MONTEREY COUNTY APPROVAL AND PROJECT HISTORY .....	7
D. APPEAL PROCEDURES .....	8
E. SUMMARY OF APPEAL CONTENTIONS .....	9
F. SUBSTANTIAL ISSUE DETERMINATION .....	9
1. Water Supply .....	10
2. The Five “Substantial Issue” Factors .....	14
G. SUBSTANTIAL ISSUE DETERMINATION CONCLUSION .....	15
H. COASTAL DEVELOPMENT PERMIT DETERMINATION .....	15
1. Water Supply and Groundwater Resources .....	16
2. Environmentally Sensitive Habitat Areas .....	30
3. Water Quality.....	33
4. Visual Resources and Community Character .....	35
5. Takings.....	37
I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) .....	41

### APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contacts with Agencies and Groups

### EXHIBITS

Exhibit 1 – Location Maps

Exhibit 2 – Site Photos

Exhibit 3 – County’s Conditions of Approval and Approved Project Plans

Exhibit 4 – County’s Final Local Action Notice

Exhibit 5 – Appeal Contentions

Exhibit 6 – North Monterey County Groundwater Sub-basins and Overdraft Amounts

Exhibit 7 – Applicant’s Proposed Site Plan and Lot Configuration

Exhibit 8 – Applicant Correspondence

Exhibit 9 – County Correspondence

Exhibit 10 – Public Comments Received

Exhibit 11 – Ex Parte Correspondence

Exhibit 12 – Post-Appeal Correspondence

Exhibit 13 – Monterey County LCP Agriculture Permitting Requirements

Exhibit 14 – Map of Department of Water Resources-designated Critically Overdrafted Groundwater Basins

Exhibit 15 – Comment Letters from Commission Staff to Monterey County

## I. MOTIONS AND RESOLUTIONS

### A. Substantial Issue Determination

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a de novo hearing on the CDP application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-MCO-05-027 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

***Resolution to Find Substantial Issue:** The Commission hereby finds that Appeal Number A-3-MCO-05-027 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Monterey County Local Coastal Program.*

### B. CDP Determination

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the CDP and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-MCO-05-027 for the development proposed by the applicant, and I recommend a no vote.*

***Resolution to Deny CDP:** The Commission hereby denies Coastal Development Permit Number A-3-MCO-05-027 on the grounds that the development will not be in conformity with the Monterey County Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures and/or alternatives that would substantially lessen the significant adverse effects of the development on the environment.*



## II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT LOCATION

The proposed project is located on a 13.3-acre parcel in the unincorporated Royal Oaks area of North Monterey County at 66 Fruitland Avenue, south of Salinas Road between State Highway 1 and Elkhorn Road. West of the project site is the Pajaro Valley Golf Course and one mile south is the northern stretch of Elkhorn Slough, a significant coastal resource and one of the largest coastal wetlands remaining in California. Royal Oaks is a rural area of rolling hills consisting of open space covered by grasslands, maritime chaparral, and oak forest habitat; agricultural uses, including for both grazing and row crops; and very low density residential development. Most of the project site is undeveloped land that has historically been used for grazing and other agricultural uses. A single-family residence (constructed in the 1930s) and accessory structures occupy the parcel's northwestern edge. Access to the residence is gained by use of a gravel driveway from Fruitland Avenue. The project site slopes from north to south with up to 20 percent slopes. The undeveloped portions of the project site are covered primarily with grassland, with the exception of a drainage swale running north-south through the property and emptying into a wetland at the property's southern boundary, with a spring located adjacent to the wetland. The northern 6.69 acres of the parcel is zoned Medium Density Residential (MDR), allowing for residential development at a maximum of four units per acre. The southern 6.61 acres is zoned Low Density Residential (LDR), allowing for residential development at a maximum of 2.5 units per acre.

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

### B. PROJECT DESCRIPTION

The County's approval authorized the subdivision of a 13.3-acre parcel into 27 lots, 26 of which would be available for future residential development (i.e., each future residence would need separate CDP approval), and one parcel left predominantly in open space. The residential lots would all be located within 6.69 acres on the northern portion of the existing parcel (the portion zoned MDR), and would range in size from 6,649 square feet to 10,765 square feet. While no actual residential development is authorized by the County's approval, the County conditioned its approval to require that future residences on the parcels be built in two phases. Phase I would be limited to 20 units, four of which must be affordable to moderate-income households earning no more than 120% of the County's median income. Phase II would consist of the final six units, two of which must be reserved as "Workforce Housing" units (affordable to households earning up to 180% of the County's median income). Per the County's condition, Phase II would only be authorized after the completion of a water audit showing that the remaining six units could be developed within the water use limits for the entire project (when built out) identified in the project's Environmental Impact Report (EIR) (i.e., 11.51 acre-feet per year (AFY) for 26 total residences). The County's approval also authorizes the construction of a circular loop road extending from the existing terminus of Fruitland Avenue into the project site, requires the abandonment of an existing well and connection to new infrastructure providing a potable water supply, new sanitary sewer connections, and demolition of the existing single-family dwelling, barn, and accessory structures.

The 6.61-acre open space parcel would occupy the southern half of the project site on the portion of the parcel zoned LDR. As described above, this southern portion of the property contains a riparian drainage swale, spring, and wetland. The wetland would be converted into a stormwater detention basin designed to catch and treat the stormwater flow produced from the adjacent residential development during a 100-year storm event. The County's approval requires the entire open space parcel to be placed in a conservation easement with restrictions on the types of allowed development.

See the County's conditions of approval and approved project plans in **Exhibit 3**.

### **C. MONTEREY COUNTY APPROVAL AND APPEAL HISTORY**

On August 30, 2000, the Monterey County Planning Commission adopted a resolution (Planning Commission Resolution No. 000047) recommending that the Board of Supervisors (Board) *deny* the proposed project (CDP Application No. PLN980685) based on LCP inconsistencies with respect to water quantity and quality, groundwater resources, priority land uses, and traffic. However, contrary to the Planning Commission's recommendation, on March 1, 2005 the Board ultimately approved a CDP for the proposed project. Notice of the County's action on the CDP was received in the Coastal Commission's Central Coast District Office on April 11, 2005 (see **Exhibit 4**). The Coastal Commission's ten-working-day appeal period for this action began on April 12, 2005 and concluded at 5 p.m. on April 25, 2005. Two valid appeals were received during the appeal period. See **Exhibit 5** for the full text of the appeals.

At the time these CDP appeals were filed, the County was processing other similar North County residential subdivision projects. Commission staff reviewed and commented on all of these projects, including this one as it went through the local process (see these letters in **Exhibit 15**), including voicing concern with the County's interpretations of various LCP policies and the assumptions being made with respect to available water supplies. Additionally, numerous water supply projects and programs were either being proposed or were under construction, which could have affected the area's water resources and groundwater supply. Thus, Commission staff concluded it would be prudent to work with the County on the subdivision projects moving through the local process, with the goal of coming to a resolution with County staff on how the LCP's policies relate to the residential development potential in North County given common factual circumstances (so as to avoid further similar appeals). Furthermore, Commission staff felt it necessary to understand the efficacy of the various water supply projects, and whether those projects would abate the area's groundwater overdraft.

While undertaking this outreach with the County and monitoring the area's water situation, staff did not hear from the Applicant for many years. Staff sent letters to the Applicant in 2011 and 2012 asking whether he still intended to move forward with the project (see this correspondence in **Exhibit 12**). The Applicant responded that he was still interested in pursuing the project, and staff informed him of the information that would be necessary to bring the project forward to hearing<sup>1</sup>, and also informed the Applicant of staff's perspective of the various LCP

<sup>1</sup> In response to staff's 2012 letter, the Applicant identified a series of new information items that he believed were necessary to evaluate the merits of the project, including updated information on water supply and demand,

inconsistencies with the project as approved by the County. Commission staff never received the requested information from the Applicant. Staff did not hear from the Applicant until 2015, where Commission staff again contacted the Applicant and asked whether he still intended to move forward with this project. The Applicant indicated he still desired to do so, despite the project's potential coastal resource issues, and Commission staff informed him that it would be scheduled for the Commission's December 2015 hearing in nearby Monterey. Upon publishing of the staff report,<sup>2</sup> the Applicant requested a postponement of the hearing. Staff subsequently met with the Applicant and/or his representatives on several occasions to discuss project issues, including the ones identified in the December 2015 staff report, and all parties agreed that the Commission's January 2017 hearing in the Central Coast would be an appropriate time and venue to hear the project before the Commission.

#### **D. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or (3) in a sensitive coastal resource area; or (4) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. The County's approval of this project is appealable because the proposed development is located within 100 feet of a wetland (the wetland at the property's southern boundary) and because the subdivision is not a principal permitted use under the LCP.

The grounds for appeal under Section 30603(b)(1) are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires the Commission to conduct the de novo portion of the hearing on an appealed project unless a majority of the Commissioners present finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission considers the CDP de novo and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation

number of connections in the Pajaro-Sunny Mesa Community Services District, and regulatory changes and new technologies affecting water supply. Staff agreed with the Applicant that such information would be important, and responded back to him to provide such materials prior to a meeting, at which time all parties could discuss such materials and evaluate the project. Staff subsequently did not hear from the Applicant and did not receive the requested materials.

<sup>2</sup> That staff report also recommended, as here, that the Commission find that the County-approved project raised a substantial issue of conformance with the LCP and that the Commission take jurisdiction over the CDP for the project and deny the project on de novo review.

policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea (or the shoreline of a body of water located within the coastal zone), and thus this additional finding would not need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant (or his representatives), persons opposed to the project who made their views known before the local government (or their representatives), and the local government. (14 CCR § 13117.) Testimony from other persons regarding substantial issue must be submitted in writing. (*Id.*) Any person may testify during the de novo CDP determination stage of an appeal.

### **E. SUMMARY OF APPEAL CONTENTIONS**

The Appellants contend that the County-approved project is inconsistent with numerous Monterey County Local Coastal Program (LCP) groundwater resources and water supply policies, including those that require an identifiable, available, and long-term water supply (Land Use Plan (LUP) Policy 2.5.1); require development to be phased so that water supplies are not committed beyond their safe yield and, if the safe yield is already exceeded, only allow new development to proceed once additional water supplies are secured to bring the basin into its safe yield state (LUP Policy 2.5.2.3); require development to be limited to an amount that can be supported by the safe yield level of the underlying groundwater basin (LUP Policy 2.5.3.A.2); and require that where there is limited water supply to support development, coastal-dependent uses (i.e., coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP Policy 4.3.5.4). Furthermore, the Appellants contend that the County's findings of consistency with the above-cited policies are not supportable because they are based on the amount of time it would take for the entire groundwater sub-basin to be depleted.

See **Exhibit 5** for the Appellants' contentions. See Section H below for the text of the above-cited LUP policies.

### **F. SUBSTANTIAL ISSUE DETERMINATION**

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (California Code of Regulations, Title 14, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors in making such determinations: (1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government's decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. Even where the Commission chooses not to hear an appeal, Appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission determines that the County's approval of a CDP for the project presents a substantial issue.

## 1. Water Supply

### *Applicable LCP Policies*

The Monterey County LCP is divided into four segments, each with its own LUP<sup>3</sup> and Implementation Plan (IP). The subject property is located within the North County LCP segment. The North County LCP includes an extensive policy framework meant to protect the area's rich coastal resources, including through policies that protect groundwater, require an adequate water supply to serve new development, protect and prioritize agriculture, and direct development to existing developed areas best able to accommodate it.

Specifically, the LCP includes policies that require all new development to be served by an identifiable, available, and long-term water supply (LUP Policy 2.5.1), specifically requires new subdivisions dependent on groundwater to have an adequate, long-term water supply (LUP Policy 4.3.5.7), and only authorizes an amount of development that can be served by the safe yield groundwater extraction level (LUP Policies 2.5.2.3 and 2.5.3.A.2). The LCP defines "safe yield" as the amount of extraction that the resource can produce over the long-term without impairment of the resource and other associated resources (North County IP Section 20.144.020.VVVV). The LCP does not contain a specific numeric safe yield amount for each groundwater basin, but instead requires definitive water studies, hydrologic reports, and the most updated resource information to determine appropriate safe yields and the amount of new development such a yield can support (LUP Policy 2.5.3.A.2 and IP Section 20.144.070.E.11).

Consistent with the above-discussed policies, the LUP also requires development to be phased so that water supplies are not committed beyond their safe yield and, if the safe yield is already exceeded, only allows additional development to proceed once additional water supplies are secured that will bring the basin back into LCP-required safe yield state (LUP Policy 2.5.2.3). The LUP further requires that where there is limited water supply to support development, coastal-dependent uses (such as coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP Policy 4.3.5.4). Finally, LUP Policy 4.3.5.7 requires new subdivisions and development dependent upon groundwater to be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. Should the resource information find that the underlying groundwater basin is being extracted in a manner exceeding its safe, long-term yield, then the LCP affirmatively requires denial of a proposed project, particularly low-LCP priority residential subdivisions, unless and until additional water supplies are secured and the safe yield level is reached (IP Sections 20.144.070.E.11, 20.144.140.A.1, and Policy 2.5.2.3).

Overall, these policies and IP sections (see Section H below for full text) are meant to implement applicable Coastal Act policies that require new development to be served by adequate public services (Section 30250(a)), and in a manner that does not impact groundwater and other coastal resources (Sections 30231 and 30250(a)).

<sup>3</sup> The County's four LUP areas are: North County, Del Monte Forest, Carmel Area, and Big Sur.



### *Appellants' Contentions*

The Appellants contend the County-approved project is inconsistent with these aforementioned LCP groundwater resources and water supply policies and IP sections. Specifically, they contend that the approved project cannot be served by an identifiable, available, and long-term water supply, including because the underlying groundwater basin from which the project will receive water is already overdrafted and extracted at a level that exceeds its safe yield amount.

Therefore, a subdivision that will necessitate an additional permanent demand of water for 26 new residences from an already overdrafted groundwater source is both inconsistent with LCP policies that only authorize a level of development that can be served by the groundwater basin's safe yield amount, and with policies that dictate residential subdivision to be the lowest priority land use to receive water when supplies are scarce (with coastal-dependent uses being the highest LCP land use priority). Furthermore, the Appellants contend that the assumptions made in the County's findings are inadequate, including that the County arbitrarily used 20 years as a standard to define "long-term water supply," which is not supported by the LCP. The County also calculated there to be 162 years of water supply based on how long it would take to extract *all* of the water within the basin at the existing water extraction level, which is precisely the scenario the LCP's policies and standards are meant to prevent through the safe-yield concept, including by ensuring that groundwater resources and the development it supports are not adversely impaired.

### *Analysis*

The subject site is located in North Monterey County, which has severe groundwater overdraft problems. Virtually all of the agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells, with agriculture accounting for approximately 85 percent of the water demand. The North County LCP area is divided into two groundwater basins: the Salinas River Groundwater Basin and the Pajaro Valley Groundwater Basin. Within these two basins are five sub-basins, two of which are part of the Salinas River Basin: Highlands South and Granite Ridge; and three of which are part of the Pajaro Valley Basin: Springfield Terrace, Highlands North, and Pajaro. The approved project is located within the Springfield Terrace sub-basin of the Pajaro Valley Groundwater Basin; however, it proposes to receive water from a well that will extract water from the Highlands North sub-basin, also within the Pajaro Valley Groundwater Basin (see **Exhibit 6** for a location map of the area's groundwater basin geography).

As previously described, keeping groundwater usage within the basins' safe yield extraction level is a key LCP requirement. The LCP does not include a numeric safe yield amount for each groundwater basin, but instead requires that safe yield be understood based on definitive water studies, hydrologic reports, and new information sources. (LUP Policy 2.5.3.A.2 and IP Section 20.144.070.E.11) Since the time that the LCP was certified, the County has sponsored studies to determine the safe yield levels of groundwater extraction in the North County basins. The first study commissioned by the County was conducted in 1995<sup>4</sup> and calculated the groundwater overdraft for North County's five groundwater sub-basins on the order of 11,700 acre-feet per year (AFY),<sup>5</sup> based off a defined sustainable groundwater withdrawal yield<sup>6</sup> of 14,410 AFY and

<sup>4</sup> Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*. Prepared for Monterey County Water Resources Agency, October 1995.

<sup>5</sup> Id. Table 11, page 77. An acre-foot is equivalent to 326,700 gallons of water.



an actual extraction level of 26,110 AFY. Subsequently, the 2002 *North Monterey County Comprehensive Water Resources Management Plan* (CWRMP)<sup>7</sup> updated the 1995 analysis and calculated the overdraft to be as much as 16,340 AFY due to an increase in estimated water usage (see **Exhibit 6**).<sup>8</sup> The CWRMP calculated the Springfield Terrace sub-basin's overdraft at 7,594 AFY, and documented significant seawater intrusion problems affecting the area's water quality, including the failure of numerous wells. The Highlands North sub-basin overdraft was calculated at 2,701 AFY. Finally, in 2014, the Pajaro Valley Water Management Agency updated its *Basin Management Plan*, which applies to the Pajaro Valley groundwater basin, and estimated the basin's overdraft at 12,100 AFY.<sup>910</sup>

Thus, all three sources, which constitute the best available information regarding overdraft in the North County LUP area, conclude that North County's groundwater basins, including the sub-basins where the approved project is located (Springfield Terrace) and where it is proposed to receive its potable water supply (Highlands North) are overdrafted and supplying water to existing land uses at an amount exceeding the aquifers' safe yields. In contrast, the County approved the project based on an 11.51 AFY water usage limit, finding that the subdivision would be served by an identifiable, available, and long-term water supply using a 20-year threshold for determining "long-term," and further finding that the Highlands North sub-basin will provide an available water supply for 162 total years.

The County-approved project authorizes a residential subdivision that would eventually result in 26 new residences, which will increase water demand from groundwater aquifers that are already being pumped beyond their safe yield level. Therefore, the County's approval is inconsistent with LUP Policy 2.5.2.3, because the approval commits to new development an amount of water in exceedance of the groundwater basin's safe yield level. Furthermore, when existing development generates water demand in exceedance of the safe yield level, which is the case in North County, this policy only allows additional development when additional water supplies are secured to bring the basin into its safe yield state. In essence, the policy stands for the premise that the amount of allowed development must be commensurate with the amount that the groundwater basin's safe yield can accommodate. The groundwater basin is already overdrafted, meaning that the demand generated from existing development is already greater than the

<sup>6</sup> The *North Monterey County Comprehensive Water Resources Management Plan* defines "sustainable yield" as "the available groundwater supply that may be pumped without inducing additional groundwater declines or causing seawater intrusion (vertical migration from the slough or horizontal migration from the ocean) beyond conditions that existed in 1992."

<sup>7</sup> Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.

<sup>8</sup> Id. Table 1, Pages 2-7. The 2002 *Comprehensive Water Resources Management Plan* identified the same sustainable yield of about 14,410 AFY as the 1995 Fugro West study, but estimated extraction at 30,750 AFY, resulting in an overdraft in North Monterey County of 16,340 AFY.

<sup>9</sup> Based on a safe yield of roughly 48,000 AFY and a withdrawal of roughly 61,000 AFY.

<sup>10</sup> The *Basin Management Plan* quantified the overdraft condition of the entire Pajaro Valley Groundwater Basin, which extends into Santa Cruz County. The *North Monterey County Hydrogeologic Study* and the *North Monterey County Comprehensive Water Resources Management Plan*, the two previous studies on groundwater overdraft, quantified overdraft solely within the portions of the two groundwater basins (Salinas River and Pajaro Valley) located within the North County LCP area. Thus, the three reports share different geographic scopes, but all quantify overdraft within the project area.

available water supply, and thus without “additional water supplies” that would erase this imbalance, new residential subdivisions cannot be allowed. The County’s approval is also inconsistent with Policy 2.5.3.A.2, which similarly limits groundwater use to its safe yield level, and only authorizes an amount of development commensurate with what the underlying groundwater basin’s safe yield can support. Thus, the County-approved project raises substantial LCP conformance issues with respect to groundwater extraction levels and the amount of development such extraction can support.

With respect to Policy 2.5.1, which requires development to be served by an identifiable, available, and long-term water supply, the County used a 20-year period to define long-term water supply, making reference to State laws SB610 and SB221, which require new large residential developments to provide proof of an available water supply for at least 20 years. Furthermore, the County found that there would be an adequate water supply for 162 years, based on the total amount of stored groundwater in the Highlands North sub-basin of 912,247 AF, and an annual average usage of 5,612 AF. However, there are numerous LCP inconsistencies with the County’s reasoning and analysis leading to the County’s conclusion that the development will be served by an identifiable, available long-term water supply.

First, using a 20 year standard from SB610 and SB 221 as the threshold for determining whether a residential subdivision consisting of 26 new residences can be served “long-term” by a resource as fundamental as water sets a potentially dangerous precedent for establishing whether adequate long-term public services exist because neither SB610 nor SB221 are incorporated into the LCP in any way as applicable standards, and such an approach is unsupported by past LCP interpretation. As will be explained below, considering that the entire Northern Monterey County Groundwater Basin (including the Pajaro Valley Groundwater Basin and the Springfield Terrace sub-basin) are all in a state of overdraft, this necessarily means that no “long-term” water supply currently exists to support the proposed subdivision. Furthermore, the County’s 162-year “available” water supply finding is based on *completely draining* the entire groundwater aquifer, which directly contradicts the LCP’s “safe yield” definition (and the concept of safe/long-term yield in general) and the policies that seek to maintain groundwater basins in their safe yield state. Specifically, North County IP Section 20.144.020.VVVV defines “safe yield/sustained yield” or “long term sustained yield” as “the yield that a renewable resource can produce continuously over the long-term at a given intensity of management *without impairment of the resource* and other associated resources” (emphasis added), and many of the aforementioned LUP policies limit development to protect groundwater supplies at a “safe/long-term yield” (e.g., LUP Policies 2.5.1, 2.5.2.3, 2.5.3.A.2, and 4.3.5.7).

In essence, the LCP’s policies are intended to guard against the precise action taken by the County (complete drainage of the groundwater aquifer) in that they limit groundwater usage to its safe yield level for the protection of public health, safety, and coastal resources by ensuring that water supplies are not committed to a level that will result in the complete exhaustion of water resources and leave existing development without basic public services. As previously described, the County’s approval would commit water from an already overdrafted groundwater basin for 26 new residences. The groundwater basin’s overdraft status establishes that, in its current state, the basin cannot supply water over the long term in a manner that would not impair the basin and the resources that depend on it, and thus a project that would exacerbate that overdraft cannot be found to have a long-term water supply. These findings are articulated in the project’s EIR, which found that “the north Monterey County hydrogeologic area is in a state of

significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured without a regional program to address groundwater balance problems.”<sup>11</sup> Therefore, the County’s approval is inconsistent with LUP Policy 2.5.1’s overarching requirement that development be served by a long-term water supply, and is also inconsistent with LUP Policy 4.3.5.7, which only allows new subdivisions when they too can be supplied by an adequate, long-term groundwater source. The County-approved project therefore raises substantial LCP conformance issues in this regard.

In sum, the LCP requires development in North County to be served by a long-term water supply and only allows new development, particularly residential subdivisions, when the groundwater basin is in its safe yield extraction state. The County’s approval authorizes a subdivision allowing for 26 future residences demanding water from an already severely overdrafted groundwater basin. The project cannot be found to have a long-term water supply, and cannot be found to be served by water from a groundwater basin in its safe yield state, and thus is inconsistent with LCP policies in this regard. The County’s approval raises a substantial LCP conformance issue with respect to groundwater resources and water supply.

## **2. The Five “Substantial Issue” Factors**

As explained above, the Commission is guided in its decision of whether the issues raised in a given case are “substantial” by the following five factors: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, these five factors, considered together, support a conclusion that this project does raise a substantial issue of LCP conformance. Most importantly for making the substantial issue determination in this case, regarding the first factor, the County found the development consistent with applicable LCP water supply and groundwater resources policies based on assumptions that the entire groundwater basin would be depleted in 162 years, which is not supported by nor consistent with LCP policies that seek to preserve groundwater basins at their safe yield extraction level. The County’s methodological approach has no basis in the LCP. Thus, the County has not provided adequate factual or legal support for its decision to allow this residential subdivision in an area of known severe groundwater overdraft. Regarding the second factor, the extent and scope of the development as approved by the County supports a finding of Substantial Issue because the subdivision would result in 26 new lots with the purpose of allowing for 26 residential buildings on those lots. Considering that the proposed development is situated in a rural area of very low density residential development and would require dedicated water supplies for each of those 26 residences in an area of known groundwater overdraft, the extent and scope of the proposed development is significant.

Regarding the third factor, the proposed project is located in an area where the depletion of groundwater adversely affects significant coastal resources, such as agriculture, including through lack of water supply and through seawater intrusion. This factor supports a finding of

<sup>11</sup> Rancho Roberto Subdivision Final Environmental Impact Report, State Clearinghouse Number 2000051086 (the “Rancho Roberto Subdivision EIR”), page 2-49.

Substantial Issue. Regarding the fourth factor, because the project raises such coastal resource protection concerns, including interpreting the LCP to allow for residential subdivisions in areas with severe groundwater overdraft conditions, a finding of no substantial issue would create an adverse precedent for future interpretation of the LCP. Finally, regarding the fifth factor, the project raises issues of regional or statewide significance due to the statewide drought, the importance of groundwater resources in Northern Monterey County, and growth and development issues in North County more broadly. In short, the County-approved project does not adequately address LCP coastal resource protection requirements, and the five factors on the whole support a finding of substantial issue.

## **G. SUBSTANTIAL ISSUE DETERMINATION CONCLUSION**

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, which will determine whether the Commission should assert jurisdiction over a de novo CDP for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance, including when evaluated in light of the five factors discussed above.

For the reasons stated above, the Commission finds that Appeal Number A-3-MCO-05-027 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and therefore the Commission finds that a substantial issue exists with respect to the County-approved project's conformance with the certified Monterey County LCP, and takes de novo jurisdiction over the CDP application for the proposed project.

## **H. COASTAL DEVELOPMENT PERMIT DETERMINATION**

The standard of review for this CDP determination is the Monterey County certified LCP. All Substantial Issue Determination findings above are incorporated herein by reference.

### *North Monterey County Background*

North Monterey County is a predominantly rural area with significant coastal resources, including open space covered by grasslands, maritime chaparral, and oak forest habitat, and agricultural uses, including for both grazing and row crops, all flanking Elkhorn Slough, one of the largest coastal wetlands and estuaries in California. Because of the area's rich coastal resources, the public policy goal has been to retain North Monterey County as a rural, agricultural buffer along the mid-Monterey Bay area, in between urban Santa Cruz County to the north and the Monterey Peninsula to the south. In other words, the region's land use planning goal has been to direct urban development to existing urban centers along the north and south ends of Monterey Bay, and not to sprawl within the ecologically and agriculturally productive North County area. This broad goal was articulated in the findings of 1975's California Coastal Plan (Plan), prepared for the Governor and Legislature by the California Coastal Zone Conservation Commission per the requirements of 1972's Proposition 20, which helped inform and shape the Coastal Act. Specifically, the Plan found that the area contained incredibly rich coastal resources, including at Elkhorn Slough and the adjacent agricultural lands, but that these resources were at risk from numerous sources, including urban growth and sprawl, water quality impairment, and groundwater overdraft and seawater intrusion. Specifically, the Plan found:

*The Pajaro Valley, covering 120 square miles, is one of the richest agricultural regions in California...but **increasing drafts of groundwater, for urban and agricultural use, have had adverse effects**; the water supply for 50 square miles of agricultural land between the Pajaro Valley and Marina is **currently threatened by saltwater intrusion**. The urban center of the valley, Watsonville (population 17,000), has grown rapidly, sprawling into surrounding farmlands. The healthy economy of the area, based on food production and processing, encourages expansion of Watsonville and its suburbs, Freedom and Pajaro. **Substantial growth of these communities would involve the loss of valuable agricultural lands** designated for protection under county plans and the Coastal Plan, and would necessitate expensive solutions to the water supply problem. **Plan policies call for concentrating development in existing urban areas, such as Watsonville, Pajaro, Castroville, and Moss Landing, rather than allowing continued conversion of agricultural land...**(Elkhorn Slough) **is threatened by locally planned expansion of existing industrial and harbor developments, and by residential development of the critical watershed....**Although the major part of Elkhorn Slough is in public ownership, neither the critical watershed nor the wetland resource itself is adequately protected.<sup>12</sup> (**bold** means emphasis added)*

Thus, the Coastal Plan found that strong growth control protections were needed to preserve North County, including policies addressing water quality, groundwater overdraft and resultant seawater intrusion, and agricultural protections, all with the overarching goal of preserving the area's rural nature. These recommendations were largely ultimately adopted in both the Coastal Act, including as evidenced by the large coastal zone boundary that encompasses this area so as to comprehensively plan for and protect it, and in the North County LCP's policies and standards, as described below.

## 1. Water Supply and Groundwater Resources

### *Applicable Policies*

As described in the Substantial Issue portion of this report, the Monterey County LCP includes an extensive policy framework meant to protect the area's rich coastal resources, including through policies that protect groundwater and the related basins' safe yield, require an adequate and long-term water supply to serve new development, and protect and prioritize agriculture and other coastal-dependent development. Specifically, the North County Land Use Plan (LUP) and its associated Implementation Plan (IP) contain numerous policies and standards that protect North County's groundwater resources, including (where text in **bold** format means emphasis added):

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

<sup>12</sup> California Coastal Plan Central Coast Subregion 5: Pajaro-Elkhorn (Part IV: Plan Maps and Regional Summaries, page 230)



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

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

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

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

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

***North County IP Section 20.144.070.E.11. Development shall not be permitted if it has been determined, through preparation of a hydrologic report, or other resource information, that: a) the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer; and, b.) there are no project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.***

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

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



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

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

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

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

***North County LUP Policy 7.3.1. A growth management program phasing residential and, where appropriate, commercial and industrial development may be instituted in the North County coastal zone (and in other parts of the County) based upon natural resource protection, water availability, and public facility capacities and constraints. A phased residential allocation system may be developed. Development and subdivision proposals could be processed at set periods during the year. If there are large numbers of applications, those not accepted in a particular process could be considered the following period. During evaluation of applications, priority should be given to coastal-dependent or related uses and development of existing parcels.***

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

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

In sum, these policies and standards only authorize a level of development that can be supported by the safe yield extraction level of the underlying groundwater basin, and do not allow non-coastal dependent uses, particularly residential subdivisions, when such uses cannot be served by water within the safe yield level.

Overall, these policies are meant to implement applicable Coastal Act policies that require new development to be served by adequate public services (Section 30250), and in a manner that does not impact groundwater and other coastal resources (Sections 30231 and 30250).

### *Analysis*

#### *Groundwater Overdraft and Safe Yield Calculations*

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

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

*It is evident that continued overdraft in the North County will lead to increasing saltwater intrusion and lower water tables. In some areas, water shortages may occur. Managing the demand for water generated by agricultural use and residential and commercial development within the limits of attainable long-term water supply sources will be a major*

*challenge for the area in the coming years. **Additional information is urgently needed to help determine the long-term safe yield of North County aquifers.** The opportunities for obtaining a surface water supply should also be investigated. (emphasis added)*

The LCP therefore developed a policy framework that allowed development, but in a cautious, phased manner commensurate with the area's safe yield (LUP Policies 2.5.2.3, 2.5.3.A.2) and subject to a buildout cap (LUP Policies 2.5.3.A.2, IP Section 20.144.140.B.3.a) that could only be exceeded once definitive water studies were developed that calculated the safe yield level. In other words, while there was no consensus on the precise quantification of the problem or on how to exactly quantify the safe yield at the time the LUP was certified, the LUP was developed to manage the demand for water by establishing policies that phased development relative to safe yield, to be understood using the best available science.

The LUP also limited the total amount of residential development in North County (beyond one home per legal parcel) by placing a maximum threshold on residential buildout until that safe yield level could be determined. Because the overdraft situation was not precisely known at time of LUP adoption, to be cautious, LUP Policy 2.5.3.A.2 establishes that no more than 50% of the maximum<sup>13</sup> residential buildout based on parcel size and subdivision potential (i.e., 1,351 units or lots) may be allowed while the County pursued efforts to quantify the overdraft problem and arrive at a solution. The policy establishes this maximum as a cap until a new water supply is secured or once safe yield is achieved, at which time this cap could be increased via LCP amendment.<sup>14</sup> However, that is a maximum threshold, and LUP policy 2.5.3.A.2 includes a caveat that allows this cap to be reduced to limit groundwater use to the safe-yield level once it was determined, or if required in order to protect agricultural water supplies. Thus, while the 50% build-out level represents an idealistic threshold to use, the LCP proactively established this threshold not as an absolute guaranteed buildout, but rather as a maximum that could be further reduced in order to protect groundwater resources once more was known about their status. Other LCP policies similarly state that development and density allowances are maximums, not entitlements, with new development limited by resource constraints and LCP requirements (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).<sup>15</sup>

<sup>13</sup> The 50% buildout density figures were derived from multiplying plan densities by area acreage. These buildout numbers do not account for potential resource constraints that might be identified when additional units or subdivision are proposed, and that might dictate a lower density (e.g., significant wetland areas and water resource constraints that could not be developed). The LUP is clear that actual development potential is contingent on natural resource constraints and the availability of public services (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).

<sup>14</sup> This policy applies to new lots and second units on existing lots; one home per vacant parcel is allowed independent of the 50% buildout number. However, second units are no longer allowable in the North County coastal zone due to water supply inadequacies per LCP amendment No. LCP-3-MCO-15-0022-1, approved by the Commission in October 2015.

<sup>15</sup> The County has argued (see County correspondence in **Exhibit 9**) that the LCP's buildout numbers are mandatory entitlements given that the North County LCP was certified with many areas, including the subject property, zoned for residential use knowing that the area suffered from groundwater overdraft conditions. Therefore, the County argues that the LCP already contemplated a certain amount of residential subdivision and use in North County. However, as described above, the Commission disagrees with such assessment, including because the LCP is clear that it did not precisely know the extent and magnitude of the groundwater overdraft at the time of certification, and thus it required definitive groundwater supply studies to quantify it. The LCP also set up a policy framework to prioritize different types of development should the resource studies document significant and

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

Thus, these studies not only quantified the estimated safe yield for the collective groundwater basins, but the 2002 study also showed that the overdraft was more than what was first estimated. For example, in the Highlands North sub-basin, which would provide water to the proposed project, the 1995 Fugro West study calculated a sustainable yield of 2,920 AFY and historical groundwater demand of 4,780 AFY, resulting in a deficit of 1,860 AFY. Updated values provided in the 2002 CWRMP identified the same sustainable yield of 2,920 AFY, but updated the water demand estimates for the sub-area to be 5,621 AFY, for a total overdraft of 2,701 AFY. This represents an over 45% increase in the overdraft for the Highlands North sub-basin over the span of seven years.

The 2002 CWRMP also showed that long-term over-commitment of the aquifer threatens water supplies and other existing users due to the risk of lowered groundwater levels and seawater intrusion. The Fugro West study identified a general long-term trend of declining water levels in the area over the preceding 20 years, with 1994 water levels in some portions of the Highlands area being more than 40 feet below mean sea level (near Prunedale). Seawater intrusion results when wells pumped near the coast cause the water table elevation (or groundwater level) to drop below sea level. Once the water table elevation drops below sea level, seawater can migrate into the aquifer (from the ocean as well as from the tidally-influenced Elkhorn Slough system) and mix with freshwater, which increases the chloride concentrations in the groundwater pumped from these wells. The CWRMP maps entitled "Seawater Intrusion in North Monterey County" show that the 500-mg/l-chloride contour<sup>16</sup> has moved landward over time, from between 1,650 feet inland of the coast to 3,300 feet inland of the coast over the period between 1979 and 1993. Seawater intrusion threatens both agricultural and residential water uses. According to the

sustained overdraft, with residential development set as a lower priority in case of groundwater overdraft. Furthermore, the Commission has in the past consistently found that North County's buildout and density numbers are maximums, whereby actual allowable buildout and density must be understood based on resource constraints and LCP requirements (see CDP A-3-MCO-04-054, LCP amendment MCO-MAJ-1-06, and CDP Extension A-3-MCO-04-054-E3).

In responding to the County's assertions another way, the fact that the subject property is zoned for residential use as a general matter does not mean that this specific proposed residential subdivision must be approved, considering its clear inconsistencies with numerous LCP policies regarding groundwater supply. As explained later in this staff report, staff's recommended denial here does not preclude the Applicant from enjoying beneficial economic use of the property because he *already* enjoys multiple beneficial economic uses of the property, including a single-family residence and agricultural development.

<sup>16</sup> A concentration of 500-mg/l of chloride is the Secondary Drinking Water Standard upper limit and is used as a measure of impairment of water, and is therefore also the basis for determining seawater intrusion in wells.



CWRMP, the Springfield Terrace area (where the proposed project is situated in the northwestern portion of North Monterey County) and other areas near Elkhorn Slough have been the most impacted by elevated chloride ion concentrations as a result of seawater intrusion, and many agricultural producers have had to abandon their water supply wells, mix salty well water with fresher water to reduce the chloride concentrations, or purchase reclaimed water for irrigating agricultural lands. Other agricultural and residential wells have had to be abandoned or drilled to deeper depths to reach unaffected portions of the aquifer.

In 2014, the Pajaro Valley Water Management Agency (Agency) updated its *Basin Management Plan* (Basin Plan)<sup>17</sup>. The purpose of the Basin Plan is to serve as the principal document guiding all of the Agency's major projects and programs, with the goals of reducing overdraft, halting seawater intrusion, and improving and protecting water quality within the entire Pajaro Valley Groundwater Basin. The 2014 Basin Plan updated the previously adopted version from 2002. The 2002 Basin Plan found that sustainable yield<sup>18</sup> was roughly 48,000 AFY and, with a then-current demand of 69,000 AFY, the basin's groundwater supply was being overdrafted by roughly 21,000 AFY. The 2002 Basin Plan then described various programs intended to address this overdraft, including projects that reduced water demand as well as projects that increased water supply. One such identified water supply project was 13,400 AFY of new imported water from the United States Bureau of Reclamation-controlled Central Valley Project. However, due to funding issues and other project constraints, in early 2010 the Agency took formal action to remove this import pipeline from project consideration.

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

***The Pajaro Valley groundwater basin is in severe overdraft, causing groundwater elevations to drop below sea level as shown in Figure ES-1 and leading to seawater intrusion. Seawater intrusion has caused chloride contamination of groundwater wells up to three miles inland, as shown in Figure ES-2. Seawater intrusion is an immediate and direct threat to the Pajaro Valley economy. The elevated chloride concentrations make the groundwater unusable for irrigating the high value, salt-sensitive crops in the coastal region of the Pajaro Valley.***<sup>19</sup>[bold is emphasis added]

<sup>17</sup> The *Basin Management Plan* quantified the overdraft condition of the entire Pajaro Valley Groundwater Basin, which extends into Santa Cruz County. The *North Monterey County Hydrogeologic Study* and the *North Monterey County Comprehensive Water Resources Management Plan*, the two previous studies on groundwater overdraft, quantified overdraft solely within the portions of the two groundwater basins (Salinas River and Pajaro Valley) located within the North County LCP area. Thus, the three reports share different geographic scopes, but all quantify overdraft within the project area.

<sup>18</sup> The 2002 Plan defined "sustainable yield" as "the maximum amount of groundwater that can be extracted from the aquifer without causing adverse effects...i.e. recharge = demand, and seawater intrusion [is] eliminated."

<sup>19</sup> Pajaro Valley Water Management Agency Basin Management Plan Update Executive Summary Page ES-1.

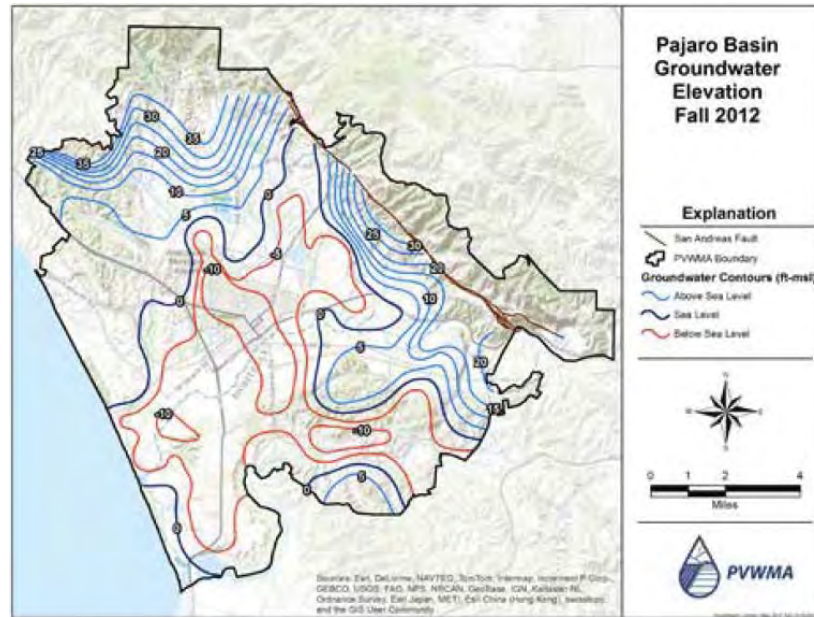


Figure ES-1. Groundwater levels in much of the basin are below sea level.

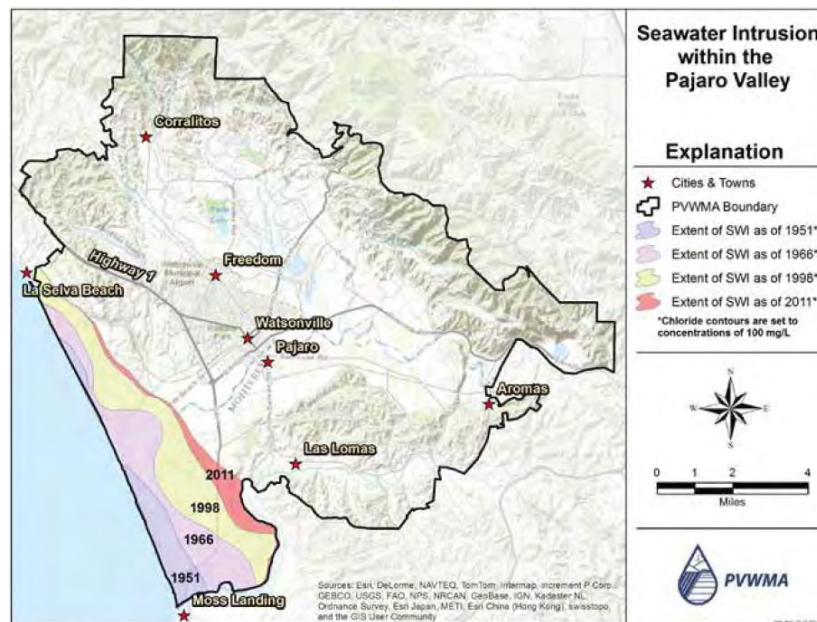


Figure ES-2. Seawater continues to degrade groundwater along the coast.

To erase the groundwater deficit (and to make up for loss of imported water relied on in the 2002 Basin Plan), the 2014 Basin Plan listed a set of projects meant to either increase supply (including through increased water recycling), optimize existing supplies (including through upgrades at existing facilities), and reduce water consumption. Specifically, one of the primary differences in the 2014 Basin Plan update from the 2002 Basin Plan is its reliance on conservation programs to reduce water demand, eliminate basin overdraft, and halt seawater intrusion. The Basin Plan relies on conservation programs which would result in 5,000 AFY of reduced water consumption, or over 40% of the total water consumption reduction necessary to stop basin overdraft. These conservation programs include agricultural irrigation



efficiency projects, pricing strategies, and residential groundwater usage metering. In essence, the new Basin Plan provides an updated quantification of the basin's overdraft and serves as the blueprint for identifying measures meant to address and solve the Pajaro Valley Groundwater Basin's overdraft and seawater intrusion problems. Unlike the previous 2002 Plan, which relied heavily on new water supplies emanating from imported water from the Federal government, the updated Basin Plan eliminates the imported water allowance and instead relies heavily on reducing water demand through conservation strategies. The 2014 Basin Plan, however, acknowledges that it will take decades for these strategies to meet its overdraft reduction objectives.

Furthermore, although not a groundwater study commission by the County, implementation to date of the Sustainable Groundwater Management Act (SGMA) represents additional best available scientific information supporting the conclusion that groundwater in the Pajaro Valley Groundwater Basin (including the Springfield Terrace and Highlands North sub-basins) are being over-extracted in exceedance of their safe yields. The SGMA was signed into law by the Governor on September 16, 2014. The 2014 SGMA establishes a new structure for groundwater management in California, requiring all overdrafted groundwater basins to be managed by local groundwater sustainability agencies (GSA) under the purview of a Department of Water Resources (DWR)-approved Groundwater Sustainability Plan (GSP). The legislation's intent is to provide for sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and feasible assistance necessary to manage groundwater. SGMA defines "sustainable groundwater management" as the "management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results,"<sup>20</sup> and defines "undesirable results"<sup>21</sup> as any of the following effects caused by groundwater conditions occurring throughout the basin:

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

SGMA defines "sustainable yield" as "the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result."<sup>22</sup>

<sup>20</sup> California Water Code Section 10721(v).

<sup>21</sup> California Water Code Section 10721(x)(1-6).

<sup>22</sup> California Water Code Section 10721(w).

Under the law, DWR is required to identify groundwater basins in “critical conditions of overdraft,” defined as when “continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.” All groundwater basins currently designated as High or Medium Priority per DWR’s 2003 Bulletin 118<sup>23</sup> and designated as “critically overdrafted” by DWR would be designated as a basin in “critical conditions of overdraft” and would be required to be managed under a GSP by January 31, 2020. All other High or Medium Priority basins must have an approved GSP by January 31, 2022.<sup>24</sup>

In July 2015, DWR developed a draft list of 21 “critically overdrafted” basins and sub-basins. A groundwater basin was determined to be critically overdrafted if it is currently subject to one or more “undesirable results,” as that term is defined in the law (see bulleted list above). The draft list included the Pajaro Valley Groundwater Basin. As such, in September 2015, PVWMA elected itself to be the Groundwater Sustainability Agency (GSA) for the groundwater basin. As the official GSA, PVWMA will prepare, submit to DWR for adoption, and be the primary agency tasked with implementing the GSP. In January 2016, DWR officially designated the Pajaro Valley Groundwater Basin as “critically overdrafted” (see map of DWR-designated “critically overdrafted” groundwater basins in **Exhibit 14**). Since the Pajaro Valley Groundwater Basin has been deemed a “High Priority” basin in Bulletin 118 since 1980, the basin will be deemed in “critical conditions of overdraft” and be required to have an approved GSP by 2020.

Thus, all four comprehensive information sources (i.e., the 1995 Fugro West study, the 2002 CWRMP, the 2014 Basin Plan, and the SGMA) conclude that North County’s groundwater basins, including the Highlands North sub-basin from which the proposed project will receive its potable water supply, are overdrafted and supplying water to existing land uses at an amount exceeding the aquifers’ safe yield. Therefore, North County’s groundwater basins are not meeting the performance standards and requirements specified in LUP Policies 2.5.2.3 and 2.5.3.A.2, and IP Section 20.144.070.E.11, which require North County’s groundwater basins to be within their safe yield extraction level. As such, the proposed project is inconsistent with LUP Policy 2.5.2.3, which does not allow development when water supplies are committed beyond their safe yield, and only allows development once additional water supplies are secured to bring the basin into its LCP-required safe yield state.

#### *Long-term, Adequate Water Supply*

As described previously, the LCP requires all new development to be served by an identifiable, available, long-term, and adequate water supply (LUP Policy 2.5.1 and IP Section 20.144.140.A.1), and specifically requires new subdivisions dependent on groundwater to have an adequate, long-term water supply (LUP Policy 4.3.5.7). If water supplies are found not to be adequate, then IP Section 20.144.140.A.1 does not allow non-coastal dependent uses, thereby affirmatively requiring denial of low LCP (and Coastal Act) priority residential subdivisions. In

<sup>23</sup> Bulletin 118 is DWR’s primary inventory of the state of groundwater basins in California, including the names and boundaries of basins and sub-basins, yield data, water budgets, and water quality.

<sup>24</sup> All other groundwater basins are encouraged, but not required, to prepare a GSP.

essence, when essential services are limited, including when groundwater basins are overdrafted and not within their safe yield extraction level, as is the case in North County, the LCP prioritizes certain land uses over others. Specifically, the LCP states that agriculture and coastal-dependent development have priority over residential development, particularly residential subdivisions, in order to ensure that non-priority land uses do not unduly exhaust scarce water supplies at the expense of priority uses. Indeed, IP Section 20.144.140.A.1 instructs that, “where services are determined not to be adequate for the proposed non-coastal dependent use, *only coastal dependent uses shall be permitted*” (emphasis added). In essence, this IP standard affirmatively requires the reviewing authority to deny a non-priority use (including residential subdivision) when services are found to be inadequate, as it is with respect to water supply in North County.

The proposed project would authorize a residential subdivision that will increase water demand by an estimated 11.51 AFY for 26 new residences from groundwater aquifers that are already being pumped beyond their safe yield level. However, it is unclear whether the proposed project even has an identifiable and available water supply (let alone a *long-term* identifiable and available water supply), including because the Pajaro-Sunny Mesa Community Services District (District) has voiced concern over whether the District would be able to provide a will-serve letter to any new proposed connection with potable water from its existing wells, including due to detection of chromium 6 in exceedance of the new Maximum Contaminant Level.<sup>25</sup> If the proposed development does not obtain water service from the District, it is unclear from what other identifiable and available water source the proposed development will receive water. With respect to whether there is a long-term and adequate supply, the groundwater basin’s overdraft status establishes that, in its current state, the Highlands North sub-basin cannot supply water over the long term in a manner that would not impair the basin and the resources that depend on it, and thus a project that would be served by it cannot be found to have a long-term, adequate water supply. Indeed, as described previously, the project’s EIR found that “the north Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured without a regional program to address groundwater balance problems.”<sup>26</sup> Therefore, the proposed project is inconsistent with LUP Policies 2.5.1 (which requires development to be served by identifiable, available, long-term water supplies) and 4.3.5.7 (which limits new subdivisions and development until adequate long-term water supplies are assured).

Furthermore, the proposed project, with its resultant 11.51 AFY water usage for 26 new residential lots, cannot be found to have an adequate water supply, and is thus inconsistent with IP Section 20.144.140A.1, which requires that adequate water be available to serve non-coastal dependent uses. There is not adequate water available for the proposed subdivision, which is a non-coastal-dependent use, and thus the proposed subdivision must be denied.

<sup>25</sup> Personal communication in the Central Coast District office in Santa Cruz between Kevin Kahn (the Coastal Commission’s Central Coast District Supervisor) and District General Manager Don Rosa and Operations Manager Judy Vazquez-Varela on August 24, 2016.

<sup>26</sup> As described above, one such “regional program” is the 2014 Basin Plan, which identifies conservation and strict management of existing water supplies to be the primary mechanism to address and abate the area’s groundwater overdraft.

Moreover, the proposed subdivision cannot be found consistent with other LUP policies, including LUP Policy 2.5.3.A.1 (which sets a County-wide policy of protecting groundwater supplies for coastal priority agricultural uses), Policy 4.3.5.4 (which prioritizes coastal-dependent uses over residential and non-coastal-dependent uses when there is limited water to support development), Policy 4.3.6.D.1 (which only allows land divisions for residential purposes to be approved by evaluating LCP criteria), Policy 4.3.6.D.5 (which limits residential growth until water supply necessary to support residential development is provided), and Policy 7.3.1 (which prioritizes applications for coastal-dependent or related uses). Thus, the proposed subdivision must be denied.

#### *Alternatives and Impact Mitigation*

With respect to IP Section 20.144.070.E.11, this standard prohibits development when it will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer, and when there are no mitigation measures and/or project alternatives that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer. In this case, the groundwater basins are already severely overdrafted. Thus, *any* subdivision, even an alternative one with fewer proposed parcels,<sup>27</sup> would commit a permanent water supply from a source that is already overdrafted.

In fact, the 2014 Basin Plan recognizes that it will take decades to meet its overdraft reduction objectives, and the primary mechanism to do so (in addition to measures such as water recycling and agricultural irrigation efficiency) is conservation. While some projects have proposed to mitigate their water demands by offsetting their anticipated water usage via retrofitting programs (i.e., requirements to offset a proposed development's water usage through reducing a commensurate amount of water use offsite), there are multiple concerns with this approach, including that they do not address nor are they consistent with other LCP requirements that only allow a level of development commensurate with the safe yield groundwater extraction level, and because their efficacy and ability to provide bona fide, long-term water savings have not been borne out.<sup>28</sup> Furthermore, in areas with water supply limitations, simply offsetting a proposed development's estimated water usage may not be an

<sup>27</sup> The Applicant has indicated a willingness to reduce the number of proposed lots to 16 in order to reduce the number of future residences and commensurate water usage (see the preliminary alternative site plan in **Exhibit 8**). However, as described above, given on-the-ground conditions it is not a matter of *how many* new residential lots North County can support, but rather that the LCP does not allow residential subdivision when the groundwater basins are in their current overdrafted state.

<sup>28</sup> Indeed, in the Commission's 2006 approval of A-3-MCO-04-054, a 10 lot subdivision in North Monterey County's Royal Oaks community, the Commission found the project largely inconsistent with numerous LCP requirements, but approved the project to settle a lawsuit and to test the efficacy of a water retrofit program in addressing North County groundwater issues. Thus, the Commission required the Applicant to completely offset the project's anticipated water usage via retrofitting existing development within North County. However, the Applicant has been unable to meet this condition, including because the Pajaro-Sunny Mesa Community Services District, i.e. the entity that would provide the project with potable water from its groundwater rights, has concluded that there are no significant retrofit candidates or opportunities remaining in North Monterey County. Therefore, the District and the Commission were not able to approve a retrofit program for that project, and the Commission denied a permit extension for that project on November 2, 2016. Given this fact, and because such an offset program would not address overall basin safe yield requirements, the Commission finds that a water retrofit/offset program is not an appropriate mitigation approach for the proposed Rancho Roberto subdivision project.

appropriate means to find that it can meet LCP water availability requirements (e.g., if a project is proposed in an overdrafted groundwater basin where the demand is already greater than its supply, it may not be appropriate for the reviewing authority to find that public services are available to serve the development just because the project is required to offset water usage in the area, including because if the project is no longer able to offset water usage for whatever reason, public services have *not* been secured for the development). Instead, a reviewing authority must affirmatively show that long-term and sustainable water supplies are ready and available to serve the proposed development. In other words, retrofitting is an insufficient tool to overcome known existing water deficiencies in North County's groundwater basins, *particularly* for low LCP-priority residential subdivisions.

Finally, the Applicant has asserted that allowing for the proposed residential subdivision is appropriate because, in general, residences use less water than agricultural uses. The Applicant argues that if the property is not subdivided and put to residential use, then its only other economic use would be agricultural production, which would be more water intensive (particularly for water-intensive crops such as strawberries) and could be done without CDP authorization given that the site has historically been used for agricultural grazing. Thus, according to the Applicant, residential use on the site could be a tool to help address the area's water supply and groundwater inadequacies. However, there are numerous issues with such assertions. First, it is not accurate that agricultural production does not require a CDP. On the contrary, the LCP is clear that certain types of agricultural activities do require CDPs, including construction of water systems/wells and installation of irrigation lines,<sup>29</sup> new or expanded agricultural operations on land with slopes greater than 10%,<sup>30</sup> conversion of uncultivated land to cultivated agricultural use on land with slopes of 15%-25%,<sup>31</sup> and any type of development within 100 feet of wetlands or environmentally sensitive habitat.<sup>32</sup> In fact, the only type of agricultural activity explicitly exempt from CDP requirements is the harvesting of existing agricultural crops.<sup>33</sup> Given that this parcel contains slopes of up to 20%, a wetland, and has not been used for cultivated/ irrigated agriculture, a CDP would be required for many types of new agricultural uses, which would be subject to the LCP's water use and conservation requirements. In addition, converting land from agricultural use to residential use is not an appropriate manner to address groundwater depletion and its resultant coastal resource impacts, including because doing so directly contradicts LCP policies that prioritize agriculture over residential development, *particularly new subdivisions* that create a demand for additional low-priority residential development. In many ways, the LCP's policy framework is a proactive identification of the appropriate actions to take for evaluating development when the groundwater basin is overdrafted, as is the case here. The LCP states the overarching objectives are to both protect groundwater and water quality while also prioritizing agriculture (and coastal-dependent uses and recreation) over other types of development. The LCP then implements such objectives by not allowing

<sup>29</sup> IP Sections 20.12.050(K) and 20.14.040(J) (see **Exhibit 13**).

<sup>30</sup> IP Section 20.12.030(H) (see **Exhibit 13**).

<sup>31</sup> IP Section 20.14.050(K) (see **Exhibit 13**).

<sup>32</sup> IP Section 20.14.030(E) (see **Exhibit 13**).

<sup>33</sup> IP Section 20.70.120(I) (see **Exhibit 13**).



low-priority residential subdivisions (instead explicitly requiring their phasing and allowance only when additional water supplies are available that bring the groundwater basins to their safe yield state), *and* by ensuring that new agricultural uses must also protect water supplies and be as water efficient as possible.<sup>34</sup> Thus, the LCP seeks to protect groundwater, water supply, and water quality by requiring even priority agricultural development to address and employ water conservation measures and by ensuring residential subdivision is only allowed when the groundwater basins are within safe yield levels. Allowing for residential subdivision over agriculture as a means to address groundwater depletion, as the Applicant suggests, would frustrate the LCP's fundamental structure on this issue. In short, despite the Applicant's argument that his proposed residential subdivision will result in reduced overdraft impacts to groundwater supply when compared to agricultural use, the LCP expressly prioritizes agricultural use (and other coastal-dependent uses) over residential subdivisions in cases of groundwater overdraft. Finally, the Applicant's argument that the only allowable uses on the property are agricultural production or residential subdivision is incorrect. The property already contains a residence, and thus it already has a viable economic use. In other words, the property is residentially zoned (and thus agriculture is not required to be instituted) and contains a residential use. Thus, the no project alternative would be the least water intensive option while also ensuring continuation of an existing viable economic use in this case.

Thus, the proposed project is inconsistent with IP Section 20.144.070.E.11 because it will generate a water demand that exceeds the ability of the aquifer to serve it within its safe yield state and, as described above, there are no project modifications and/or mitigations available to offset the project's groundwater usage such that it will not further impair the groundwater basin safe yield. As such, and because this IP standard makes an affirmative statement that "development *shall not be permitted*" (emphasis added) when these two findings are made, the proposed project must be denied.

### *Conclusion*

The proposed project constitutes a residential subdivision (a low priority use) in an area with known water supply deficiencies, including that the groundwater basin from which the development will receive water is overdrafted and extracted in exceedance of its safe yield state. When such a combination results, the LCP affirmatively requires the proposed development to be denied. Therefore, because the project proposes 26 new residential lots within a groundwater basin that is severely overdrafted, the proposed project is inconsistent with the LCP's water supply and priority land use policies, and must be denied.

<sup>34</sup> North County LUP Policy 2.6.3.8 and North County IP Section 20.144.070(D) (see **Exhibit 13**) require the preparation of management plans and hydrologic reports for new agricultural development. The reports are to provide an analysis of soils, erosion potential and control, water demand and availability, proposed methods of water conservation and water quality protection, protection of important vegetation and wildlife habitats, rotation schedules, and such other means appropriate to ensure the long-term viability of agriculture on a particular parcel or parcels.



## 2. Environmentally Sensitive Habitat Areas

The LCP broadly defines environmentally sensitive habitat areas (ESHA) to include wetlands and streams and, with the exception of resource dependent uses (and certain other uses allowed in wetlands and streams per Coastal Act Sections 30233 and 30236, respectively), prohibits development within them. Applicable policies and standards include:

***IP Section 20.06.440 Environmentally Sensitive Habitat Area:*** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

***North County LUP Policy 2.3.2.1.*** With the exception of resource dependent uses, ***all development***, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, ***shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare or endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive.*** Resource dependent uses, including nature education and research, hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values. (emphasis added)

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

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

***North County LUP Policy 2.4.3.6.*** The County's diking, dredging, filling, and shoreline structures regulations shall incorporate Coastal Act Sections 30233(a) and (c), 30235, 30236, and 30607.1.

***North County LUP Policy 2.3.2.B.1.*** Riparian plant communities shall be protected by establishing setback requirements consisting of 150 feet on each side of the bank of perennial streams, and 50 feet on each side of the bank of intermittent streams, or the extent of riparian vegetation, whichever is greater. In all cases, the setback must be sufficient to prevent significant degradation of the habitat area. The setback requirement may be modified if it can be conclusively demonstrated by a qualified biologist that a narrower corridor is sufficient or a wider corridor is necessary to protect existing riparian vegetation from the impacts of adjacent use.

***North County LUP Policy 2.3.2.B.2.*** All development, including dredging, filling, and grading within stream corridors, shall be limited to activities necessary for flood control purposes, water supply projects, improvement of fish and wildlife habitat, or laying of pipelines when no alternative route is feasible, and continued and future use of utility lines and appurtenant features. These activities shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution. When such activities require removal of riparian plant species, re-vegetation with native plants shall be required.

***North County LUP Policy 2.3.2.B.4.*** A setback of 100 feet from the landward edge of vegetation of all coastal wetlands shall be provided and maintained in open space use. No permanent structures except for those necessary for resource-dependent use which cannot be located elsewhere shall be constructed in the setback area. Prior to approval of all proposed structures in the setback area, it must be demonstrated that the development does not significantly disrupt the habitat resource.

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

Thus, the LCP includes strong protections for ESHA. For wetlands, the LCP only allows a very specific set of uses, including resource dependent uses, restoration, and incidental public services, *and only* when there is no feasible less environmentally damaging alternative, and when feasible mitigation measures are employed to minimize environmental effects. For streams and riparian corridors, the LCP only allows resource dependent uses, necessary water supply projects, flood control projects, and fish and wildlife enhancement projects. The LCP also requires development buffers around these habitat types, including 150-foot buffers around perennial streams and 100-foot buffers for wetlands and other ESHA.

#### *Analysis*

The project's Environmental Impact Report concluded that the wetland area on the project site (see **Exhibit 1**) is a sensitive freshwater resource, and further concluded that several special-status listed animal species could be found within the project site, including: Santa Cruz long-toed salamander (listed as federally and state endangered), California red-legged frog (federally threatened), California tiger salamander (federally and state threatened), and foothill yellow-legged frog (federally and state endangered). Although no individuals of any these species were observed during a June 1999 field survey, the survey determined that any of these species could utilize the seasonal spring, wetland area, and emergent vegetation located in the southern portion of the proposed project site, with the California red-legged frog having the highest potential as it

has been known to inhabit the adjacent Pajaro Valley Golf Course. The report concluded that the project site's close proximity to the Elkhorn Slough increases the likelihood of any of these species being identified within the project site.

The project proposes numerous improvements within and surrounding the project site's environmentally sensitive riparian corridor and wetland (see **Exhibit 7** for the Applicant's proposed project plans).<sup>35</sup> First, the riparian drainage corridor that slopes north to south through the project site and drains upland water and discharges it into the wetland would be placed in concrete culverts running underneath the proposed road. The wetland itself would be converted into a stormwater detention pond. A headwall would connect the drainage culvert with the detention pond, and a weir would be constructed along the pond's southern end. The pond would be flooded during and immediately following storms and serve as both flood protection and water quality enhancement.

As described previously, the North County LCP includes numerous policies and standards meant to protect the coastal zone's wetlands, streams, and other ESHA areas, including policies that limit allowable uses and development within such habitat areas, require buffers surrounding the habitat, and specify performance standards requiring that allowed development maintain the habitat values of the resource. The proposed project is inconsistent with these policies and standards for numerous reasons.

First, with respect to the riparian drainage swale, while the proposed conversion of the existing swale to an underground culvert beneath the proposed access road could be construed as a flood control project, LUP Policy 2.4.3.6 (vis-a-vis incorporation of Coastal Act Section 30236) only allows such flood control projects to protect *existing* structures and where no other method for protecting those existing structures is feasible. In this case, the proposed culvert would be used to ensure flood control drainage for *new* development, which is not allowed by the LCP. Instead, LUP Policy 2.4.3.6 would require new development to be sited and designed around existing riparian areas, while ensuring consistency with other relevant ESHA policies. Thus, the project's proposed riparian culvert system is not an allowed use within streams/riparian areas per the LCP.

Second, the project proposes to convert the existing wetland into an engineered stormwater detention basin. However, LUP Policy 2.4.3.6 (vis-a-vis incorporation of Coastal Act Section 30233(a)) only allows limited uses within wetlands, including restoration projects and incidental public service projects. The detention pond's purpose is to capture and treat the increased stormwater generated from the adjacent new residential development that the subdivision would ultimately provide for. The pond is not meant to restore the wetland; conversely, its construction would include dredging and filling and conversion to an engineered, dammed detention basin surrounded by structural walls. Therefore, it is not a restoration project as that term is understood in the LCP. Furthermore, the proposed project is not an incidental public service. The Commission has previously considered what constitutes an incidental public service on numerous occasions. First and foremost is whether the project is initiated by a public agency or utility for a public purpose, such as replacement of old railroad bridges (CC-059-09); expansion

<sup>35</sup> The Applicant's proposed project plans (as shown in **Exhibit 7**) are slightly different than the County's previously approved project plans (as shown in **Exhibit 3**), including the road configuration (the County required a circular loop road, whereas the Applicant currently proposes two cul-de-sacs).

of a railroad line (CC-052-05, CC-086-03) or modifications to an airport (CC-058-02). In this case, the stormwater detention pond would be built, owned, and maintained by a private entity for the purposes of capturing stormwater generated from private residential development. The proposed development is not initiated by a public agency for a public purpose, and does not constitute an incidental public service. Nor does the project seek to convert the wetland for any other allowable use under LUP Policy 2.4.3.6. Thus, the project's proposed conversion of the wetland to a private stormwater detention pond is not an LCP-allowed use within a wetland. In sum, the proposed improvements to the existing riparian drainage swale and wetland are not allowable uses within these sensitive habitats, and are therefore inconsistent with the LCP in this regard.

Finally, for both the wetland and the riparian swale, the proposed project does not include protections for the areas adjacent to such habitats, including a required 100-foot wetland buffer setback (LUP Policy 2.3.2.B.4) and a required 50 to 150-foot riparian vegetation setback, and thus is inconsistent with these and similar policies (LUP Policies 2.3.2.2 and 2.3.2.3).

### *Conclusion*

The project proposes to convert an existing riparian drainage swale into an underground culvert, and replace an existing wetland with an engineered stormwater detention basin with a headwall and weir. Neither use is allowed in riparian corridors or wetlands per the LCP. Furthermore, as described in the project's EIR, the project site may serve as habitat for numerous special status species, which could render the site ESHA as that term is defined in IP Section 20.06.440. While some of these inconsistencies could possibly be addressed by siting and design alternatives, including avoidance of structural development within identified habitat areas, the project's inconsistencies with LCP water supply and groundwater resources policies and standards discussed above render such additional analysis and project modifications moot (because the project is still independently and irreconcilably inconsistent with LCP water supply and groundwater resource policies).

Even if the project were consistent with other LCP policies and standards with respect to water supply, the Commission would need the Applicant to submit an ESHA/wetland/riparian corridor delineation of the site, which would define the precise locations of ESHA and the required development buffers to ensure that the project could be approved and conditioned to be consistent with the ESHA protection policies and standards of the LCP. Furthermore, the project would need to be redesigned so as to ensure only LCP-allowable uses within the wetland and riparian corridor. In this case, however, the Commission is denying the project based on the lack of an adequate water supply, and thus such delineations are not warranted at this time.

### **3. Water Quality**

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

***North County LUP Policy 2.5.2.1.*** *The County shall limit the kinds, locations, and intensities of new developments, including agriculture to minimize further erosion in the watersheds of Elkhorn Slough and Moro Cojo Sloughs and sedimentation of the Sloughs. All development shall incorporate all available mitigation measures to meet these goals, including at a minimum, the measures identified in Policy 2.5.3.C.6.*

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

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

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

...

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

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

...

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

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



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

#### *Analysis*

The proposed project's structural modifications to both the existing riparian swale and wetland would fundamentally alter their functional habitat value and ability to infiltrate and treat water flowing on and across the project site. Furthermore, the project, which would result in 27 new parcels, 26 of which could be developed in the future with 26 new residences (under separate CDPs), along with commensurate urban infrastructure including roads, driveways, and other utilities, would eventually lead to the conversion of approximately half of the undeveloped land on the project site into new impervious surfaces. These future construction activities, as well as drainage and runoff from the completed project, could potentially result in increased sedimentation, increased oil and heavy metals from vehicles, and an overall decrease in water quality, including for nearby Elkhorn Slough. As proposed, the project does not minimize erosion and sedimentation of Elkhorn Slough and other coastal waters, nor does it control and minimize non-point source pollution, inconsistent with LUP Policies 2.5.2.1 and 2.5.2.5.

While some of these water quality concerns could probably be addressed by siting and design alternatives, including avoidance of structural development within identified wetland and riparian areas, as well as requirements for water quality protection both during construction (e.g., construction best management practices, prohibiting grading within the wetland, etc.) as well as post-construction (e.g., low-impact development strategies, bioswales, infiltration requirements, and erosion control plans consistent with LUP Policy 2.5.3.C.6), the project's inconsistencies with LCP water supply and groundwater resources policies render such additional analysis and project modifications moot (because the project is still independently and irreconcilably inconsistent with LCP water supply and groundwater resource policies).

If the project were consistent with other LCP policies and standards with respect to water supply, the Commission would still need the Applicant to submit water quality protection plans and project modifications to protect water quality and avoid sensitive habitat areas to ensure that the project could be approved and conditioned to be consistent with LCP water quality protection policies and standards. In this case, however, the Commission is denying the project based on the lack of an adequate water supply, and thus water quality protection modifications are not warranted at this time.

#### **4. Visual Resources and Community Character**

The North County LUP includes numerous policies aimed at protecting visual resources, including specific visual resource protection standards for sites visible from Elkhorn Slough, as well as policies that seek to retain North County's rural, agricultural character. Applicable policies include:

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



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

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

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

***North County LUP Policy 2.2.4.6.*** Elkhorn Slough should be officially designated as a State Scenic Waterway and the visual character of the adjacent scenic corridor should be preserved and where feasible, restored.

Thus, the LCP seeks to protect the rural, pastoral nature of North County, including by preserving existing agricultural lands, limiting new road and subdivision development, ensuring that grading and landform alteration are minimized and that development respects natural topography, and ensuring protection of views from Elkhorn Slough.

#### *Analysis*

The proposed project introduces a suburban-style subdivision consisting of 26 new residential lots and associated infrastructure into a predominantly rural, agricultural area (see **Exhibit 2** for area photos).<sup>36</sup> The project proposes over 2,400 cubic yards of grading to convert an existing riparian drainage swale into an underground culvert with an access road on top of it, as well as to convert an existing wetland into a dammed stormwater detention pond. Thus, the project would include extensive grading and landform alteration that would convert the area's scenic habitats into engineered, structural elements, and would replace the site's existing grazing lands with future residential development, inconsistent with LUP Policy 2.2.2.6 (which calls for protection of North County's agricultural landscape consisting of scenic rolling hills). Furthermore, the project site may be visible from Elkhorn Road and Elkhorn Slough, thereby introducing future suburban-style development into the scenic, open viewshed inconsistent with LUP Policy 2.2.3.4, which states that new roads should not be located on open frontal slopes and ridgelines visible from scenic routes or viewpoints. In fact, the proposed project is located on a broad, south-facing ridge with expansive views of the entire Elkhorn Slough basin, thus rendering the

<sup>36</sup> The Applicant characterizes the site as being surrounded by urban land uses, and thus claims that the proposed project constitutes "infill development." However, the parcel is located at the end of a residential street overlooking Elkhorn Slough, and the properties located on its southern and eastern sides consist of rural residential/agricultural lands on large lots. The proposed project would thus extend suburban-style residential development and associated infrastructure (e.g., two cul-de-sacs) into this rural area, and should not be characterized as infill development.

project inconsistent with LUP Policy 2.2.1 (requiring low intensity development on ridgelines to be sited, screened, and designed to minimize visual impacts); Policy 2.2.2.3 (requiring subdivisions of property on ridgelines to be carried out in a manner such that the highest potential for screening of future development is achieved); and Policy 2.2.4.6 (which seeks to preserve the visual character of the Elkhorn Slough area). Thus, the project would introduce a suburban residential community that would dominate the public viewshed in this area.

### *Conclusion*

While the Applicant did not prepare renderings showing the project's ultimate visual resource impacts (i.e. when the subdivision is developed in the future) from various surrounding vantage points, including from Elkhorn Slough, the project's inconsistencies with LCP water supply policies render such additional analysis and project modifications moot (because the project is still independently and irreconcilably inconsistent with LCP water supply and groundwater resource policies).

Even if the project were consistent with other LCP policies and standards with respect to water supply, the Commission would still need the Applicant to submit renderings and visual simulations to ensure that the future residences fostered by this subdivision could be approved and conditioned to be consistent with LCP visual resource and community character policies and standards. In this case, however, the Commission is denying the project based on the lack of an adequate water supply, and thus a visual impact analysis is not warranted at this time.

## **5. Takings**

In addition to evaluating the proposed development for consistency with the certified LCP, considering that staff is recommending denial of the proposed project, the Commission must also evaluate the effect of a denial action with respect to takings jurisprudence. In enacting the Coastal Act, the Legislature anticipated that the application of development restrictions could deprive a property owner of the beneficial use of his or her land, thereby potentially resulting in an unconstitutional taking of private property without payment of just compensation. To avoid an unconstitutional taking, the Coastal Act provides a provision that allows a narrow exception to strict compliance with the Act's regulations based on constitutional takings considerations. Coastal Act Section 30010 provides:

*The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Although the judiciary would be the final arbiter on constitutional takings issues, the Coastal Act, as well as the State and Federal Constitutions, enable the Commission to assess whether its action might constitute a taking so that the Commission may take steps to avoid doing so. If the Commission concludes that its action does not constitute a taking, then it may deny the project with the confidence that its actions are consistent with Section 30010 and constitutional takings jurisprudence. If the Commission determines that its action could constitute a taking, then the

Commission could conversely find that application of Section 30010 would require it to approve some amount of development in order to avoid an uncompensated taking of private property. In this latter situation, the Commission could propose modifications to the development to minimize its Coastal Act inconsistencies while still allowing some reasonable amount of development.

In the remainder of this section, staff evaluates whether, for purposes of compliance with Section 30010, denial of the proposed development on the Applicant's property could constitute a taking. As discussed further below, the Commission finds that under these circumstances, denial of the proposed project likely would not, because the Applicant already enjoys economic uses on the property.

### ***General Principles of Takings Law***

The Takings Clause of the Fifth Amendment of the United States Constitution provides that private property shall not "be taken for public use, without just compensation."<sup>37</sup> Similarly, Article 1, Section 19 of the California Constitution provides that "[p]rivate property may be taken or damaged for public use only when just compensation...has first been paid to, or into court for, the owner." Despite the slightly different wordings, the two "takings clauses" are construed congruently in California, and California courts have analyzed takings claims under decisions of both state and federal courts (*San Remo Hotel v City and County of San Francisco* (2002) 27 Cal. 4th 643, 664.). The "damaging private property" clause in the California Constitution is not relevant to the current analysis. Because Section 30010 is a statutory bar against an unconstitutional action, compliance with state and federal constitutional requirements concerning takings necessarily ensures compliance with Section 30010.

The United States Supreme Court has held that the taking clause of the Fifth Amendment proscribes more than just the direct appropriation of private property (*Pennsylvania Coal Co. v. Mahon* (1922) 260 U.S. 393, 415 ("*Pennsylvania Coal*") [stating "The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking"]). Since *Pennsylvania Coal*, most of the takings cases in land use law have fallen into two categories (*Yee v. City of Escondido* (1992) 503 U.S. 519, 522-523). The first category consists of those cases in which government authorizes a physical occupation of property (*Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419, 426). The second category consists of those cases whereby government "merely" regulates the use of property and considerations such as the purpose of the regulation or the extent to which it deprives the owner of economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole (*Yee*, 503 U.S. at 522-523). Moreover, a taking is less likely to be found when the interference with property is an application of a regulatory program rather than a physical appropriation (*Keystone Bituminous Coal Ass'n. v. DeBenedictis* (1987) 480 U.S. 470, 488-489, fn. 18). Here, because the current development proposal does not involve physical occupation of the applicant's property by the Commission, the Commission's actions are evaluated under the standards for a regulatory taking.

<sup>37</sup> The Fifth Amendment was made applicable to the States by the Fourteenth Amendment (see *Chicago, B. & Q. R Co. v. Chicago* (1897) 166 U.S. 226, 239).

The U.S. Supreme Court has identified two circumstances in which a regulatory taking may occur. The first is the “categorical” formulation identified in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1015. In *Lucas*, the Court found that regulation that denied all economically viable use of property was a taking without a “case specific” inquiry into the public interest involved. (*Id.* at 1015). The *Lucas* court suggested, however, that this category of cases is narrow, applicable only “in the extraordinary circumstance when *no* productive or economically beneficial use of land is permitted” or the “relatively rare situations where the government has deprived a landowner of all economically beneficial uses” (*Id.* at 1017-1018 (*emphasis in original*); *Riverside Bayview Homes*, (1985) 474 U.S. 121, 126 (regulatory takings occur only under “extreme circumstances.”<sup>38</sup>).

The second circumstance in which a regulatory taking might occur is under the multi-part, *ad hoc* test identified in *Penn Central Transportation Co. (Penn Central) v. New York* (1978) 438 U.S. 104, 124. This test generally requires at a minimum an examination into the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations (*Id.* at 124; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005). In *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 617, the Court again acknowledged that the *Lucas* categorical test and the three-part *Penn Central* test were the two basic situations in which a regulatory taking might be found to occur. (*See Id.* at 632 (rejecting *Lucas* categorical test where property retained value following regulation but remanding for further consideration under *Penn Central*).) These general takings principles are reviewed for determining whether denial of the proposed project here would result in an uncompensated regulatory taking.

***The Commission’s denial of the proposed project would not result in a regulatory taking.***

As analyzed above, application of the LCP’s water supply and groundwater resources policies and standards require denial of the proposed development on the grounds that the project cannot be served by an identifiable, available, and long term water supply at the present time, and it is likely the case that, even for a revised project proposing a residential subdivision for this property, staff would still recommend denial for the same LCP inconsistencies with respect to water supply and groundwater policies. However, based on the law and facts analyzed below, it is unlikely that such a denial of development would constitute an unconstitutional taking in this case because the Applicant *already* enjoys multiple economic beneficial uses of the property, including a single-family residence and agricultural development.

At this time, application of the LCP’s water supply and groundwater resources policies require denial of new residential subdivisions that require a new water supply in North Monterey County. Perhaps most importantly for determining whether denial of the proposed project would result in an unconstitutional taking, the Applicant already enjoys multiple beneficial economic uses on the property, including an existing single-family residence, and agricultural development including a barn. The property has historically been used for agricultural grazing. Therefore, under a *Lucas* standard, denial of the Applicant’s proposed project will not deny the owner of all economically viable use of the land. For substantially similar reasons, under a *Penn Central*

<sup>38</sup> Even where the challenged regulatory act falls into this category, government may avoid a taking if the restriction inheres in the title of the property itself; that is, background principles of state property and nuisance law would have allowed government to achieve the results sought by the regulation (*Lucas, supra*, 505 U.S. at pp. 1028-1036).

standard, denial of the proposed project does not result in substantial economic impact to the Applicant in relation to the property at issue considering the multiple existing economic uses on the property. Regarding the character of the government action, denial of the project ensures consistency with LCP policies (which itself is a valid local implementation of Coastal Act requirements) that strictly limit new residential subdivisions in North Monterey County based on County concerns over water supplies and groundwater resources. Regarding the Applicant's reasonable-investment-backed expectations, it is unlikely the Applicant could have expected to residentially subdivide the property as a matter of right given that the Applicant has benefited from *existing* economic uses on the site that are consistent with the site's zoning, as well as the LCP policies governing land use in effect at the time of purchase.

The California Court of Appeal for the Fourth District reasoning in *Charles A. Pratt Construction Co., Inc., v. California Coastal Commission*, (2008) 162 Cal. App. 4th 1068 (*Pratt*) is also instructive here. In *Pratt*, the plaintiff argued that the Coastal Commission's decision to deny a CDP for the plaintiff's proposed project based on inconsistencies with LCP water requirements was an unconstitutional taking. (*Id.* at 1081.) The Court of Appeal upheld the Commission's denial of the CDP and found that it was not an unconstitutional taking. It stated that the plaintiff-applicant failed to cite any authority that: (1) denial of a development permit because of water supply constitutes a taking; or (2) that the setting of priorities for water use in the face of an insufficient supply constitutes a taking. (*Id.*) The court stated, "Even where the lack of water deprives a parcel owner of all economically beneficial use, it is the lack of water, not a regulation that causes the harm" (*Id.*). Finally, the court noted that the plaintiff "is not entitled to whatever project it desires." (*Id.* at 1082.) The court's reasoning in *Pratt* is reflective of the reasons why denial here would not constitute a taking because the Applicant is not entitled to subdivide his property, and the Applicant is not even denied all economically beneficial use of his property because he currently enjoys multiple beneficial economic uses onsite including a single-family residence and agricultural development.

In sum, the Commission's decision to deny the proposed development, on the grounds that it is inconsistent with the LCP's water supply and groundwater resources policies, would not result in an unconstitutional taking. Although the regulations require denial of the proposed new residential subdivision at this time, the Applicant already has multiple economically beneficial uses on the property, including an existing single-family residence and agricultural development.



## **I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

**CEQA Guidelines (14 CCR) Section 15042.** Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.

**Public Resources Code (CEQA) Section 21080(b)(5).** Division Application and Nonapplication. ... (b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.

**CEQA Guidelines (14 CCR) Section 15270(a).** Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

14 CCR Section 13096(a) requires that a specific finding be made in conjunction with CDP applications about the consistency of the application with any applicable requirements of CEQA. This report has discussed the relevant coastal resource issues with the proposed project. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of the CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission’s denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.



## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*. Prepared for Monterey County Water Resources Agency, October 1995.
2. Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.
3. Pajaro Valley Water Management Agency and Carollo Engineers, 2014. *Basin Management Plan Update*, February 2014.
4. Rancho Roberto Subdivision Final Environmental Impact Report, State Clearinghouse Number 2000051086 (the “Rancho Roberto Subdivision EIR”).

**APPENDIX B – STAFF CONTACTS WITH AGENCIES AND GROUPS**

1. Applicant
2. Friends, Artists, and Neighbors of Elkhorn Slough
3. Pajaro-Sunny Mesa Community Services District
4. Pajaro Valley Water Management Agency
5. Monterey County Resource Management Agency
6. California Department of Water Resources

**W29**

DATE: February 21, 2017  
TO: Coastal Commissioners  
FROM: Jack Ainsworth, Executive Director  
SUBJECT: **DRAFT MINUTES of MEETING of JANUARY 11-13, 2017**  
San Luis Obispo County Government Center  
Board of Supervisors Chambers  
1055 Monterey Street  
San Luis Obispo, CA 93408

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**WEDNESDAY, JANUARY 11, 2017**

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 9:00 a.m. by Chair Bochco.
2. **ROLL CALL.** Present: Chair Bochco, Vice Chair Turnbull-Sanders, Cox, Groom, Howell, Kinsey, Shallenberger. Uranga arrived at 9:15 a.m., McClure arrived at 9:25 a.m., Vargas arrived at 9:35 a.m. Absent: Luevano. Non-voting present: Gibson.
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.
5. **CHAIR'S REPORT.** Information only.

**STATEWIDE**

6. **ACTING EXECUTIVE DIRECTOR'S REPORT.**
  - a. **Executive Director's Report.**
  - b. **Commission Correspondence.** Consideration and potential action on Commission correspondence.
  - c. **Interagency Agreement.** Staff recommended authorization to enter into contract with Sea Grant/University of California, San Diego to pay Commission's share of costs for 1 California Sea Grant Fellows for one-year.

Staff orally changed recommended maximum amount of contract to \$33,943.

**Motion & vote:** Shallenberger moved to authorize the Interagency Agreement pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

- d. **Legislative Report.** Legislative Report: New Laws Memo. Review and discussion of newly enacted statutes. **Information only.**
- e. **2016 Strategic Plan Update – Report on Implementation of the 2013-2018 Strategic Plan.** Discussion item only.

- 7. **STATUS REPORT ON EXECUTIVE DIRECTOR SEARCH PROCESS.** Information only.

## **SOUTH COAST DISTRICT (LOS ANGELES COUNTY)**

- 8. **ADMINISTRATIVE CALENDAR.** Staff recommended concurrence with the Executive Director's determination. There being no objection, Chair Bochco ruled that the Commission concurred.
  - a. **Application No. 5-16-0934 (Stein, Venice, Los Angeles)**
  - b. **Application No. 5-16-0953 (Make It Nice, LLC, Venice, Los Angeles)**

## **SOUTH CENTRAL COAST DISTRICT**

- 9. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.

*[Howell departed]*

- 10. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved 2 items [W11a, W12a] to the expanded consent calendar and recommended approval with conditions.

**Motion & vote:** Shallenberger moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Turnbull-Sanders. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

11. **NOTICE OF IMPENDING DEVELOPMENT.**

- a. **Pepperdine University Notice of Impending Development No. PEP-NOID-0008-16 (Enhanced Recreation Area Phase II and Temporary Staging Area).** Moved by staff to the expanded consent calendar. **Approved with conditions.**

12. **COASTAL PERMIT APPLICATIONS**

- a. **Application No. 4-15-0466 (King, Santa Barbara Co.)** Moved by staff to the expanded consent calendar. **Approved with conditions.**

**SOUTH COAST DISTRICT (LOS ANGELES COUNTY)**

13. **DEPUTY DIRECTOR'S REPORT FOR LOS ANGELES COUNTY.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.

14. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved one item [W16a] to the expanded consent calendar and recommended approval with conditions.

**Motion & vote:** Uranga moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

15. **NEW APPEALS.**

- a. **Appeal No. A-5-VEN-16-0099 (Broumand, LOC Equities, Venice)** Staff recommended that the Commission determine that Appeal No. A-5-VEN-16-0099 raised no substantial issue.

**Motion & vote:** Shallenberger moved to determine that the appeal raised no substantial issue and recommended a yes vote, seconded by Kinsey. Chair Bochco ruled that the vote was unanimous in favor of the motion. **No substantial issue found.**

16. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 5-16-0808 (Grand Prix Association of Long Beach and City of Long Beach)** Moved by staff to the expanded consent calendar. **Approved with conditions.**

## ENFORCEMENT

17. **ENFORCEMENT REPORT.** Report by Chief of Enforcement on Statewide Enforcement Program. **None.**

## STATEWIDE

18. **APPROVAL OF MINUTES.** None.
19. **COMMISSIONERS' REPORTS.** Information only.
20. **CONSERVANCY REPORT.** None.
21. **SANTA MONICA MOUNTAINS CONSERVANCY REPORT.** None.
22. **SANTA MONICA BAY RESTORATION REPORT.** Information only.
23. **DEPUTY ATTORNEY GENERAL'S REPORT.** None.

The meeting of the California Coastal Commission recessed at 1:00 p.m. The Commission then held closed session.

**Report of Closed Session.** The Commission received litigation information and advice regarding the following cases:

*657 Flowers LLC et al. v. CCC*  
*Animal Protection and Rescue League v. City of San Diego et al.*  
*Friends of the Children's Pool v. City of San Diego et al.*  
*Beach Vacations Coalition v. City of Laguna Beach et al.*  
*Drakes Bay Oyster Co. v. CCC*  
*Friends of Oceano Dunes v. CCC*  
*Fudge v. CCC et al. (Laguna Beach Golf & Bungalow Village LLC, RPI)*  
*Grassroots Coalition v. CCC (Lester et al., RPI)*  
*Martins Beach 1 LLC et al. v. Turnbull Sanders et al.*  
*People of the State of California et al. v. U.S. Dept. of the Interior et al.*  
*San Diego Navy Broadway Compolex Coalition v. CCC (San Diego Unified Port District, RPI)*  
*San Clemente Vacation Rental Alliance v. City of San Clemente et al.*  
*Security National Guaranty v. CCC*



The Commission received litigation information and advice and provided direction regarding the following cases:

*CCC v. Witter*

*Beach & Bluff Conservancy v. City of Solana Beach (CCC et al., RPI)*

*Homewoner's Assn. of the Solana Beach & Tennis Club c. City of Solana Beach (CCC, RPI)*

*Friends of the Canyon v. CCC (Longi, et al., RPI)*

*Rubino v. CCC et al. (Mendocino Land Trust, RPI)*

## THURSDAY, JANUARY 12, 2017

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 9:00 a.m. by Chair Bochco.
2. **ROLL CALL.** Present: Chair Bochco, Vice Chair Turnbull-Sanders, Cox, Groom, McClure, Shallenberger. Howell arrived at 9:05 a.m., Uranga arrived at 9:10 a.m., Vargas arrived at 1:30 p.m. Absent: Kinsey, Luevano. Non-voting: Gibson
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.

### NORTH CENTRAL COAST DISTRICT

5. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.
6. **CONSENT CALENDAR (removed from Regular Calendar).** None.
7. **LOCAL COASTAL PROGRAMS (LCPs).**
  - a. **City of Half Moon Bay LCP Amendment No. LCP-2-HMB-14-0612-1.**  
**Certification Review.** Staff recommended concurrence with the Executive Director's determination that the action by the City of Half Moon Bay accepting certification of LCP-2-HMB-14-0612-1 (Habitat Map Revisions) with modifications is legally adequate.

**Motion & vote:** Groom moved to concur and recommended a yes vote, seconded by Howell. Chair Bochco ruled that the vote was unanimous in favor of the motion.

**Approved.**

### CENTRAL COAST DISTRICT

8. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.
9. **CONSENT CALENDAR (removed from Regular Calendar).** None.

10. **LOCAL COASTAL PROGRAMS (LCPs).**

- a. **Monterey County LCP Amendment No. LCP-3-MCO-16-0041-1 (Medical Cannabis Regulations). Time Extension.** Staff recommended approval of the time extension.

**Motion & vote:** Groom moved to grant the time extension pursuant to the staff recommendation and recommended a yes vote, seconded by Howell. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

- b. **San Luis Obispo County LCP Amendment No. LCP-3-SLO-15-0013-1-Part B (Resource Management System). [POSTPONED]**

11. **LONG RANGE DEVELOPMENT PLAN.**

- a. **University of California of Santa Cruz Long Range Development Plan No. LRDP-3-SCZ-16-0005-1 (Wetland Buffer Expansion and Minor Changes).** Staff recommended approval as submitted.

**Motion & vote:** Groom moved to certify the Long Range Development Plan No LRDP-3-SCZ-16-0005-1 as submitted and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved as submitted.**

12. **NOTICE OF IMPENDING DEVELOPMENT.**

- a. **University of California of Santa Cruz Notice of Impending Development No. SCZ-NOID-0010-16 (NOID 8 Parking Lot Development and Expansion).** Staff recommended approval.

**Motion & vote:** Groom moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Turnbull-Sanders. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

13. **NEW APPEALS.**

- a. **Appeal No. A-3-PSB-12-042 (Capistrano Seawall, Pismo Beach)** Staff recommended that the Commission determine that **Appeal No. A-3-PSB-12-042** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, the Commission found substantial issue and opened the hearing.

**Motion & vote:** Howell moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

- b. **Appeal No. A-3-PSB-12-043 (Vista del Mar Seawall, Pismo Beach)** Staff recommended that the Commission determine that **Appeal No. A-3-PSB-12-043** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, the Commission found substantial issue and opened the hearing.

**Motion & vote:** Howell moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

- c. **Appeal No. A-3-MCO-06-044 (Mayr Subdivision, North Monterey Co.)** Staff recommended that the Commission determine that **Appeal No. A-3-MCO-06-044** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, Chair Bochco ruled that the Commission found substantial issue and continued the hearing to a future meeting,

- d. **Appeal No. A-3-MCO-05-027 (Rancho Roberto Subdivision, North Monterey Co.)** Staff recommended that the Commission determine that **Appeal No. A-3-MCO-05-027** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, Chair Bochco ruled that the Commission found substantial issue and opened the hearing.

**Motion & vote:** Shallenberger moved to approve pursuant to the staff recommendation and recommended a no vote, seconded by Turnbull-Sanders. Chair Bochco ruled that the vote was unanimous in opposition to the motion. **Denied.**

- e. **Appeal No. A-3-PSB-15-0030 (Rozo, Pismo Beach)** Staff recommended that the Commission determine that **Appeal No. A-3-PSB-15-0030** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, Chair Bochco ruled that the Commission found substantial issue and continued the hearing to a future meeting.

[Howell out of room]

- f. **Appeal No. A-3-SCO-16-0100 (Geisreiter, Santa Cruz Co.)** Staff recommended that the Commission determine that **Appeal No. A-3-PSB-15-0030** raised no substantial issue on the grounds that the appeal was filed.

**Motion & vote:** Groom moved to determine that **Appeal No. A-3-PSB-16-0100** raised no substantial issue on the grounds on which the appeal was filed and recommended a yes vote, seconded by Turnbull-Sanders. Chair Bochco ruled that the vote was unanimous in favor of the motion. **No substantial issue found.**

[Howell returned]

14.       **CONDITION COMPLIANCE.**

a.   **Oceano Dunes State Vehicular Recreation Area (ODSVRA) CDP Review.**

**Motion & vote:** Howell moved to continue the hearing until September 2017 and recommended a yes vote, seconded by Groom. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Continued.**

The Commission recessed for the day at 3:38 p.m.

## FRIDAY, JANUARY 13, 2017

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order at 9:00 a.m. by Chair Bochco.
2. **ROLL CALL.** Present: Chair Bochco, Vice Chair Turnbull-Sanders, Groom, Howell, Kinsey, Shallenberger. Cox and McClure arrived at 9:10 a.m., Vargas arrived at 9:35 a.m. Absent: Luevano, Uranga. Non-voting present: Gibson, Lucchesi.
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.

### SOUTH COAST DISTRICT (ORANGE COUNTY)

5. **ADMINISTRATIVE CALENDAR.** Staff recommended concurrence. There being no objection, Chair Bochco ruled that the Commission concurred.
  - a. **Application No. 5-16-0740 (Littlefair, Newport Beach)**
6. **CONSENT CALENDAR.** Staff recommended approval of the consent calendar with conditions.

**Motion & vote:** Kinsey moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

- a. **Application No. 5-15-0169 (Bassi and Issab, LLC, Newport Beach)**
- b. **Application No. 5-16-0444 (Warmington, Newport Beach)**
- c. **Application No. 5-16-0485 (Saldena, San Clemente)**
- d. **Application No. 5-16-0548 (Shah, Newport Beach)**

*[Vargas arrived]*

### ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY

7. **ENERGY, OCEAN RESOURCES and FEDERAL CONSISTENCY.** Report by the Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, negative determinations, matters not requiring public hearings, and status report on offshore oil & gas exploration & development.



- a. **Request to Waive Permit Application Fee (Poseidon Resources (Surfside), LLC, Huntington Beach)** Staff recommended denial of the fee waiver request.

**Motion & vote:** Shallenberger moved to waive the permit application fee pursuant to the staff recommendation and recommended a no vote, seconded by Kinsey. Chair Bochco ruled that the vote was unanimous in opposition to the motion. **Denied.**

8. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved one item [F9a] to the expanded consent calendar and recommended approval with conditions.

**Motion & vote:** Cox moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Shallenberger. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

[Howell out of room]

#### 9. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 9-16-0384 (Los Angeles Department of Water and Power, Los Angeles)** Moved by staff to the expanded consent calendar. **Approved with conditions.**
- b. **Application No. 9-16-0990 (Venoco, Inc., Santa Barbara Co.)** [POSTPONED]

#### **NORTH COAST DISTRICT**

10. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public.
11. **CONSENT CALENDAR (removed from Regular Calendar).** None.
12. **NEW APPEALS.**

- a. **Appeal No. A-1-HUM-16-0101 (Dollar General, Humboldt Co.)** [POSTPONED]

#### **SOUTH COAST DISTRICT (ORANGE COUNTY)**

13. **DEPUTY DIRECTOR'S REPORT FOR ORANGE COUNTY.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.

14. **CONSENT CALENDAR (removed from Regular Calendar).** None.

15. **LOCAL COASTAL PROGRAMS (LCPs).**

- a. **City of Newport Beach LCP-5-NPB-15-0039-1 (Implementation Plan) Certification Review.** Concurrence with the Executive Director's determination that the action by the City of Newport Beach accepting certification with suggested modifications of LCP-5-NPB-15-0039-1 is legally adequate. There being no objection, Chair Bochco ruled that the Commission concurred.
- b. **City of San Clemente Local Coastal Program Amendment No. 1-16 (LCP-5-SCL-16-0012-1). Time Extension.** Staff recommended approval of the time extension.

**Motion & vote:** Shallenberger moved to grant the time extension pursuant to the staff recommendation and recommended a yes vote, seconded by Cox. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

## **SAN DIEGO COAST DISTRICT**

16. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Bochco ruled that the Commission concurred.

17. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved 3 items [20a, 20b, 20c] to the expanded consent calendar and recommended approval with conditions.

**Motion & vote:** Cox moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Shallenberger. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

*[Howell returned]*

18. **LOCAL COASTAL PROGRAMS (LCPs).**

- a. **City of Oceanside LCP Amendment No. LCP-6-OCN-16-0042-1 (Zoning Ordinance Update).** Staff recommended approval as submitted.

**Motion and vote:** Cox moved to reject the Implementation Plan as submitted and recommended a no vote, seconded by Shallenberger. Chair Bochco ruled that the vote was unanimous in opposition to the motion. **Approved as submitted.**

- b. **City of Carlsbad LCP Amendment No. LCP-6-CII-16-0066-2 (Marja).**  
**[POSTPONED]**

- c. **City of San Diego LCP Amendments No. LCP-6-SAN-16-0063-2/Part A (Affordable Housing Density Bonus); LCP-6-SAN-16-0063-2/Part B (Emergency Shelters/Continuing Care Retirement Communities) and LCP-6-CCP-16-0064-2 (Downtown Mobility Plan Revisions) Time Extension.** Staff recommended approval of the time extension.

**Motion & vote:** Cox moved to grant the time extension and recommended a yes vote, seconded by Shallenberger. Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

19. **NEW APPEALS.**

- a. **Appeal No. A-6-COR-16-0097 (City of Coronado Public Facilities Enhancement Project)** Staff recommended that the Commission determine that **Appeal No. A-6-COR-16-0097** raised a substantial issue on the grounds on which the appeal was filed. There being no objection, Chair Bochco ruled that the Commission found substantial issue and continued the hearing to a future meeting.

20. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 6-16-0099 (San Elijo JPA outfall pipeline replacement, Encinitas)** Moved by staff to the expanded consent calendar. **Approved with conditions.**
- b. **Application No. 6-16-0434 (State Parks Cardiff Day Use Lot repairs)** Moved by staff to the expanded consent calendar. **Approved with conditions**
- c. **Application No. 6-16-0528 (California Department of Fish and Wildlife, Carlsbad)** Moved by staff to the expanded consent calendar. **Approved with conditions**

**STATEWIDE**

- 21. **Report of Closed Session to Consider Applicants for Executive Director.** The Commission discussed applicants for the executive director position and the interview process. The Commission decided which applicants to invite for interviews during the Commission's February meeting.

There being no old or new business, the meeting of the California Coastal Commission adjourned at 11:00 a.m.

Respectfully submitted,

John Ainsworth  
Executive Director

Approved as written on \_\_\_\_\_

Dayna Bochco  
Chair

**CALIFORNIA COASTAL COMMISSION**

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



# W17a

Filed: 8/15/2006  
Action Deadline: None  
Staff: Kevin Kahn - SC  
Staff Report: 2/17/2017  
Hearing Date: 3/8/2017

## STAFF REPORT: DE NOVO HEARING

**Application Number:** A-3-MCO-06-044 (Mayr Subdivision)

**Applicants:** Robert and Linda Mayr

**Project Location:** 16323 Castroville Boulevard, Prunedale, North Monterey County (APN 129-071-047)

**Project Description:** Subdivision of a 5.52-acre parcel into two lots (one 2.85 acres and one 2.67 acres), development of a mutual water system, construction of septic systems and driveway infrastructure, and related improvements.

**Staff Recommendation:** Denial

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## SUMMARY OF STAFF RECOMMENDATION

The Applicants propose to subdivide a 5.52-acre parcel into two lots, both of which would be available for future residential development (i.e., each future residence would need a separate coastal development permit (CDP) approval), as well as to construct a mutual water system, septic systems, driveway infrastructure, and related improvements in the unincorporated Prunedale area of North Monterey County. Prunedale is a rural area of rolling hills consisting of open space, agriculture, and very low density residential development. The entire project site is undeveloped land consisting of significant coast live oak woodland and central maritime chaparral habitat, both of which the LCP designates as environmentally sensitive habitat (ESHA).

On January 12, 2017, the Commission found that the County's action approving the project raised a substantial issue of conformance with the Monterey County LCP's water supply, groundwater resources, and ESHA protection policies, as recommended in the staff report. Specifically, the Commission found substantial issue with respect to whether a subdivision that will necessitate an additional permanent demand of water for future residential development from an already overdrafted groundwater source is both inconsistent with LCP policies that only authorize a level of development that can be served by the groundwater basin's safe yield amount, and with LCP policies that dictate residential subdivision to be the lowest priority land use to receive water when supplies are scarce (coastal-dependent uses being the highest priority). Furthermore, the Commission found substantial issue with respect to whether the project is inconsistent with the LCP's ESHA protection policies, including because it authorizes the removal of roughly an acre of central maritime chaparral ESHA, an acre of oak woodland ESHA, and some 130 individual coast live oak and Monterey pine trees for non-resource-dependent residential infrastructure.

The proposed project in de novo review is the same project that was the subject of the substantial issue hearing in January. North Monterey County has had severe groundwater overdraft problems for decades. Virtually all of the agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells. The LCP requires development in North County to be served by a long-term water supply, and only allows new development, particularly residential subdivisions, when the groundwater basin is in its safe yield extraction state. The proposed project would authorize a subdivision allowing for two future residences that would demand water from an already severely overdrafted groundwater basin. The project cannot be found to have a long-term water supply, and cannot be found to be served by water from a groundwater basin in a safe yield state. Furthermore, the proposed two-lot residential subdivision represents a low LCP-priority land use within an area with known water supply deficiencies. When such a combination results, the LCP affirmatively requires the proposed development to be denied. Therefore, because the project proposes a subdivision within a groundwater basin that is severely overdrafted, the proposed project is inconsistent with the LCP's water supply and priority land use policies, and must be denied.

Furthermore, the project proposes to build residential infrastructure, including roads, utilities, and septic systems, into central maritime chaparral and oak woodland ESHA. The LCP does not allow these uses in ESHA, and further requires that the removal of coast live oaks and other vegetation be minimized. The project would also authorize extensive grading and landform alteration that would convert the area's scenic natural habitats and rural landscape into engineered, structural elements, inconsistent with LCP requirements to protect North County's scenic rolling hills and water quality.

Finally, the proposed project is not consistent with the terms and conditions governing this property pursuant to Monterey County CDP MS88-10. That CDP, approved by the County in 1991, authorized the subdivision of a larger 16.724-acre parcel into three parcels, including the subject parcel. That approval was subject to numerous conditions to protect ESHA, visual resources, and water quality. Building an additional new access road/driveway at the northwestern property boundary along Desmond Road is inconsistent with that CDP's requirement to solely allow access within the existing utility easement on the southeast portion of the property from Castroville Boulevard. The additional proposed vegetation removal and land

disturbance (including some 2 acres of ESHA removal overall) to accommodate the additional residence is inconsistent with conditions requiring all natural vegetation to be left intact (but for the construction of the one authorized residence on the existing parcel). As such, approval of the proposed project would also be inconsistent with the terms and conditions of the 1991 CDP.

In short, the project proposes a residential subdivision in a predominantly rural area with severe water supply deficiencies, on a parcel that contains significant sensitive habitats, and on a parcel with restrictions placed on it pursuant to a previously approved CDP that does not allow for the proposed project. Thus, staff recommends that the Commission deny a CDP for the proposed residential subdivision project. The motion is found on page 5 below.



## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION .....</b>	<b>5</b>
<b>II. FINDINGS AND DECLARATIONS .....</b>	<b>5</b>
A. PROJECT LOCATION .....	5
B. PROJECT DESCRIPTION .....	6
C. PROJECT HISTORY .....	6
D. COASTAL DEVELOPMENT PERMIT DETERMINATION .....	7
1. Water Supply and Groundwater Resources .....	8
2. Environmentally Sensitive Habitat Areas .....	20
3. Water Quality .....	23
4. Visual Resources and Community Character .....	25
5. Takings .....	27
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) .....	31

### APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contacts with Agencies and Groups

### EXHIBITS

Exhibit 1: Location Map

Exhibit 2: Site Photos

Exhibit 3: Proposed Project Plans

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

Exhibit 5: Monterey County 1991 CDP MS88-10

Exhibit 6: Map of Department of Water Resources-designated Critically Overdrafted  
Groundwater Basins

## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the CDP and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-MCO-06-044 for the development proposed by the applicants, and I recommend a no vote.*

***Resolution to Deny CDP:** The Commission hereby denies Coastal Development Permit Number A-3-MCO-06-044 on the grounds that the development will not be in conformity with the Monterey County Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures and/or alternatives that would substantially lessen the significant adverse effects of the development on the environment.*

## II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT LOCATION

The proposed project is located on a vacant and undeveloped 5.52-acre parcel at 16323 Castroville Boulevard, near the intersection with Paradise Road and Desmond Road, in the unincorporated Prunedale area of North Monterey County. Prunedale, along with the rest of North Monterey County, is a mostly rural area of rolling hills consisting of open space covered by grasslands, maritime chaparral, and oak forest habitat; agricultural uses, including for both grazing and row crops; and very low density residential development. The parcel is unimproved and consists of sloping hills, some at over 25% grade, covered with central maritime chaparral and coast live oak woodland habitat. The property is zoned Low Density Residential (LDR), which allows for a potential maximum residential density of up to 2.5 units per acre if there aren't other constraints that dictate a lower density.

The parcel was previously part of a larger 16.724-acre parcel (APN 129-071-043) that was subdivided into three parcels of roughly five acres each in 1991<sup>1</sup> (Monterey County CDP MS88-10). That approval was subject to numerous conditions, including that all future building sites and driveways/access roads be located where slopes are less than 25 percent, where ESHA impacts are minimal, and off of ridgelines (Condition 37). To implement such requirements, that CDP included conditions requiring access to the three parcels to be limited to the southeastern portion of the site where an existing utility easement is located (Condition 24), that natural vegetation be left intact and undisturbed, but for normal construction of future residences and

<sup>1</sup> APNs 129-071-047 (the parcel subject to this appeal), 129-071-048, and 129-071-049.

their ancillary development (Condition 26), and that a scenic easement be conveyed to the County over those portions of the property where the slope exceeds 25% and where maritime chaparral exists (Condition 19). Per this last condition, 1.54 acres of the subject parcel is currently protected by a scenic and conservation easement held by the County. The other two parcels have since been developed with one residence each.<sup>2</sup>

See **Exhibit 1** for a project location map, **Exhibit 2** for aerial photos of the project site, and **Exhibit 5** for Monterey County CDP MS88-10.

## **B. PROJECT DESCRIPTION**

The proposed project consists of the subdivision of a 5.52-acre parcel into two parcels, one of 2.85 acres (Parcel A) and a second of 2.67 acres (Parcel B). The project also proposes the construction of driveways, septic systems, water supply infrastructure, and other related development on both parcels to facilitate future home construction. A new driveway would access Parcel A's building site from Desmond Road, located on the parcel's northern boundary, while access to Parcel B would be from a new driveway extended from an existing road along the parcel's southeastern boundary (see **Exhibit 3** for the proposed project plans). The project does not include construction of the actual homes on the two parcels, and future CDPs would be necessary to permit construction of the homes.

## **C. PROJECT HISTORY**

On May 25, 2006, the Monterey County Minor Subdivision Committee approved CDP application number PLN000260. On August 15, 2006, the County's approval was appealed to the Coastal Commission. On January 12, 2017, the Commission found that the County's action approving the project raised a substantial issue of conformance with the Monterey County LCP's water supply, groundwater resources, and ESHA protection policies. Specifically, the Commission found substantial issue with respect to whether a subdivision that will necessitate an additional permanent demand of water for future residential development from an already overdrafted groundwater source is both inconsistent with LCP policies that only authorize a level of development that can be served by the groundwater basin's safe yield amount, and with LCP policies that dictate residential subdivision to be the lowest priority land use to receive water when supplies are scarce (coastal-dependent uses being the highest priority). Furthermore, the Commission found substantial issue with respect to whether the project is inconsistent with the LCP's ESHA protection policies, including because it includes the removal of both central maritime chaparral and oak woodland ESHA, including some 130 coast live oak and Monterey pine trees for non-resource-dependent residential development and infrastructure.

At the time the appeal was filed, the County was processing other similar North County residential subdivision projects. Thus, Commission staff concluded it would be prudent to work with the County on the subdivision projects moving through the local process, with the goal of coming to resolution with County staff on how the LCP's policies relate to the residential development potential in North County given common factual circumstances (so as to avoid

<sup>2</sup> While the Applicants for the project subject to this appeal were not the owners of the original parcel and therefore were not the Applicants for the original subdivision, the Applicants now own all three parcels.

further similar appeals). Commission staff reviewed and commented on all of these projects, including voicing concern with the County's interpretations on various LCP policies and the assumptions being made with respect to available water supplies. Additionally, numerous water supply projects and programs were either being proposed or under construction that could have affected North Monterey County's water resources and groundwater supply. Furthermore, Commission staff felt it necessary to understand the efficacy of the various water supply projects, and whether those projects would abate the area's groundwater overdraft.

While undertaking this outreach with the County and monitoring North Monterey County's water situation, and after informing the Applicants of the LCP inconsistencies the County-approved project engendered, staff did not hear from the Applicants for many years, including after staff sent a letter to the Applicants in 2011 asking whether they still intended to move forward with the project. In 2016, staff sent the Applicants another letter asking about project status, and the Applicants responded that they were still interested in pursuing the project, despite the project's potential coastal resource impacts. Since then, staff has worked with the Applicants extensively in identifying project issues and potential LCP inconsistencies.

#### **D. COASTAL DEVELOPMENT PERMIT DETERMINATION**

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

##### *North Monterey County Background*

North Monterey County is a predominantly rural area with significant coastal resources, including open space occupied by grasslands, maritime chaparral, and oak woodland habitats, and significant agricultural operations, including for both grazing and row crops, all flanking Elkhorn Slough, one of the largest and most important coastal wetlands and estuaries remaining in California. Because of the area's rich coastal resources, longstanding public policy has been to retain North Monterey County as a rural, agricultural buffer along the mid-Monterey Bay area, in between more urban areas of Santa Cruz County to the north and the Monterey Peninsula to the south. In other words, one of the region's land use planning goals has historically been to direct more urban development to existing urban centers along the north and south ends of the Monterey Bay, and not to sprawl within the ecologically and agriculturally productive North County area. This broad goal was articulated in the findings of the 1975 California Coastal Plan, prepared for the Governor and Legislature by the California Coastal Zone Conservation Commission per the requirements of the 1972 Proposition 20, which helped inform and shape the Coastal Act. Specifically, the Coastal Plan found that the area contained incredibly rich coastal resources, including at Elkhorn Slough and the adjacent agricultural lands, but that these resources were at risk from numerous sources, including urban growth and sprawl, water quality impairment, and groundwater overdraft and seawater intrusion. Specifically, the Plan found:

*The Pajaro Valley, covering 120 square miles, is one of the richest agricultural regions in California...but **increasing drafts of groundwater, for urban and agricultural use, have had adverse effects**; the water supply for 50 square miles of agricultural land between the Pajaro Valley and Marina is **currently threatened by saltwater intrusion**. The urban center of the valley, Watsonville (population 17,000), has grown rapidly, sprawling into surrounding farmlands. The healthy economy of the area, based on food production and processing, encourages expansion of Watsonville and its suburbs,*

*Freedom and Pajaro. Substantial growth of these communities would involve the loss of valuable agricultural lands designated for protection under county plans and the Coastal Plan, and would necessitate expensive solutions to the water supply problem. Plan policies call for concentrating development in existing urban areas, such as Watsonville, Pajaro, Castroville, and Moss Landing, rather than allowing continued conversion of agricultural land...[Elkhorn Slough] is threatened by locally planned expansion of existing industrial and harbor developments, and by residential development of the critical watershed....Although the major part of Elkhorn Slough is in public ownership, neither the critical watershed nor the wetland resource itself is adequately protected.*<sup>3</sup> (emphasis added)

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

## 1. Water Supply and Groundwater Resources

### *Applicable Policies*

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

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

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

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

<sup>3</sup> California Coastal Plan Central Coast Subregion 5: Pajaro-Elkhorn (Part IV: Plan Maps and Regional Summaries, page 230).



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

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

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

***North County IP Section 20.144.070.E.11. Development shall not be permitted if it has been determined, through preparation of a hydrologic report, or other resource information, that: a) the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer; and, b.) there are no project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.***

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

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

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



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

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

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

***North County LUP Policy 7.3.1.*** A growth management program phasing residential and, where appropriate, commercial and industrial development may be instituted in the North County coastal zone (and in other parts of the County) based upon natural resource protection, water availability, and public facility capacities and constraints. A phased residential allocation system may be developed. Development and subdivision proposals could be processed at set periods during the year. If there are large numbers of applications, those not accepted in a particular process could be considered the following period. ***During evaluation of applications, priority should be given to coastal-dependent or related uses and development of existing parcels.***

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

Consistent with the above-discussed policies and standards, the LCP also requires development to be phased so that water supplies are not committed beyond their safe yield and, if the safe yield is already exceeded, only allows additional development to proceed once additional water supplies are secured that will bring the basin back into LCP-required safe yield state (LUP Policy 2.5.2.3). The LUP further requires that where there is limited water supply to support

development, coastal-dependent uses (such as coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP Policy 4.3.5.4). Finally, LUP Policy 4.3.5.7 requires new subdivisions and development dependent upon groundwater to be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. Should studies suggest that the underlying groundwater basin is being extracted in a manner exceeding its safe, long-term yield, then the LCP affirmatively requires denial of a proposed project, particularly low-LCP priority residential subdivisions, unless and until additional water supplies are secured and the safe yield level is reached (IP Sections 20.144.070.E.11, 20.144.140.A.1, and Policy 2.5.2.3).

In sum, these policies and standards only authorize a level of development that can be supported by the safe yield extraction level of the underlying groundwater basin, and do not allow non-coastal dependent uses, particularly residential subdivisions, when such uses cannot be served by water within the safe yield level.

Overall, these policies are meant to implement applicable Coastal Act policies that require new development to be served by adequate public services (Section 30250), and in a manner that does not impact groundwater and other coastal resources (Sections 30231 and 30250).

#### *Analysis*

##### *Groundwater Overdraft and Safe Yield Calculations*

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

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

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

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

The LUP also limited the total amount of residential development in North County (beyond one home per legal parcel) by placing a maximum threshold on residential buildout until that safe yield level could be determined. Because the overdraft situation was not precisely known at time of LUP adoption, to be cautious, LUP Policy 2.5.3.A.2 establishes that no more than 50% of the maximum<sup>4</sup> residential buildout based on parcel size and subdivision potential (i.e., 1,351 units or lots) may be allowed while the County pursued efforts to quantify the overdraft problem and arrive at a solution. The policy establishes this maximum as a cap until a new water supply is secured or once safe yield is achieved, at which time this cap could be increased via LCP amendment.<sup>5</sup> However, that is a maximum threshold, and LUP policy 2.5.3.A.2 includes a caveat that allows this cap to be reduced to limit groundwater use to the safe-yield level once it was determined, or if required in order to protect agricultural water supplies. Thus, the 50% build-out level is not determinative of the amount of development that the area's resource can support, but rather an upper range that could be further reduced in order to protect groundwater resources once more was known about their status. Other LCP policies similarly state that development and density allowances are maximums, not entitlements, with new development limited by resource constraints and LCP requirements (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).<sup>6</sup>

Since the time that the LUP was certified, the County has sponsored more definitive studies to determine the safe yield. The first study commissioned by the County, conducted in 1995 by Fugro West, calculated the groundwater overdraft for the area's five groundwater sub-basins on the order of 11,700 AFY, based off a defined safe groundwater withdrawal yield of 14,410 AFY and an actual extraction of 26,110 AFY. Subsequently, the 2002 *North Monterey County Comprehensive Water Resources Management Plan* (CWRMP), prepared by the Monterey County Water Resources Agency and EDAW, updated the 1995 analysis and calculated the

<sup>4</sup> The 50% buildout density figures were derived from multiplying plan densities by area acreage. These buildout numbers do not account for potential resource constraints that might be identified when additional units or subdivision are proposed, and that might dictate a lower density (e.g., significant wetland areas and water resource constraints that could not be developed). The LUP is clear that actual development potential is contingent on natural resource constraints and the availability of public services (e.g., LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D).

<sup>5</sup> This policy applies to new lots and second units on existing lots; one home per vacant parcel is allowed independent of the 50% buildout number. However, second units are no longer allowable in the North County coastal zone due to water supply inadequacies per LCP amendment number LCP-3-MCO-15-0022-1, approved by the Commission in October 2015.

<sup>6</sup> The Commission has found that North County's buildout and density numbers are maximums, whereby actual allowable buildout and density must be understood based on resource constraints and LCP requirements (see, for example, CDP applications A-3-MCO-04-054 and A-3-MCO-05-027, LCP amendment MCO-MAJ-1-06, and CDP extension A-3-MCO-04-054-E3).

overdraft to be as much as 16,340 AFY due to an increase in estimated water usage (while finding the safe groundwater withdrawal yield to be the same at 14,410 AFY) (see **Exhibit 4** for the North Monterey County groundwater aquifer geography).

Thus, these studies not only quantified the estimated safe yield for the collective groundwater basins, but the 2002 study also showed that the overdraft was more than what was first estimated (due to increased water usage) and that as a result of continued overdraft, the extent and severity of the resultant problems (e.g., extent of seawater intrusion, increased water contamination problems, number of abandoned wells, adverse effects on coastal agriculture, etc.) have increased over time. For example, in the Highlands South sub-basin, which would provide water to the proposed project, the 1995 Fugro West study calculated a sustainable yield of 4,390 AFY and historical groundwater demand of 5,020 AFY, resulting in a deficit of 630 AFY. Updated values provided in the 2002 CWRMP identified the same sustainable yield of 4,390 AFY, but updated the water demand estimates for the sub-area to be 6,095 AFY, for a total overdraft of 1,705 AFY. Therefore, between the 1995 and 2002 studies, the annual amount of overdraft was calculated to have increased over an alarming 171%.

The 2002 CWRMP also showed that long-term over-commitment of the aquifer threatens water supplies and other existing users due to the risk of lowered groundwater levels and seawater intrusion. The Fugro West study identified a general long-term trend of declining water levels in the area over the preceding 20 years, with 1994 water levels in some portions of the Highlands South area being more than 40 feet below mean sea level (near Prunedale). Seawater intrusion results when wells pumped near the coast cause the water table elevation (or groundwater level) to drop below sea level. Once the water table elevation drops below sea level, seawater can migrate into the aquifer (from the ocean as well as from the tidally-influenced Elkhorn Slough system) and mix with freshwater, which increases the chloride concentrations in the groundwater pumped from these wells. The CWRMP maps entitled “Seawater Intrusion in North Monterey County” show that the 500-mg/l-chloride contour<sup>7</sup> has moved landward over time, from between 1,650 feet inland of the coast to 3,300 feet inland of the coast over the period between 1979 and 1993. Seawater intrusion threatens both agricultural and residential water uses. According to the CWRMP, the Springfield Terrace area (in the northwestern portion of North Monterey County) and other areas near Elkhorn Slough have been the most impacted by elevated chloride ion concentrations as a result of seawater intrusion, and many agricultural producers have had to abandon their water supply wells, mix salty well water with fresher water to reduce the chloride concentrations, or purchase reclaimed water for irrigating agricultural lands. Other agricultural and residential wells have had to be abandoned or drilled to deeper depths to reach unaffected portions of the aquifer.

In 2015, the Monterey County Resource Management Agency prepared its *State of the Salinas River Groundwater Basin* (report). The purpose of the report is to provide an assessment of the current health and status of the groundwater basin,<sup>8</sup> including in terms of water supply and

<sup>7</sup> A concentration of 500-mg/l of chloride is the Secondary Drinking Water Standard upper limit and is used as a measure of impairment of water, and is therefore also the basis for determining seawater intrusion in wells.

<sup>8</sup> The *State of the Salinas River Groundwater Basin* quantified the overdraft condition of the entire Salinas River Groundwater Basin, which extends beyond the North County coastal zone. The *North Monterey County Hydrogeologic Study* and the *North Monterey County Comprehensive Water Resources Management Plan*, the two previous studies on groundwater overdraft, quantified overdraft solely within the portions of the two

seawater intrusion, including due to drought conditions. The report calculated the entire groundwater basin's overdraft at between 17,000 to 24,000 AFY, based on a safe yield of roughly 499,000 to 506,000 AFY and a historic withdrawal (annual average extraction between 1959 and 2013) of roughly 523,000 AFY. The report concluded:<sup>9</sup>

*Based on the analyses discussed above, **the Basin appears to be out of hydrologic balance....Sustainable use of groundwater can only be achieved by aggressive and cooperative water resources planning to mitigate seawater intrusion and groundwater head declines.** The consequences of no-action under continued drought conditions will be the imminent advancement of seawater intrusion within the next few years and the continued decline of groundwater head. (emphasis added)*

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

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

groundwater basins (Salinas River and Pajaro Valley) located within the North County LCP area. Thus, the three reports share different geographic scopes, but all quantify overdraft within the project area.

<sup>9</sup> State of the Salinas River Groundwater Basin, page ES-16.

<sup>10</sup> California Water Code Section 10721(v).

<sup>11</sup> California Water Code Section 10721(x)(1-6).



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

Under the law, DWR is required to identify groundwater basins in “critical conditions of overdraft,” defined as when “continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.” All groundwater basins currently designated as High or Medium Priority per DWR’s 2003 Bulletin 118<sup>13</sup> and designated as “critically overdrafted” by DWR would be designated as basins in “critical conditions of overdraft” and would be required to be managed under a GSP by January 31, 2020. All other High or Medium Priority basins must have an approved GSP by January 31, 2022.<sup>14</sup>

In January 2016, DWR officially designated portions of the Salinas River Groundwater Basin, including the area in which the proposed project is located, as “critically overdrafted” (see map of DWR-designated “critically overdrafted” groundwater basins in **Exhibit 6**). Since the Salinas River Groundwater Basin has been deemed a “High Priority” basin in Bulletin 118 since 1980, the basin will be deemed in “critical conditions of overdraft” and required to have an approved GSP by 2020.

Thus, all four comprehensive information sources (i.e., the 1995 Fugro West study, the 2002 CWRMP, the 2015 State of the Salinas River Groundwater Basin report, and the SGMA) conclude that North County’s groundwater basins, including the Highlands South sub-basin from which the proposed project would receive its water supply, are overdrafted and supplying water to existing land uses at an amount exceeding the aquifers’ safe yield. Therefore, North County’s groundwater basins are not meeting the performance standards and requirements specified in LUP Policies 2.5.2.3 and 2.5.3.A.2, and IP Section 20.144.070.E.11, which require North County’s groundwater basins to be within their safe yield extraction level to allow for certain new development, such as that proposed. As such, the proposed project is inconsistent with LUP Policy 2.5.2.3, which does not allow development when water supplies are committed beyond their safe yield, and only allows development once additional water supplies are secured to bring the basin into its LCP-required safe yield state.

#### *Long-Term, Adequate Water Supply*

As described previously, the LCP requires all new development to be served by an identifiable, available, long-term, and adequate water supply (LUP Policy 2.5.1 and IP Section 20.144.140.A.1), and specifically requires new subdivisions dependent on groundwater to have an adequate, long-term water supply (LUP Policy 4.3.5.7). If water supplies are found not to be adequate, then IP Section 20.144.140.A.1 does not allow non-coastal dependent uses, thereby

<sup>12</sup> California Water Code Section 10721(w).

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

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



affirmatively requiring denial of low LCP (and Coastal Act) priority residential subdivisions. In essence, when essential services are limited, including when groundwater basins are overdrafted and not within their safe yield extraction level, as is the case in North County, the LCP prioritizes certain land uses over others. Specifically, the LCP states that agriculture and coastal-dependent development have priority over residential development, particularly residential subdivisions, in order to ensure that non-priority land uses do not divert scarce water supplies at the expense of priority uses. Indeed, IP Section 20.144.140.A.1 instructs that, “where services are determined not to be adequate for the proposed non-coastal dependent use, *only coastal dependent uses shall be permitted*” (emphasis added). In essence, this IP standard affirmatively requires the reviewing authority to deny a non-priority use (including residential subdivision) when services are found to be inadequate, as it is with respect to water supply in North County.

The proposed project is a residential subdivision that would increase water demand by an estimated 0.8 AFY for new residential development from groundwater aquifers that are already being pumped beyond their safe yield level. With respect to whether there is a long-term and adequate supply, the groundwater basin’s overdraft status indicates that, in its current state, the basin cannot supply water over the long term in a manner that would not impair the basin and the resources that depend on it, and thus a project that would be served by it cannot be found to have a long-term, adequate water supply. Therefore, the proposed project is inconsistent with LUP Policies 2.5.1 (which requires development to be served by identifiable, available, long-term water supplies) and 4.3.5.7 (which limits new subdivisions and development until adequate long-term water supplies are assured).

Furthermore, the proposed project, with its resultant 0.8 AFY water usage for new residential development, cannot be found to have an adequate water supply, and is thus inconsistent with IP Section 20.144.140A.1, which requires that adequate water be available to serve non-coastal dependent uses. There is not adequate water available for the proposed subdivision, which is a non-coastal-dependent use, and thus the proposed subdivision must be denied. Moreover, the proposed subdivision cannot be found consistent with other LUP policies, including LUP Policy 2.5.3.A.1 (which sets a County-wide policy of protecting groundwater supplies for coastal priority agricultural uses), Policy 4.3.5.4 (which prioritizes coastal-dependent uses over residential and non-coastal-dependent uses when there is limited water to support development), Policy 4.3.6.D.1 (which only allows land divisions for residential purposes to be approved by evaluating LCP criteria), Policy 4.3.6.D.5 (which limits residential growth until a water supply adequate to support residential development is provided), and Policy 7.3.1 (which prioritizes applications for coastal-dependent or related uses). Thus, the proposed subdivision must be denied due to its numerous inconsistencies with LCP groundwater management policies.

#### *Alternatives and Impact Mitigation*

With respect to IP Section 20.144.070.E.11, this standard prohibits development when it will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer, and when there are no mitigation measures and/or project alternatives that will reduce the development’s water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer. In this case, the groundwater basins are already severely overdrafted. Thus, *any* subdivision would commit a permanent water supply from a source that is already overdrafted, inconsistent with the LCP.

Some prior applicants for subdivisions in North Monterey County have argued before the Commission that offsets and retrofits can be used to overcome these LCP obstacles to allow additional development in North County. However, complete water usage offsets as mitigation are not appropriate nor allowable under the core LCP policies described above, nor are they realistically feasible in Northern Monterey County in order to be able to find consistency with IP Section 20.144.070.E.11. While some past projects have proposed and been approved to mitigate their water demands by offsetting their anticipated water usage via retrofitting programs (i.e., requirements to offset a proposed development's water usage through reducing a commensurate amount of water use offsite), there are multiple concerns that have subsequently emerged with this approach, including that they do not address nor are they consistent with other LCP requirements that only allow a level of development commensurate with the safe yield groundwater extraction level (as discussed above in terms of this proposed project), and because their efficacy and ability to provide bona fide, long-term water savings have not been borne out.<sup>15</sup> Furthermore, in these kinds of areas with water supply limitations, simply offsetting a proposed development's estimated water usage cannot be used to meet LCP water availability requirements related to overall safe yield as they don't affect the long term sustainability of the basins. Instead, a reviewing authority must affirmatively show that long-term and sustainable water supplies are ready and available to serve the proposed development. In other words, retrofitting is an insufficient tool to overcome known existing water deficiencies in North County's groundwater basins, *particularly* for low LCP-priority uses such as residential subdivisions. Thus, the proposed project is inconsistent with IP Section 20.144.070.E.11 because it will generate a water demand that exceeds the ability of the aquifer to serve it within its safe yield state and, as described above, there are no project modifications and/or mitigations available to ensure that the proposed project can be served by groundwater at its safe yield level. As such, and because this IP standard makes an affirmative statement that "development *shall not be permitted*" (emphasis added) when these two findings are made, the proposed project must be denied.

#### *County LCP Interpretations*

While the County does not dispute the significant overdraft situation in North County, the County has in the past construed the LCP's buildout numbers as mandatory entitlements given that the North County LCP was certified with many areas, including the subject property, zoned for residential use knowing that the area suffered from groundwater overdraft conditions. In

<sup>15</sup> Indeed, in the Commission's 2006 approval of CDP A-3-MCO-04-054, a 10 lot subdivision in North Monterey County's Royal Oaks community, the Commission found the project largely inconsistent with numerous LCP requirements, but approved the project to settle a lawsuit and to test the efficacy of a water retrofit program in addressing North County groundwater issues. Thus, the Commission required the Applicant to completely offset the project's anticipated water usage via retrofitting existing development within North County. However, the Applicant was unable to meet this condition, including because the Pajaro-Sunny Mesa Community Services District, a water provider in the North County area, concluded that there are no significant retrofit candidates or opportunities remaining in North Monterey County. Therefore, the District and the Commission were unable to approve a retrofit program for that project, and the Commission ultimately denied an extension of the CDP in October 2016 (CDP extension number A-3-MCO-04-054-E3). That denial was based in part on changed circumstances affecting the project's LCP consistency because of the inability to offset its water usage. Given this fact, and because such an offset program would not address overall basin safe yield requirements, a water retrofit/offset program is not an appropriate or feasible mitigation approach for the currently proposed subdivision project or others like it.

other words, and notwithstanding evidence of County actions in other cases to the contrary,<sup>16</sup> the County has argued in certain past cases that the LCP already contemplated a certain amount of residential subdivision and use in North County despite this lack of water when it was certified. However, this buildout “override” interpretation is not supported by the LCP or by any of the LCP’s certification documents, and is inconsistent with past Commission actions and findings on this specific issue.<sup>17</sup>

First, the LCP is clear that maximum densities and maximum buildout numbers are only *theoretical maximums* that must be understood based on site constraints and other LCP requirements, including with respect to the availability of an adequate water supply (see, for example, North County LUP Policy 4.3.6.D.1<sup>18</sup> and IP Section 20.64.180.D<sup>19</sup>). In other words, development maximums (whether construed as a function of allowable density under the site’s LDR zoning or as a function of allowable buildout under specific North County LUP Policy 2.5.3.A.2) are *not* LCP entitlements. Interpreting the LCP provisions that identify maximum densities and buildout in order to support the proposed subdivision seems to suggest that the subdivision is approvable as a matter of right. Instead, any opportunity for residential subdivision that is *generally* supportable by certain LCP policies (e.g., North County LUP Policy 2.5.3.A.2) may be limited for a specific project proposal when other LCP provisions are applied that regulate allowable development on the basis of coastal resource protection for the particular project (e.g., North County LUP Policy 4.3.6.D.1 and IP Section 20.64.180.D). The LCP provisions are all read together, and the potential theoretical zoning maximums, or even increases in lot and residential density through subdivision at all, can only be understood in relation to resource and other constraints. As discussed previously, the LCP does not allow for any increase in units (per LUP Policy 2.5.3.A.2) based on the facts of this case.

Second, the Commission has consistently found that when the LCP was certified, the extent and magnitude of the groundwater overdraft was not precisely known, and thus the LCP required definitive groundwater supply studies to quantify it (which were first prepared in 1995 and

<sup>16</sup> Indeed, the County has addressed North County’s groundwater overdraft in numerous ways, including a building moratorium in North County between 2000-2002, adoption of a new General Plan in 2013 that prohibits subdivision in North County outside of the coastal zone until at least 2018 (and lifted only if and when certain groundwater conditions are realized), and an accessory dwelling unit prohibition in the North County coastal zone (approved by the Commission in October 2015 in LCP-3-MCO-15-0022-1) due to a lack of available water supplies. Furthermore, the County has not approved a CDP for a residential subdivision in North County since 2009.

<sup>17</sup> See, for example, Commission findings and actions on CDP A-3-MCO-04-054 (2004), LCP amendment MCO-MAJ-1-06 (2008), A-3-MCO-04-054-E3 (2016), and A-3-MCO-05-027 (2017).

<sup>18</sup> North County LUP Policy 4.3.D.1 states in relevant part: “Land divisions for residential purposes shall be approved at a *density determined by evaluation of site* and cumulative impact criteria set forth in this plan. *These include ... water availability...*” (emphasis added).

<sup>19</sup> IP Section 20.64.180.D states in relevant part: “The maximum density established under this Section shall be utilized as the basis to *begin consideration* of the density appropriate for development of a specific parcel. Such established maximum density is *not a guarantee* of possible development potential of any given property. Density of development shall *ultimately be determined through the permit process*, consideration of site conditions *on the specific property* and of the details of the specific development proposal ... Such considerations may include but are not limited to... *Available supply and priorities for water...*” (emphasis added).

subsequently in 2002, both of which documented significant overdraft in North County).<sup>20</sup> In other words, because the overdraft situation was not precisely known at time of LUP adoption, to be cautious, LUP Policy 2.5.3.A.2 established that no more than 50% of the maximum residential buildout based on parcel size and maximum subdivision potential (i.e., 1,351 units, again based on a simple mathematical application of maximum zoning to overall acreage without consideration of any resource constraints that may be applicable through other LCP policies) may be allowed while the County pursued efforts to quantify the overdraft problem and arrive at a solution. The policy establishes this maximum as a cap until a new water supply is secured or once safe yield is achieved, at which time this cap could be increased via LCP amendment. However, that is a maximum threshold, and LUP Policy 2.5.3.A.2 includes a caveat that allows this cap to be reduced to limit groundwater use to the safe-yield level once it was determined, or if required in order to protect agricultural water supplies.

The 50% build-out level is best understood as a then-approximation of what *might* be possible without consideration of any site-specific resource/site constraints, and it presumes that water would be available for same. To argue otherwise would suggest that the LCP explicitly provides for 1,351 additional units regardless of whether required future studies established that that level of development could or could not be accommodated by the North Monterey County water supply. We now know, and have known for some time, that there is inadequate water supply to support such development, and all parties – including the County – are in agreement that a significant overdraft problem exists. While the County has done significant work to address the overdraft situation, the overdraft condition in the groundwater basin remains acute. As such, and pursuant to the numerous other LCP policies and standards that do not allow residential subdivision when groundwater basins are overdrafted, the proposed project is simply not approvable. Again, to construe the LCP otherwise to allow for residential subdivision in these rural areas when there is a distinct lack of available water supply fails to meet the objectives of the Coastal Act and the LCP, and is simply not supported by the LCP nor the facts surrounding the Commission's LCP certification in this case.

That is not to say that Policy 2.5.3.A's buildout limits cannot be allowed in the future should groundwater aquifers be replenished and overdraft eliminated (or if a specific project proposal somehow satisfies LCP coastal resource policies, including those relating to groundwater use); it is simply a recognition that the LCP as a whole does not allow additional residential subdivisions at this time for this specific project proposal under the given facts. In many ways, the LCP's policy framework is a proactive identification of the appropriate actions to take for evaluating development when the groundwater basin is overdrafted, as is the case here. The LCP states that the overarching objectives are to both protect groundwater and water quality while also prioritizing agriculture (and coastal-dependent uses and recreation) over other types of development. The LCP then implements such objectives by not allowing low-priority residential subdivisions that cannot meet LCP resource policies, including with respect to groundwater use (instead, explicitly requiring their phasing and allowance *only when* additional water supplies are available that bring the groundwater basins to their safe yield state), *and* by ensuring that priority land uses, including new agricultural uses, must also protect water supplies and be as water efficient as possible. Thus, the LCP seeks to protect groundwater, water supply, and water quality by requiring even priority agricultural development to address and employ water

<sup>20</sup> The North County LUP was certified in 1982, and the LCP was certified in 1988.

conservation measures and by ensuring residential subdivision is only allowed when generated water demand can be met without exceeding safe yield levels of the groundwater basin. Allowing for the residential subdivision proposed here when the groundwater basin is overdrafted would frustrate the LCP's fundamental structure on the overlapping issues of groundwater overdraft, water supply, and land use prioritization.

### *Conclusion*

The proposed project constitutes a residential subdivision (a low priority use) in an area with known water supply deficiencies, including that the groundwater basin from which the development will receive water is overdrafted and extracted in exceedance of its safe yield state. When such a combination results, the LCP affirmatively requires the proposed development to be denied. Therefore, because the project proposes subdivision that would ultimately allow for additional residential development within a groundwater basin that is severely overdrafted, the proposed project is inconsistent with the above-cited LCP water supply and priority land use policies and standards, and must be denied.

## **2. Environmentally Sensitive Habitat Areas**

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

***IP Section 20.06.440 Environmentally Sensitive Habitat Area:*** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

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

***North County LUP Policy 2.3.2.1.*** With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare or endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research, hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.

***North County LUP Policy 2.3.2.2.*** Land use adjacent to location of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site



*planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*

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

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

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

***North County LUP Policy 2.3.3.A.2.*** *Maritime chaparral is an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development. Further conversion of maritime chaparral habitat to agricultural uses is highly discouraged. Where new residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.*

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

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



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

Thus, the LCP includes strong protections for ESHA, including maritime chaparral and oak woodland areas, both of which are called out explicitly as ESHA in the North County LUP (LUP Section 4.2). The LCP allows new subdivisions to be approved only where significant impacts to sensitive habitats will not occur (LUP Policy 2.3.2.3); prohibits subdivisions when they will adversely impact ESHA and/or when they are completely within ESHA (IP Sections 20.144.040(B)(3) and 20.144.040(B)(4), respectively); and requires development within oak woodland and maritime chaparral areas to maximize protection of these habitats, and to be sited to minimize disruption of vegetation and habitat loss (LUP Policies 2.3.3.A.2 and 2.3.3.A.4). Finally, the LCP requires the maintenance of large areas of continuous and undisturbed ESHA, and only allows low intensity recreation, education, or resource conservation uses within such areas (LUP Policy 2.3.2.4).

#### *Analysis*

The project site is a rural, vacant and undeveloped property, which the project's Initial Study characterized as consisting of "predominantly oak woodland and chaparral with rare or uncommon plants such as Eastwood's golden fleece, Monterey ceanothus, Pajaro manzanita, and the Monterey spine flower."<sup>21</sup> Of the parcel's 5.52 acres, 4.07 acres constitute oak woodland and 1.07 acres constitute central maritime chaparral habitat. Thus, nearly the entire site is ESHA per the LCP. Furthermore, 1.53 acres of the parcel's slopes over 25 percent and chaparral habitat are protected by a recorded scenic and conservation easement that doesn't allow for residential development. The Initial Study found that the project's approved access roads, utilities, and building envelopes would result in removal of 121 coast live oaks, nine Monterey pines, and 0.87 acres of central maritime chaparral ESHA. And project plans indicate that a similar amount of oak woodland ESHA (i.e., about an acre) would be removed for residential development as well. Residential development is not an allowed use in ESHA. Thus, the project as proposed is inconsistent with the LCP's ESHA protection policies, including those that only allow resource dependent uses within ESHA and that prohibit subdivisions when they will adversely impact ESHA (LUP Policies 2.3.2.1 and 2.3.2.3 and IP Sections 20.144.040(B)(3) and (B)(4)). Furthermore, while LUP Policy 2.3.2.3 requires development adjacent to ESHA to be compatible with the long-term maintenance of the resource, which typically consists of requisite buffers, the proposed project does not address, quantify, nor require any buffer between the approved development and the identified sensitive habitats. The project as proposed is thus inconsistent with LCP ESHA buffer requirements as well. Finally, the removal of 121 coast live oak trees does not conform with LCP policies that seek to minimize such tree loss (LUP Policy 2.3.3.A.4), or with policies that do not allow subdivision and residential development within large areas of continuous undisturbed land, as is the case here (LUP Policies 2.3.2.1, 2.3.2.3, and 2.3.3.A.2; IP Section 20.144.040.B.3).

<sup>21</sup> Mayr-Desmond Subdivision Initial Study-PLN000260-April 3, 2006, page 15. Central maritime chaparral consists of Pajaro manzanita, Hooker's manzanita, Monterey ceanothus, and black sage. Pajaro manzanita and Hooker's manzanita are listed as rare (List 1B) by the California Native Plant Society (CNPS), and Monterey ceanothus is considered a plant of limited distribution (List 4) by CNPS.

Finally, it is worth noting that the proposed project is not consistent with the terms and conditions governing this property pursuant to CDP MS88-10, which was approved by Monterey County in 1991 (see **Exhibit 5** for this CDP and its conditions). As previously described, that CDP authorized the subdivision of a larger 16.724-acre parcel to create the subject parcel and two other parcels. That approval was subject to numerous conditions, including that all future building sites and driveways/access roads be located off of ridgelines and where slopes are less than 25 percent, and where there shall be minimal impact on ESHA (Condition 37). To implement such requirements, the CDP included conditions requiring access to the three parcels to be limited to the southeastern portion of the site where an existing utility easement was located (Condition 24), that natural vegetation be left intact and undisturbed, but for normal construction of future residences and their ancillary development (Condition 26), and that a scenic easement be conveyed to the County over those portions of the property where the slope exceeds 25 percent and where maritime chaparral exists (Condition 19). Since this project proposes to further subdivide this parcel and build additional infrastructure to accommodate an additional future residence, doing so would be inconsistent with the previously approved CDP's requirements. For example, building a new access road/driveway at the northwestern property boundary along Desmond Road is inconsistent with Condition 24's requirement to solely allow access within the existing utility easement on the southeast portion of the property from Castroville Boulevard (Condition 24), and the additional proposed vegetation removal and land disturbance (including removal of some two acres of ESHA overall) to accommodate the additional residence is inconsistent with Condition 26's requirement to leave all natural vegetation intact (but for the construction of the one authorized residence on the existing parcel that is the subject of this appeal). As such, although CDP MS88-10 is not the standard of review here, the proposed project appears to be inconsistent with the terms and conditions of the 1991 CDP, which was not amended to provide for the proposed project.

### *Conclusion*

The project proposes to remove some two acres of oak woodland and maritime chaparral ESHA, including 121 individual coast live oak trees, and is thus inconsistent with the LCP's habitat protection policies. These project inconsistencies require project denial for this reason in addition to the water supply problems described above.

Any resubmitted development proposal (e.g., single family development without a subdivision component) must address LCP habitat protection policies through siting and design alternatives, including avoidance of development within identified habitat areas with adequate buffers. Furthermore, even if the project were consistent with other LCP policies and standards with respect to water supply and ESHA policies, the applicants would still need to apply to Monterey County to amend the terms and conditions of CDP M88-10.

### **3. Water Quality**

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

***North County LUP Policy 2.5.2.1.*** *The County shall limit the kinds, locations, and intensities of new developments, including agriculture to minimize further erosion in the watersheds of Elkhorn Slough and Moro Cojo Sloughs and sedimentation of the Sloughs. All development shall incorporate all available mitigation measures to meet these goals, including at a minimum, the measures identified in Policy 2.5.3.C.6.*

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

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

- a. Existing sources of erosion shall be reduced through diligent enforcement of the County's most current Erosion Control Ordinance. The County shall institute a system of fines sufficiently large or shall take other actions to compel compliance by landowners or farm operators in violation of the ordinance.*  
...
- c. Erosion control plans shall be required for all new development as set forth in the Erosion Control Ordinance. These plans shall incorporate measures for on-site reduction of bare ground and maximum retention of storm water runoff resulting from impervious surfaces. The plans shall be reviewed by the Soil Conservation Service, and shall be approved by the Director of Building Inspection or by the Planning or Public Works Director prior to issuance of any permits. In reviewing plans in the Coastal Zone, certification will be made for the following, in addition to other requirements of the Erosion Control Ordinance:*
  - That the amount of bare ground in the proposed development, is zero, or when combined with the bare ground from existing and committed land use, shall not exceed the Land Disturbance Targets shown on Table 1.*
  - That measures incorporated in the site plan to retain storm water runoff shall be designed to contain runoff resulting from a 20 year recurrence interval storm.*
  - That measures designed to reduce the amount of bare ground shall maintain a continuous vegetation cover throughout the year. Other types of ground cover may be used where it can be shown that vegetation is not suitable.*...
- d. All land clearing shall be consistent with the provisions of the County's Erosion Control Ordinance. No land clearing or grading shall take place between October 15 and April 15 in Watershed Restoration Areas or Critical Erosion Areas or other high erosion hazard areas unless specifically authorized by the Director of Building Inspection. Such authorizations shall generally be confined to agricultural operations in areas designated in this plan for Agricultural Preservation or Agricultural Conservation uses.*
- e. Maximum retention of vegetation cover shall be required for all new development. In particular, natural vegetation should be retained to the fullest extent possible through*

*careful siting and construction of new development.*

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

#### *Analysis*

The proposed project would result in two parcels which could be developed in the future with two new residences (under separate CDPs), along with commensurate urban infrastructure including roads, driveways, and other utilities, that will lead to the conversion of portions of the undeveloped land on the project site into new impervious surfaces. Such development, as well as drainage and runoff from the completed projects, could potentially result in increased sedimentation, increased oil and heavy metals from vehicles, and an overall decrease in water quality, including for nearby Elkhorn Slough. Furthermore, the project proposes to remove 121 coast live oak trees, nine Monterey pine trees, and 0.87 acres of central maritime chaparral, inconsistent with LUP Policy 2.5.3.C.6(e)'s requirement to retain the maximum amount of vegetation for all new development in order to address potential erosion concerns.

While some of these water quality concerns could potentially be addressed by siting and design alternatives, including avoidance of structural development within identified oak woodland and chaparral areas, as well as requirements for water quality protection both during construction (e.g., construction best management practices, prohibiting building a new driveway, etc.) as well as post-construction (e.g., low-impact development strategies, bioswales, infiltration requirements, and erosion control plans consistent with LUP Policy 2.5.3.C.6), the project's inconsistencies with LCP water supply/groundwater resource and ESHA policies render such additional analysis and project modifications moot (because the project is still independently and irreconcilably inconsistent with the LCP on these other points).

If the project were consistent with other LCP policies and standards with respect to water supply and ESHA, the Applicants would need to submit water quality protection plans and project modifications to protect water quality and avoid sensitive habitat areas to ensure that the project could be approved and conditioned to be consistent with LCP water quality protection policies and standards. In this case, however, the Commission is denying the project primarily based on the lack of an adequate water supply and ESHA reasons, and thus water quality protection modifications are not warranted at this time.

#### **4. Visual Resources and Community Character**

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

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

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

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

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

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

#### *Analysis*

The proposed project would introduce a residential subdivision and associated infrastructure into an undeveloped and wooded lot (see **Exhibit 2** for area photos). The project proposes extensive grading and landform alteration on a highly sloping parcel, including significant removal of coast live oak and central maritime chaparral areas, to convert the area's scenic habitats into engineered, structural elements, including new access roads and infrastructure. The proposed project is thus inconsistent with LUP Policy 2.2.1 (which requires screening and visual impact minimization) and LUP Policy 2.2.2.3 (which requires new roads and lots from subdivisions to minimize tree removal and grading). Furthermore, the project does not utilize the existing access road from Castroville Boulevard, but rather a new access road from Desmond Road, inconsistent with LUP Policy 2.2.3.4 which prioritizes use of existing roads in lieu of building new ones (as well as inconsistent with the terms of the 1991 CDP that required access to solely be from Castroville Boulevard – see previous discussion on this point). Finally, the project's significant vegetation removal, including 121 coast live oak trees, nine Monterey pine trees, and 0.87 acres of central maritime chaparral, is inconsistent with LUP Policy 2.5.3.C.6(e)'s requirement to maximize vegetation cover and retain natural vegetation to the fullest extent possible.

#### *Conclusion*

The project's inconsistencies with LCP water supply and ESHA policies render project modifications (including alternatives that seek to retain vegetation and utilize the existing driveway) moot (because the project is still independently and irreconcilably inconsistent with LCP water supply/groundwater resource and ESHA policies).



Even if the project were consistent with other LCP policies and standards with respect to water supply and ESHA, the Applicants would need to submit siting and design alternatives, including with renderings and visual simulations to ensure that the future residences anticipated by this subdivision could be approved and conditioned to be consistent with LCP visual resource and community character policies and standards. In this case, however, the Commission is denying the project primarily based on the lack of an adequate water supply and prohibited ESHA impacts, and thus a visual impact analysis is not warranted at this time.

## 5. Takings

In addition to evaluating the proposed development for consistency with the certified LCP, in a denial situation the Commission must also evaluate the effect of a denial action with respect to takings jurisprudence. In enacting the Coastal Act, the Legislature anticipated that the application of development restrictions could deprive a property owner of the beneficial use of his or her land, thereby potentially resulting in an unconstitutional taking of private property without payment of just compensation. To avoid an unconstitutional taking, the Coastal Act provides a provision that allows a narrow exception to strict compliance with the Act's regulations based on constitutional takings considerations. Coastal Act Section 30010 provides:

*The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Although the judiciary would be the final arbiter on constitutional takings issues, the Coastal Act, as well as the State and Federal Constitutions, enable the Commission to assess whether its action might constitute a taking so that the Commission may take steps to avoid doing so. If the Commission concludes that its action does not constitute a taking, then it may deny the project with the confidence that its actions are consistent with Section 30010 and constitutional takings jurisprudence. If the Commission determines that its action could constitute a taking, then the Commission could conversely find that application of Section 30010 would require it to approve some amount of development in order to avoid an uncompensated taking of private property. In this latter situation, the Commission could propose modifications to the development to minimize its Coastal Act inconsistencies while still allowing some reasonable amount of development.

The remainder of this section provides an analysis of whether, for purposes of compliance with Section 30010, denial of the proposed subdivision of the Applicants' property could constitute a taking. As discussed further below, the Commission finds that under these circumstances, denial of the proposed project likely would not, because the takings claim is not yet ripe, and because the Applicants already enjoy economic uses on the property.



### ***General Principles of Takings Law***

The Takings Clause of the Fifth Amendment of the United States Constitution provides that private property shall not “be taken for public use, without just compensation.”<sup>22</sup> Similarly, Article 1, Section 19 of the California Constitution provides that “[p]rivate property may be taken or damaged for public use only when just compensation...has first been paid to, or into court for, the owner.” Despite the slightly different wordings, the two “takings clauses” are construed congruently in California, and California courts have analyzed takings claims under decisions of both state and federal courts (*San Remo Hotel v City and County of San Francisco* (2002) 27 Cal. 4th 643, 664.). The “damaging private property” clause in the California Constitution is not relevant to the current analysis. Because Section 30010 is a statutory bar against an unconstitutional action, compliance with state and federal constitutional requirements concerning takings necessarily ensures compliance with Section 30010.

The United States Supreme Court has held that the taking clause of the Fifth Amendment proscribes more than just the direct appropriation of private property (*Pennsylvania Coal Co. v. Mahon* (1922) 260 U.S. 393, 415 (“*Pennsylvania Coal*”)) [stating “The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking”]]. Since *Pennsylvania Coal*, most of the takings cases in land use law have fallen into two categories (*Yee v. City of Escondido* (1992) 503 U.S. 519, 522-523). The first category consists of those cases in which government authorizes a physical occupation of property (*Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419, 426). The second category consists of those cases whereby government “merely” regulates the use of property and considerations such as the purpose of the regulation or the extent to which it deprives the owner of economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole (*Yee*, 503 U.S. at 522-523). Moreover, a taking is less likely to be found when the interference with property is an application of a regulatory program rather than a physical appropriation (*Keystone Bituminous Coal Ass’n. v. DeBenedictis* (1987) 480 U.S. 470, 488-489, fn. 18). Here, because the current development proposal does not involve physical occupation of the applicant’s property by the Commission, the Commission’s actions are evaluated under the standards for a regulatory taking.

The U.S. Supreme Court has identified two circumstances in which a regulatory taking may occur. The first is the “categorical” formulation identified in *Lucas v. South Carolina Coastal Council* ((1992) 505 U.S. 1003, 1015). In *Lucas*, the Court found that regulation that denied all economically viable use of property was a taking without a “case specific” inquiry into the public interest involved (*Id.* at 1015). The *Lucas* court suggested, however, that this category of cases is narrow, applicable only “in the extraordinary circumstance when *no* productive or economically beneficial use of land is permitted” or the “relatively rare situations where the government has deprived a landowner of all economically beneficial uses” (*Id.* at 1017-1018).

<sup>22</sup> The Fifth Amendment was made applicable to the States by the Fourteenth Amendment (see *Chicago, B. & Q. R Co. v. Chicago* (1897) 166 U.S. 226, 239).

(*emphasis in original*); *Riverside Bayview Homes*, (1985) 474 U.S. 121, 126 (regulatory takings occur only under “extreme circumstances.”<sup>23</sup>).

The second circumstance in which a regulatory taking might occur is under the multi-part, *ad hoc* test identified in *Penn Central Transportation Co. (Penn Central) v. New York* (1978) 438 U.S. 104, 124. This test generally requires at a minimum an examination into the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations (*Id.* at 124; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005). In *Palazzolo v. Rhode Island* ((2001) 533 U.S. 606, 617), the Court again acknowledged that the *Lucas* categorical test and the three-part *Penn Central* test were the two basic situations in which a regulatory taking might be found to occur (*see Id.* at 632 (rejecting *Lucas* categorical test where property retained value following regulation but remanding for further consideration under *Penn Central*)).

However, before a landowner may seek to establish a taking under either the *Lucas* or *Penn Central* formulations, it must demonstrate that the taking claim is “ripe” for review. This means that the takings claimant must show that government has made a “final and authoritative” decision about the use of the property (*MacDonald, Sommer & Frates v. County of Yolo* (1986) 477 U.S. 340, 348). Premature adjudication of a takings claim is highly disfavored, and the U.S. Supreme Court’s precedence “uniformly reflects an insistence on knowing the nature and extent of permitted development before adjudicating the constitutionality of the regulations that purport to limit it” (*Id.* at 351). Except in the rare instance where reapplication would be futile, the courts generally require that an applicant resubmit at least one application for a modified project before it will find that the taking claim is ripe for review (*Id.*). These general takings principles are reviewed for determining whether denial of the proposed project here would result in an uncompensated regulatory taking.

### ***Denial Would Not Result in a Regulatory Taking***

As analyzed above, application of the LCP’s water supply/groundwater resource and ESHA policies and standards require denial of the proposed subdivision on the grounds that the project cannot be served by an identifiable, available, and long-term water supply at the present time, and because it would allow prohibited development in ESHA, and it is likely the case that, even for a revised project proposing a residential subdivision for this property, denial would be appropriate for the same LCP inconsistencies with respect to water supply and ESHA policies. However, based on the law and facts analyzed below, it is unlikely that such a denial of development would constitute an unconstitutional taking in this case because the Applicant here proposes a subdivision and two residential development areas on a single parcel that is encumbered by significant ESHA areas and that is located in an area with a lack of water to serve development. Such a proposal goes well beyond what might need to be considered in the event a takings scenario is presented, and the Applicants have not yet submitted an alternative/revised project application for a reduced scale project, such as a single single-family development without a subdivision, for consideration by the County. The Applicants have also not explored

<sup>23</sup> Even where the challenged regulatory act falls into this category, government may avoid a taking if the restriction inheres in the title of the property itself; that is, background principles of state property and nuisance law would have allowed government to achieve the results sought by the regulation (*Lucas, supra*, 505 U.S. at pp. 1029).

with the County what entitlements may remain under the 1991 CDP to this effect. Thus, a takings claim is not yet ripe.

At this time, application of the LCP's water supply and groundwater resources policies require denial of new residential subdivisions that require a new water supply in North Monterey County. Perhaps most importantly for determining whether denial of the proposed project would result in an unconstitutional taking, the Applicants own the existing legal lot of record as well as two adjacent parcels (which were all created through a previous 1991 subdivision and which are both developed with single-family residences), and may potentially be able to build a single-family residence on this parcel as well.<sup>24</sup> Therefore, under a *Lucas* standard, denial of the Applicants' proposed project will not deny the owner of all economically viable use of the land. For substantially similar reasons, under a *Penn Central* standard, denial of the proposed project does not result in substantial economic impact to the Applicants in relation to the property at issue considering the potential economic uses on the property. Regarding the character of the governmental action, denial of the project ensures consistency with LCP policies (which itself is a valid local implementation of Coastal Act requirements) that strictly limit new residential development in North Monterey County based on County concerns over water supplies and groundwater resources. Regarding the Applicants' reasonable investment-backed expectations, the Applicants cannot have reasonably expected to subdivide this parcel further for residential purposes as proposed here given the numerous conditions and requirements of CDP MS88-10 restricting this parcel upon its creation in 1991, as well as the LCP policies governing land use in effect at the time of purchase.

The California Court of Appeal for the Fourth District reasoning in *Charles A. Pratt Construction Co., Inc., v. California Coastal Commission*, (2008) 162 Cal. App. 4th 1068 (*Pratt*) is also instructive here. In *Pratt*, the plaintiff argued that the Coastal Commission's decision to deny a CDP for the plaintiff's proposed project based on inconsistencies with LCP water requirements was an unconstitutional taking (*Id.* at 1081). The Court of Appeal upheld the Commission's denial of the CDP and found that it was not an unconstitutional taking. It stated that the plaintiff-applicant failed to cite any authority that: (1) denial of a development permit because of water supply constitutes a taking; or (2) that the setting of priorities for water use in the face of an insufficient supply constitutes a taking (*Id.*). The court stated, "Even where the lack of water deprives a parcel owner of all economically beneficial use, it is the lack of water, not a regulation that causes the harm" (*Id.*). Finally, the court noted that the plaintiff "is not entitled to whatever project it desires" and "has yet to submit proposals that contemplate a reduction in the size, scope, configuration or density of the project" (*Id.* at 1082). The court's reasoning in *Pratt* is reflective of the reasons why denial here would not constitute a taking: (1) denial does not foreclose the possibility that a project proposal of reduced size, scope, configuration, and density may be approved as LCP consistent (i.e., primary single-family residence without subdivision that avoids ESHA and meets other LCP requirements); and (2) the Applicants have not yet

<sup>24</sup> Assuming that the so-called "unitary theory" does not apply here such that all three contiguous parcels commonly held by the Applicants should be considered a single lot for purposes of takings analysis (*see generally District Intown Properties v. District of Columbia* (1999) 198 F.3d 874), the Applicants may still be able to enjoy beneficial economic use of the property at issue without subdividing it including because the certified LCP would potentially allow for a primary single-family residence to be built if it can avoid ESHA and be served by adequate water and meet other relevant LCP requirements.

submitted such a proposal, so any takings claim would be premature until the County considers such a proposal.

In sum, the Commission's decision to deny the proposed development, on the grounds that it is inconsistent with the LCP's water supply/groundwater resource and ESHA policies, would not result in an unconstitutional taking. Although the regulations require denial of the proposed new residential subdivision at this time, the Applicants own two adjacent parcels, both which have existing single-family residences, and may apply to the County to build a single-family residence on the current parcel under consideration, thereby affording an economic use of the property. Any takings claim is therefore premature.

## **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

***CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects.** [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*

***Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication.** ... (b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.*

***CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved.** (a) CEQA does not apply to projects which a public agency rejects or disapproves.*

14 CCR Section 13096(a) requires that a specific finding be made in conjunction with CDP applications about the consistency of the application with any applicable requirements of CEQA. This report has discussed the relevant coastal resource issues with the proposed project. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission's denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*. Prepared for Monterey County Water Resources Agency, October 1995.
2. Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.
3. Monterey County Resource Management Agency and Brown and Caldwell. *State of the Salinas River Groundwater Basin*, January 2015.
4. Mayr-Desmond Subdivision Initial Study-PLN000260-April 3, 2006.

## **APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS**

1. Applicants
2. Friends, Artists, and Neighbors of Elkhorn Slough
3. Pajaro-Sunny Mesa Community Services District
4. Pajaro Valley Water Management Agency
5. Monterey County Resource Management Agency
6. California Department of Water Resources
7. Office of Monterey County Supervisor John Phillips

**CALIFORNIA COASTAL COMMISSION**

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



# W16a

Permit Expiration: 4/12/2010  
Extension Request Filed: 3/23/2010  
Staff: Kevin Kahn - SC  
Staff Report: 10/21/2016  
Hearing Date: 11/2/2016

## STAFF REPORT: CDP EXTENSION REQUEST

**Application Number:** A-3-MCO-04-054-E3

**Applicant:** Xiaoyun Chen Trust

**Project Location:** 250 Maher Road, Royal Oaks, North Monterey County (APN 127-252-009)

**Project Description:** Subdivision of a 25-acre agricultural parcel into 10 lots ranging in size from 1.0 to 7.8 acres; development of a mutual water system; construction of four 15,000 gallon water tanks; demolition of an existing mobile home, barn, and greenhouse; conversion of an existing mobile home to a senior citizen's unit; and associated improvements.

**Staff Recommendation:** Deny the Extension

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## SUMMARY OF STAFF RECOMMENDATION

Coastal Commission coastal development permit (CDP) approvals typically allow two years for a Permittee to exercise their CDP pursuant to the terms and conditions of the CDP adopted by the Commission. If a Permittee has not so exercised their CDP, then the CDP expires. However, the Commission's regulations also provide that a Permittee can request an extension of that deadline of up to a year. Extension requests such as these can only be granted provided the Commission finds that there are no changed circumstances that would affect the consistency of the development with the policies of the Coastal Act and/or the applicable Local Coastal Program (LCP).



## A-3-MCO-04-054-E3 (Sunridge Views Subdivision Extension)

In this case, the Commission approved a CDP and the Permittee has not yet exercised that CDP, and is requesting an extension of the expiration deadline. Staff recommends that the CDP extension **NOT** be granted because changed circumstances exist that affect the development's consistency with the policies and standards of the certified Monterey County LCP, as described below.

First, like virtually all development located within predominantly rural, agricultural North Monterey County, the approved 10 lot subdivision project would receive its potable water supply from wells extracting groundwater from the Pajaro Valley Groundwater Basin (Basin). The North County segment of the LCP only allows development that can be supported by water sources that do not result in extractions that would exceed the safe yield of the underlying groundwater basin. The LCP does not contain a specific numeric safe yield amount for each groundwater basin, but instead requires hydrologic reports and the most updated resource information sources to determine appropriate safe yields and thus the amount of new development such a yield can support.

Since the time of the Commission's original CDP approval in 2006 (and subsequent extensions), the Pajaro Valley Water Management Agency updated its *Basin Management Plan* (Basin Plan) for the first time since 2002. The new Basin Plan, updated in 2014, now calculates Basin overdraft at 12,100 acre-feet per year (AFY), and identifies conservation (and not imported water via new pipelines from the Federal Central Valley Project, as was relied upon in the 2002 Basin Plan) as a primary tool to abate this overdraft condition and to bring the Basin into its safe yield state. Furthermore, in 2014, the Governor signed into law the Sustainable Groundwater Management Act (SGMA), which requires the Department of Water Resources (DWR) to identify overdrafted groundwater basins and requires groundwater management agencies overseeing those identified basins to develop plans to bring those basins into sustainable usage levels. DWR has designated the Pajaro Valley Groundwater Basin as being "critically overdrafted" as the law defines that term under the 2014 SGMA.

Both the 2014 updated Basin Plan and the 2014 SGMA constitute changed circumstances with respect to the approved project's consistency with LCP groundwater resources and water supply protection policies. The updated Basin Plan and the SGMA affect the understanding of the health of the Basin, including by quantifying the extent of its overdraft and by also identifying the actions necessary to bring the Basin to its safe yield state. The updated Basin Plan provides current overdraft information, further affirming the ongoing overdraft condition and the need to take proactive and aggressive measures to reduce and ultimately eliminate it, including through robust conservation measures to make up for the removal of previously relied upon imported Central Valley Project water. Furthermore, the SGMA's passage reflects a fundamental shift in the State's management of groundwater resources, proclaiming that sustainable groundwater use is a paramount statewide concern, and as such agencies overseeing SGMA-designated "critically overdrafted" basins (as is the case here) are now required to develop enforceable policies and mechanisms to bring those basins into a sustainable state. The 2014 Basin Plan's updated information and the new 2014 SGMA both materially affect the way in which this project may or may not be able to be found consistent with the LCP.

Second, the Commission's approval was subject to exacting conditions related to water supply. In fact, the Commission first denied the project in 2004 based on inconsistencies with LCP groundwater and water supply policies, as well as policies related to ESHA and drinking water quality.<sup>1</sup> The Commission only subsequently approved the CDP in 2006 as a pilot case to help evaluate whether a water retrofit/offsetting program would be an effective tool in addressing North Monterey County's significant groundwater overdraft problems.<sup>2</sup> In other words, the Commission's approval was explicitly designed to evaluate the hypothesis that the project could meet the intent of the LCP's water supply and groundwater resources policies by completely offsetting its estimated water usage through conservation retrofitting of non-agricultural existing development in the North Monterey County area. However, the Permittee has been unable to meet this condition, including because of a lack of opportunity to retrofit enough non-agricultural development within the area to completely offset the project's anticipated water usage. In fact, the water purveyor for the area indicates that there are no significant retrofit opportunities that can satisfy the CDP's requirements. The Permittee has been unable to successfully implement the envisioned offset program, and it appears as though it will not be possible to do so, thereby failing to meet a fundamental condition of the Commission's approval. The inability of the Permittee to meet this critical condition constitutes another changed circumstance affecting the approved project's consistency with the LCP.

Third, when the Commission approved the project in 2006, the LCP allowed senior citizens' units and caretakers' units, in addition to a single-family residence, on any parcel in any zoning district that allowed single-family residences, subject to certain limitations. The Commission's approval of the project allowed for the conversion of an existing mobile home to a senior citizen's unit. In 2015, the County approved and the Commission certified LCP amendment number LCP-3-MCO-15-0022-1 that replaced the LCP's previously allowed "senior citizens' units" and "caretakers' units" with accessory dwelling units (ADUs), and prohibited ADUs within the entire North County coastal zone due to water supply inadequacies and the need to restrict development in such water scarce areas. The fact that senior citizens' units are no longer an LCP-allowed land use, and that ADUs are not allowed in the North County area at all, represents additional changed circumstances affecting consistency with the LCP.

Finally, to the extent that the site's drinking water supply has suffered from additional nitrate contamination (i.e., because this was the case originally), that the extent and delineation of central maritime chaparral ESHA on the parcel has changed (such ESHA was identified on the site originally), and/or that Monterey County's discretionary approvals for the project from 2004, including its tentative map, are not still valid, all of which seem likely, such issues would constitute additional changed circumstances affecting the project's consistency with the LCP.

In sum, there are numerous changed circumstances that affect the project's LCP consistency.

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<sup>1</sup> The Commission also denied a subsequent reconsideration request in February 2005.

<sup>2</sup> There were several subdivisions pending at that time in the North Monterey County area, and the Commission was interested in evaluating through a case study whether there may be a way of meeting LCP requirements through such retrofit that may be applied to these cases as well.

## A-3-MCO-04-054-E3 (Sunridge Views Subdivision Extension)

Therefore, staff recommends that the Commission make a finding of changed circumstances, thereby denying the extension request. In order to deny the extension request, at least three Commissioners must determine that there are changed circumstances that affect the development's consistency with the Monterey County LCP. The motion is found on page 6 below.

**TABLE OF CONTENTS**

**I. MOTION AND RESOLUTION.....6**  
**II. FINDINGS AND DECLARATIONS .....7**  
    A. PROJECT LOCATION AND DESCRIPTION .....7  
    B. CHANGED CIRCUMSTANCES DETERMINATION .....9  
    C. CHANGED CIRCUMSTANCES CONCLUSION .....20

**APPENDICES**

- Appendix A – Substantive File Documents
- Appendix B – Staff Contacts with Agencies and Groups

**EXHIBITS**

- Exhibit 1 – Regional Location Maps and Site Photos
- Exhibit 2 – Approved Parcel Map
- Exhibit 3 – Approved Staff Report and Conditions of A-3-MCO-04-054
- Exhibit 4 – Map of North Monterey County Groundwater Basins
- Exhibit 5 – Map of Department of Water Resources-designated Critically Overdrafted Groundwater Basins
- Exhibit 6 – Correspondence from Pajaro-Sunny Mesa Community Services District
- Exhibit 7 – 14 CCR Section 13169

## I. MOTION AND RESOLUTION

Staff recommends that the Commission find that there are changed circumstances that affect the consistency of the development with the policies of the certified Monterey County LCP, and therefore recommends that the Commission deny the extension request. To implement this recommendation, staff recommends a **YES** vote on the following motion. An affirmative vote of three Commissioners is needed to deny the extension request and adopt the following resolution and findings.

***Motion:*** *I move that the Commission find that there are changed circumstances that affect the consistency of the development approved in Coastal Development Permit Number A-3-MCO-04-054 with the policies of the certified Monterey County Local Coastal Program, and I recommend a yes vote.*

***Resolution to Deny the Permit Extension Request:*** *The Commission hereby denies the request to extend the time in which development must commence under Coastal Development Permit Number A-3-MCO-04-054 in order for the permit not to expire, and adopts the findings set forth below on the grounds that there is sufficient evidence of changed circumstances that affect the consistency of the development approved in this permit with the certified Monterey County Local Coastal Program.*

## II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT LOCATION, HISTORY, AND DESCRIPTION

The project site is located on a 25-acre agricultural parcel in the Royal Oaks area of North Monterey County at 250 Maher Road (APN 127-252-009), approximately one mile south of the Tarpey Road/Maher Road intersection (see **Exhibit 1**). Royal Oaks is a rural area of rolling hills consisting of open space covered by grasslands, maritime chaparral, and oak forest habitat; agricultural uses, including for both grazing and row crops; and very low density residential development. Royal Oaks, and North Monterey County more broadly, serves as a rural, agricultural, pastoral buffer along the mid-Monterey Bay area, in between urban Santa Cruz County to the north and the Monterey Peninsula to the south.

In July 2004, Monterey County approved a CDP to subdivide the 25-acre agricultural property into 10 lots, along with demolition of an existing mobile home, barn, and greenhouse; conversion of another existing mobile home to a senior citizen's unit; construction of two water tanks and development of a mutual water system; and associated grading. In September 2004, the Commission found that the County's approval raised substantial LCP conformance issues with respect to LCP groundwater resources and water supply, water quality, and environmentally sensitive habitat area (ESHA) protection policies, thus taking jurisdiction over the CDP application. The Commission subsequently denied the application in December 2004 due to inconsistencies with these same LCP policies. In its denial decision, the Commission specifically found that the proposed project was inconsistent with LCP groundwater resources and water supply policies. Critically, the Commission found that because the underlying groundwater basin from which the future residences would receive water was already severely overdrafted, then there was no identifiable, available, and long-term water supply to serve these future residences, as is required by the LCP. In addition, the Commission determined that the project would impermissibly commit low-LCP priority residential development to groundwater resources that were already extracted beyond their LCP-required safe-yield state. The Commission also found the project inconsistent with LCP water quality requirements, including due to potential nitrate contamination issues in the project's drinking water supply, and ESHA protection requirements, including allowing development within central maritime chaparral and oak woodlands. In addition, the Commission subsequently denied the Permittee's reconsideration request and affirmed its previous denial decision, finding that there was no relevant new information or any error of fact or law which could have altered the Commission's denial decision.<sup>3</sup>

After the Commission's CDP denial and reconsideration denial, the Permittee sued the Commission in Monterey County Superior Court.<sup>4</sup> In early 2006, the Commission and the Permittee entered into a settlement agreement, agreeing to re-hear the CDP application with new proposed conditions aimed at ensuring the project's water neutrality, along with other conditions protecting ESHA and visual resources, in exchange for the Permittee dismissing the lawsuit. In

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<sup>3</sup> A-3-MCO-04-054-R, denied by the Commission in February 2005.

<sup>4</sup> Stephen S. Bradshaw v. California Coastal Commission, 2005, Case No. M73177.



April 2006, the Commission approved the CDP pursuant to the settlement agreement, which is the project subject to this extension request.<sup>5</sup>

The Permittee's project includes the subdivision of the 25-acre agricultural parcel into ten lots ranging in size from 1.0 to 7.8 acres (see **Exhibit 2** for the approved lot configuration). Where not covered by central maritime chaparral ESHA and oak woodland, the rest of the property is currently used for agriculture, including strawberry production, as well as a single-family residence, two mobile homes, and agricultural structures. The approval also authorizes 2,000 cubic yards of grading; development of a mutual water system; construction of four 15,000 gallon water tanks; demolition of an existing mobile home, barn, and greenhouse; and conversion of an existing mobile home to a senior citizen's unit. The existing 2,500-square-foot, two-story single-family dwelling and one of the mobile homes would be retained on what would be Lot #1, with the mobile home becoming a senior citizen's unit. The other mobile home currently on the property would be removed, leaving nine new vacant residential parcels. As approved, a 21-foot-wide access road (within a 30-foot-wide road and utility easement) would enter the property from Maher Road along the southern property boundary and then head north across the middle of the property to reach the other newly created lots. The project includes construction of the road, underlying utilities, and stub outs to each lot. Separate CDPs would be required for construction of residences on each of the nine newly created lots.

In addition, pursuant to the settlement agreement, the Commission's approval included numerous special conditions intended to address LCP groundwater, ESHA, and visual resource protection policies. Specifically, Special Condition 1 included extensive water use limitation requirements, including that each parcel created by the subdivision shall be required to completely offset its water usage by retrofitting existing offsite non-agricultural development within North Monterey County. To accomplish such a requirement, Special Condition 2 requires the Permittee to submit, for Executive Director review and approval, a "Water Use Monitoring, Management, and Retrofit Plan," the purpose of which is to identify the anticipated water usage for each new parcel, describe the types and locations for offsite water retrofitting, develop a reporting and monitoring program, and establish a fee program in case identified water usage limits are exceeded. To protect ESHA and visual resources, Special Condition 3 prohibits development within 100 feet of maritime chaparral, within the edge of oak woodland canopies,<sup>6</sup> on all slopes greater than 25%, and in any areas where the development would create a silhouette on the ridgeline. See **Exhibit 3** for the approved CDP's conditions.

As noted previously, the Commission extended the CDP two previous times, the last of which was in 2009. After the 2009 extension, Commission staff continued to work with the Permittee on meeting the CDP's terms and conditions, including on the water offset conditions described above. In addition, at that time the County was processing other similar North County residential subdivision projects. Commission staff was reviewing and commenting on these projects, including voicing concern with the County's interpretations on various LCP policies and the assumptions being made with respect to available water supplies. Additionally, numerous water supply projects and programs were either being proposed or were under construction, which could have affected the area's water resources and groundwater supply. Thus, Commission staff

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<sup>5</sup> After the 2006 approval, the Commission extended the permit two previous times, the last of which was in May 2009.

<sup>6</sup> The approval did authorize limited oak woodland removal for creation of the access road.

felt it prudent to work with the County on the subdivision projects moving through the local process, including to come to resolution with County staff on how the LCP's policies relate to the development potential in North County. Furthermore, Commission staff felt it necessary to understand the efficacy of the various water supply projects, and whether those projects would abate the area's groundwater overdraft and thus affect the terms and conditions of the CDP.

While undertaking this outreach with the County and monitoring the area's water situation, staff did not hear from the Permittee for many years. In fact, Commission staff did not hear from the Permittee until 2015, when staff contacted the Permittee and asked whether he still intended to move forward with this project. The Permittee indicated he still desired to do so, and Commission staff subsequently worked with the Permittee over the course of the year identifying project issues, and stating that the Commission's November 2016 hearing in nearby Half Moon Bay would be an appropriate time and venue to hear the extension request before the Commission.

## **B. CHANGED CIRCUMSTANCES DETERMINATION**

### **Coastal Commission CDP Extension Regulations**

Coastal Commission CDP approvals typically allow two years for a Permittee to exercise their CDP pursuant to the terms and conditions of the CDP adopted by the Commission. If a Permittee has not so exercised their CDP, then the CDP expires. However, the Commission's regulations<sup>7</sup> also provide that a Permittee can request an extension of that deadline of up to a year (CCR Section 13169; see **Exhibit 7**). Extension requests such as these can only be granted provided the Commission finds that there are no changed circumstances that would affect the consistency of the development with the policies of the Coastal Act and/or the applicable Local Coastal Program (in this case the Monterey County LCP). The Executive Director is tasked with evaluating such extension requests, and making a recommendation to the Commission regarding the changed circumstances question. Upon receipt of the Executive Director's recommendation, CCR Section 13169(d)(1) provides that if at least three Commissioners determine that there are changed circumstances that affect the consistency of the development with the policies of the certified Monterey County LCP, the extension request shall be denied.

In this case, the Executive Director has determined that there are changed circumstances affecting the project's consistency with the Monterey County LCP, and is recommending that the Commission find changed circumstances and deny the CDP extension request. If the Commission does so, the regulations provide that the application be set for new hearing once the Permittee has paid the requisite fee and has provided the information necessary to evaluate the effect of the changed circumstances with respect to LCP consistency.

### **Applicable LCP Policies**

The Monterey County LCP is divided into four segments, each with its own Land Use Plan (LUP) and Implementation Plan (IP).<sup>8</sup> The subject property is located within the North County LCP segment, an area with severe groundwater overdraft problems. Virtually all of the

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<sup>7</sup> Title 14, Division 5.5 of the California Code of Regulations (CCR).

<sup>8</sup> The County's four LCP segments are: North County, Del Monte Forest, Carmel Area, and Big Sur.

agricultural, commercial, and residential development in North Monterey County relies on groundwater pumped from local wells. As such, the North County LCP includes numerous policies addressing water supply and new development, with a particular emphasis on development's impact on groundwater resources and agriculture. Specifically, the North County LUP and its associated IP contain numerous policies and standards that protect North County's groundwater resources, including (where text in **bold** format means emphasis added):

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

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

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

*North County IP Section 20.144.070.E.11. Development shall not be permitted if it has been determined, **through preparation of a hydrologic report, or other resource information, that: a) the development will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer; and, b.) there are no project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.***

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

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

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

Specifically, the LUP includes policies that require all new development to be served by an identifiable, available, and long-term water supply (LUP Policy 2.5.1), including by only authorizing development at an amount that can be served while still maintaining the safe-yield level of the underlying groundwater basin (LUP Policies 2.5.2.3 and 2.5.3.A.2). The LCP does not contain a specific numeric safe yield amount for each groundwater basin, but instead requires hydrologic reports and current resource information sources to determine appropriate safe yields and thus the amount of new development such a yield can support (IP Section 20.144.070.E.11).

Consistent with the above-discussed policies, the LCP also requires development to be phased so that water supplies are not committed beyond their safe yield and, if the safe yield is already exceeded, only allows additional development to proceed once additional water supplies are secured that will bring the basin back into LCP-required safe yield state (LUP Policy 2.5.2.3). The LUP further requires that where there is limited water supply to support development, coastal-dependent uses (such as coastal-dependent agriculture, recreation, commercial, and industrial uses) shall have priority over residential and other non-coastal-dependent uses (LUP Policy 4.3.5.4). Finally, LUP Policy 4.3.5.7 requires new subdivisions and development dependent upon groundwater to be limited and phased over time until an adequate supply of water to meet long-term needs can be assured. Should the resource information show that the underlying groundwater basin is being extracted in a manner exceeding its safe, long-term yield, then the LCP affirmatively requires denial of a proposed project, particularly low-LCP priority residential subdivisions (as non-coastal dependent uses), unless and until additional water supplies are secured and the safe yield level is reached (IP Sections 20.144.070.E.11 and 20.144.140.A.1, and LUP Policy 2.5.2.3).

In sum, these policies and standards only authorize a level of development that can be supported by the safe yield extraction level of the underlying groundwater basin, and do not allow non-coastal dependent uses, particularly residential subdivisions, when such uses cannot be served by water within the safe yield level.

Overall, these policies are intended to implement applicable Coastal Act policies that require new development to be served by adequate public services, and in a manner that does not impact groundwater and other coastal resources.

### **Project Background Information**

The North County LUP area is divided into two groundwater basins: the Salinas River Groundwater Basin and the Pajaro Valley Groundwater Basin. Within these two basins are five sub-basins, two of which are part of the Salinas River basin: Highlands South and Granite Ridge; and three of which are part of the Pajaro Valley basin: Springfield Terrace, Highlands North, and Pajaro. The project at issue here is located within the Highlands North sub-basin of the Pajaro

Valley Groundwater Basin (see **Exhibit 4** for a location map of the area's groundwater basin geography), and would receive its water from this sub-basin and store this water in four 15,000 gallon water tanks.

Since the time that the LUP was certified in 1982, the County has sponsored more definitive studies to determine the safe yield levels of North County's groundwater basins and sub-basins. The first study commissioned by the County was conducted in 1995<sup>9</sup> and calculated the groundwater overdraft for the area's five groundwater sub-basins on the order of 11,700 acre-feet per year<sup>10</sup> (AFY), based off a defined sustainable groundwater withdrawal yield of 14,410 AFY and an actual extraction of 26,110 AFY. Subsequently, the 2002 *North Monterey County Comprehensive Water Resources Management Plan* (CWRMP)<sup>11</sup> updated the 1995 analysis and calculated the overdraft to be as much as 16,340 AFY due to an increase in estimated water usage.<sup>12</sup> In the Highlands North sub-basin, in which the approved project is located, the 1995 Fugro West study calculated a sustainable yield of 2,920 AFY and a historical groundwater demand of 4,780 AFY, resulting in a deficit of 1,860 AFY. Updated values provided in the 2002 CWRMP identified the same sustainable yield of 2,920 AFY, but updated the water demand estimates for the sub-area to be 5,621 AFY, resulting in an estimated overdraft of 2,701 AFY.

The Commission's 2004 denial of the project at issue here was predicated on these reports' quantification of the groundwater basin's severe overdraft conditions and commensurate LCP policies that do not allow non-coastal dependent uses (such as residential subdivisions) when groundwater basins are extracted beyond their safe yield state. The Commission's 2006 approval (which should be understood in the context of the litigation over the Commission's 2004 denial) and approval of subsequent CDP extensions also acknowledged the information detailed in these two definitive groundwater studies. In its 2006 approval, the Commission recognized the area's groundwater limitations, the associated fundamental LCP inconsistencies associated with the residential subdivision, and the findings accompanying the Commission's 2004 denial. Specifically, the Commission found:

*The basic factual situation described in the preceding paragraphs remains unchanged. Hence, in general, the Commission would not be able at this time to support the creation of new lots that would result in new, permanent, long-term water use in North County.* (see page 4 of **Exhibit 3**)

However, the Commission approved the project in 2006 acknowledging the overdraft state and LCP inconsistencies by allowing the Permittee the opportunity to mitigate resultant coastal resource impacts with conditions of approval requiring that, prior to issuance of the CDP, any new water use from the future residences allowed on the newly created parcels would be completely offset by retrofitting existing non-agricultural development in the North

<sup>9</sup> Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*; Table 11. Prepared for Monterey County Water Resources Agency, October 1995.

<sup>10</sup> An acre-foot is equivalent to 326,700 gallons of water.

<sup>11</sup> Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.

<sup>12</sup> The 2002 *Comprehensive Water Resources Management Plan* identified the same sustainable yield of about 14,410 AFY as the 1995 Fugro West study, but estimated extraction to 30,750 AFY, resulting in an overdraft in North Monterey County of 16,340 AFY.



County area. In other words, the development would need to be water neutral (see subsequent sections of this report for additional discussion on this issue). The Commission only approved the CDP in 2006 as a pilot case to help evaluate whether a water retrofit/offsetting program would be an effective tool in addressing North Monterey County's significant groundwater overdraft problems, including as a means of providing information for then pending subdivision proposals in North Monterey County.<sup>13</sup> In other words, the Commission's approval was explicitly designed to evaluate the hypothesis that the project could meet the intent of the LCP's water supply and groundwater resources policies by completely offsetting its estimated water usage through conservation retrofitting of non-agricultural existing development in the North Monterey County area. With such a retrofit program, the Commission ultimately found:

*...the Sunridge Views project is a good candidate for implementing a pilot retrofit program. The applicant is willing to undertake such a program in order to settle his lawsuit. Results from such a program could be useful to determine if it could be applied on a broader scale in North County. Thus, for this one subdivision, with conditions to employ on-site water conservation measures and off-site compensatory retrofit measures, the Commission can find it consistent with the intent of the LCP's water supply provisions. (see page 5 of **Exhibit 3**)*

To summarize, although in 2004 the Commission had previously denied the CDP on the basis of the project's inconsistencies with LCP groundwater resource protection policies, in 2006 it found that conditional approval was appropriate in this particular case to both settle the Permittee's lawsuit and to use it as a pilot case to understand the efficacy of whether a water retrofit/offsetting program could avoid exacerbation of North Monterey County's groundwater overdraft problems. The Commission therefore approved the CDP subject to defined parameters for how to implement the water retrofitting program to ensure the approved project (i.e., including the nine new parcels to serve nine new residences) would remain water neutral.

However, in the time since the Commission's 2006 CDP approval and since its last CDP extension in 2009, the circumstances regarding the health of the groundwater basin and its safe yield level, as well as the potential for success of the Permittee's water retrofit efforts, have changed, as have LCP requirements specifying the allowable uses in North County due to the scarcity of water supplies in the area, all as described below.

## **Changed Circumstances Determination**

### ***1. Safe Yield, Overdraft Conditions, and Groundwater Management***

In 2014, the Pajaro Valley Water Management Agency (PVWMA)<sup>14</sup> adopted its *Basin Management Plan* (Basin Plan), its first update since 2002. The purpose of the Basin Plan is

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<sup>13</sup> There were several subdivisions pending at that time in the North Monterey County area, and the Commission was interested in evaluating through a case study whether there may be a way of meeting LCP requirements through such retrofit that may be applied to these cases as well.

<sup>14</sup> The Pajaro Valley Water Management Agency is a state-chartered water management district formed to efficiently and economically manage existing and supplemental water supplies in order to prevent a further increase in, and to accomplish continuing reduction of, long-term overdraft. The Agency also works to provide and ensure sufficient water supplies for present and future anticipated needs within its boundaries, generally the greater coastal Pajaro Valley.



to serve as the principal document guiding all of PVWMA's major projects and programs, with the goals of quantifying and reducing overdraft, halting seawater intrusion, and improving and protecting water quality within the entire Pajaro Valley Groundwater Basin. The 2014 Basin Plan calculated the entire basin's 2013 total water usage to be roughly 61,000 AFY, and calculated its overdraft at 12,100 AFY.<sup>15</sup> To make up the remaining water budget shortfall, the 2014 Basin Plan lists a comprehensive set of projects, programs, and initiatives intended to increase supply (including through increased water recycling), optimize existing usage (including through upgrades at existing facilities) and reduce water demand (including through reduced consumption). Notably, one of the primary initiatives specified in the 2014 Basin Plan update is its reliance on conservation programs to reduce water demand, eliminate basin overdraft, and halt seawater intrusion. Unlike the previous Basin Plan, which relied heavily on new water supplies emanating from imported water from the Federal government,<sup>16</sup> the revised and updated 2014 Basin Plan eliminates the imported water allowance and instead relies heavily on reducing water demand through conservation strategies. The Basin Plan relies on conservation programs estimated to result in 5,000 AFY of reduced water consumption, or over 40% of the total water reduction necessary to eliminate basin overdraft. These conservation programs include agricultural irrigation efficiency projects, pricing strategies, and residential groundwater usage metering. In short, PVWMA has adopted a new comprehensive 2014 Basin Plan that provides updated quantification of the basin's overdraft, while also serving as the blueprint for identifying measures, particularly conservation measures, to reduce water demand and consumption, intended to address and resolve the Pajaro Valley Groundwater Basin's chronic overdraft and seawater intrusion problems.

Furthermore, the Sustainable Groundwater Management Act (SGMA) was signed into law by the Governor on September 16, 2014. The 2014 SGMA establishes a new structure for groundwater management in California, requiring all overdrafted groundwater basins to be managed under the purview of a Department of Water Resources (DWR)-approved Groundwater Sustainability Plan (GSP). The legislation's intent is to provide for sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and feasible assistance necessary to manage groundwater. SGMA defines "sustainable groundwater management" as the "management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results,"<sup>17</sup> and defines<sup>18</sup> "undesirable results" as any of the following effects caused by groundwater conditions occurring throughout the basin:

<sup>15</sup> The Basin Plan quantified the overdraft condition of the entire Pajaro Valley Groundwater Basin, which extends into Santa Cruz County. The *North Monterey County Hydrogeologic Study* and the *North Monterey County Comprehensive Water Resources Management Plan*, the two previous studies on groundwater overdraft, quantified overdraft solely within the portions of the two groundwater basins (Salinas River and Pajaro Valley) located within the North County LCP area. Thus, the three reports share different geographic scopes, but all quantify overdraft within the project area.

<sup>16</sup> The 2002 Basin Plan relied on 13,400 AFY of new imported water from the United States Bureau of Reclamation-controlled Central Valley Project to address overdraft conditions. However, due to funding issues and other project constraints, in early 2010, the Agency took formal action to remove this import pipeline from project consideration.

<sup>17</sup> California Water Code Section 10721(u).

<sup>18</sup> California Water Code Section 10721(x)(1-6).

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

Under the law, DWR is required to identify groundwater basins in “critical conditions of overdraft,” defined as when “continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.” All groundwater basins currently designated as High or Medium Priority per DWR’s 2003 Bulletin 118<sup>19</sup> and designated as “critically overdrafted” by DWR would be designated as a basin in “critical conditions of overdraft” and would be required to be managed under a GSP by January 31, 2020. All other High or Medium Priority basins must have an approved GSP by January 31, 2022.<sup>20</sup>

In July 2015, DWR developed a draft list of 21 “critically overdrafted” basins and sub-basins. A groundwater basin was determined to be critically overdrafted if it is currently subject to one or more “undesirable results,” as that term is defined in the law (see bulleted list above). The draft list included the Pajaro Valley Groundwater Basin. As such, in September 2015, PVWMA elected itself to be the Groundwater Sustainability Agency (GSA) for the groundwater basin. As the official GSA, PVWMA will prepare, submit to DWR for adoption, and be the primary agency tasked with implementing the GSP. In January 2016, DWR officially designated the Pajaro Valley Groundwater Basin as “critically overdrafted” (see map of DWR-designated “critically overdrafted” groundwater basins in **Exhibit 5**). Since the Pajaro Valley Groundwater Basin has been deemed a “High Priority” basin in Bulletin 118 since 1980, the basin will be deemed in “critical conditions of overdraft” and required to have an approved GSP by 2020.

**The updated 2014 Basin Plan and the new 2014 SGMA (and related Pajaro Valley Groundwater Basin designations in 2015 and 2016) constitute changed circumstances with respect to the approved project’s consistency with LCP groundwater resources and water supply protection policies.** This is because they both affect the understanding of the health of the groundwater basin, including by quantifying its safe yield and thus the level of development that yield can support based on more recent data. Specifically, as previously described, because the LCP does not contain a specific numeric safe yield amount for each groundwater basin, but instead requires the term to be understood based on relevant hydrological reports or other resource information (IP Section 20.144.070.E.11), both the Basin Plan and the SGMA requirements provide an up-to-date understanding of the health

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<sup>19</sup> Bulletin 118 is DWR’s primary inventory of the state of groundwater basins in California, including the names and boundaries of basins and sub-basins, yield data, water budgets, and water quality.

<sup>20</sup> All other groundwater basins are encouraged, but not required, to prepare a GSP.

and status of the Pajaro Valley Groundwater Basin, including defining its safe yield, as well as the necessary actions to be taken to bring the basin into a safe yield state. In 2006, at the time of CDP approval, the best available information sources were the two studies from 1995 (Fugro West) and 2002 (CWRMP) that concluded that the Highlands North sub-basin, in which the approved project is located, was *already* overdrafted. The revised 2014 Basin Plan provides updated information with respect to the groundwater basin's overdraft, calculated at 12,100 AFY, further affirming the ongoing overdraft condition and the need to take proactive and firm measures to reduce and ultimately eliminate it. Whereas the previous Basin Plan relied heavily on new water supplies, including imported water from the Central Valley Project, to ameliorate the basin's overdraft and the coastal resource impacts associated with it, the updated Basin Plan calls for conservation as the primary tool to address this condition. These are fundamental changed circumstances that affect the consistency of the project with the LCP.

Furthermore, while implementation of SGMA's requirements has not yet resulted in calculation of a specific safe yield or overdraft amount for the Groundwater Basin, nor has it yet resulted in identification of specific actions to reduce overdraft conditions, in January 2016 DWR did state that the Pajaro Valley Groundwater Basin is "critically overdrafted" and will deem the Groundwater Basin in "critical conditions of overdraft". Against this context, per the LCP, when a groundwater basin is extracted beyond its safe yield level, the LCP affirmatively requires denial of a proposed non-coastal dependent project, such as a residential subdivision, until new water supplies ensure that the proposed development will not impair the safe yield state (IP Sections 20.144.070.E.11, 20.144.140.A.1, and LUP Policy 2.5.2.3). In short, the SGMA and its statutory requirements constitute new information sources to be used as tools to help define the state of the area's groundwater basins. The law's 2014 passage also reflects a shift in the State's management of groundwater resources, proclaiming that sustainable groundwater use is a paramount statewide concern and as such, agencies overseeing overdrafted basins are now required to develop enforceable policies and mechanisms to bring those basins into a sustainable state. In addition, the DWR determinations related to the Pajaro Valley Groundwater Basin in 2015 and 2016 (deeming it critically overdrafted) and thus requiring the preparation of a Groundwater Sustainability Plan by 2020, reflect an additional layer of information and regulation that must be countenanced in terms of LCP consistency as well.

In sum, both the updated 2014 Basin Plan and the new 2014 SGMA requirements (and related Pajaro Valley Groundwater Basin designations in 2015 and 2016) reflect an updated understanding of the Pajaro Valley Groundwater Basin and its management, and are informative in determining how to implement LCP requirements, including in terms of understanding what level of groundwater extraction is "sustainable," what actions are required and/or prohibited to bring the basin into sustainability, and what level of development the defined safe yield can support. The updated Basin Plan and the SGMA, including through their quantification of groundwater overdraft and safe yield, the programs necessary to bring the Basin into safe yield, and the allowable development supported by that safe yield amount, thus represent changed circumstances affecting the approved project's conformance with the LCP.

## 2. Water Offsetting and Retrofitting Conditions

As described previously, the Commission originally denied the project in 2004 based on inconsistency with the previously described LCP groundwater and water supply policies, as well as policies related to ESHA and drinking water quality.<sup>21</sup> The Commission only subsequently approved the CDP in 2006 as a pilot case to help evaluate whether a water retrofit/offsetting program would be an effective tool to avoid exacerbation of North Monterey County's significant groundwater overdraft problems.<sup>22</sup> In other words, the Commission's approval was explicitly designed to evaluate the hypothesis that the project could meet the intent of the LCP's water supply and groundwater resources policies by completely offsetting its estimated water usage through conservation retrofitting of non-agricultural existing development in the North Monterey County area. The CDP is thus subject to defined parameters for how to implement the water retrofitting program to ensure the approved project (i.e., including nine new parcels to serve nine new residences) would remain water neutral. Specifically, Commission-approved Special Condition 1(B) (see **Exhibit 3**) states "every newly created vacant parcel shall be subject to a requirement to implement off-site retrofitting prior to development, in accordance with the retrofitting requirements established by the approved Water Use Monitoring Management and Retrofit Plan required by Special Condition 2, below." Special Condition 2 describes the requirements for the Water Use Monitoring, Management, and Retrofit Plan (Plan), including that it must establish maximum water use limits for each new parcel based on average daily water use of a single-family residence using the best available data, must include a description of the specific types and location of offsite retrofitting opportunities (including that such retrofitting must occur within the Highlands North, Highlands South, Pajaro, or Springfield groundwater sub-basins of North Monterey County, with a preference for the North Highlands sub-basin); and that it must only retrofit non-agricultural development. On this last point, the Commission's findings supporting the 2006 approval made clear that reducing water usage through agricultural offsets is not allowed, including because agriculture is a high priority LCP land use. Specifically, the Commission found:

*LCP policies and subsequent planning do not direct that permanently eliminating commercial agriculture on this site is the way to address the water overdraft.... The acquisition of agricultural parcels would mean that they would no longer be used for irrigated cultivation. Such an approach...may cause a conflict because agriculture is a priority use under the Coastal Act and the LCP.... LCP policies and subsequent planning do not suggest that substituting residential use for agricultural use, as proposed by this project, is the way to address the overdraft. In describing the approach of allowing subdivision where there was no net increase in water use through an offset program, the North County Comprehensive Water Resources Management Plan noted that: "The Planning Commission rejected this approach because...agricultural lands could be taken out of production contrary to Coastal Plan policies...." (see page 28 of **Exhibit 3**)*

<sup>21</sup> The Commission also denied a subsequent reconsideration request in February 2005.

<sup>22</sup> There were several subdivisions pending at that time in the North Monterey County area, and the Commission was interested in evaluating through a case study whether there may be a way of meeting LCP requirements through such retrofit that may be applied to these cases as well.

Thus, the Commission, through its findings and in its conditions of approval throughout the permitting history of this project, made clear both that the project could only be approved with defined conditions specifying the reduction in its water use, and ensuring that such water reductions were performed by retrofitting non-agricultural development. And the Commission also made clear that the intent was to evaluate whether a water retrofit/offsetting program would be an effective tool in addressing North Monterey County's significant groundwater overdraft problems.

However, to date the Permittee has been unable to meet these retrofitting requirements. First, the Permittee has been unable to find enough existing development to retrofit within the North Monterey County area to offset the project's total estimated water usage of 1,214,720 gallons of water per year, or 3.73 AFY. In fact, to date, the Permittee has not identified a single potential retrofit candidate to the Commission. On this point, the Pajaro-Sunny Mesa Community Services District (PSMCSD), an entity overseeing groundwater usage in North Monterey County, recently concluded that there are no significant retrofit candidates or opportunities remaining in North Monterey County.<sup>23</sup> Due to other mandatory retrofit requirements, including Monterey County requirements mandating plumbing retrofits upon the sale of residential properties, it has become clear that the ability to offset offsite development of such a magnitude is simply infeasible in North Monterey County. Thus, the Permittee is unable to comply with the Commission's retrofitting conditions, and unable to successfully implement the envisioned offset program. Although the Permittee's inability to satisfy water offset and retrofitting requirements illustrates the inherent difficulty in achieving water neutrality in the Pajaro Valley Groundwater Basin, it is worth noting that the Permittee voluntarily agreed to accept these conditions of approval in order to pursue development of this project considering that without such conditions the project would be clearly inconsistent with the LCP.

As described previously, the water offset conditions were the key provisions for the Commission to be able to find the project consistent with the intent of the LCP's water supply and groundwater resources policies. The Commission approved the CDP in 2006 recognizing all of its 2004 denial findings, but sought to condition the project as a pilot case with the hope that this specific retrofit/offsetting program would be an effective tool in addressing groundwater resources constraints. Specifically, the Commission's 2006 approval noted:

*Although this could prove challenging, staff recommends that the Commission approve the Sunridge Views subdivision with the recommended special conditions, as a pilot project. (see page 4 of **Exhibit 3**)*

Thus, the Commission made clear the limitations and potential difficulties in a retrofit program, and the Permittee voluntarily accepted the Commission's conditions of approval in order to proceed with this project. As described above, the Permittee has been unable to successfully implement the envisioned offset program, illustrating the inherent difficulty in achieving water neutrality in the Pajaro Valley Groundwater Basin, and affecting a fundamental condition underpinning the Commission's 2006 approval and subsequent permit

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<sup>23</sup> Personal communication between Kevin Kahn (the Coastal Commission's Central Coast District Supervisor) with PSMCSD General Manager Don Rosa on August 24, 2016 (see also **Exhibit 6**).



extensions. The inability of the Permittee to meet this critical condition, coupled with the updated understanding of the overdraft condition of the Basin provided by the 2014 Basin Plan and 2014 SMGA requirements, constitutes changed circumstances affecting the approved project's consistency with the LCP.

### **3. Accessory Dwelling Units and Senior Citizens' Units**

When the Commission originally approved the project in 2006, the LCP allowed senior citizens' units and caretakers units, in addition to a single-family residence, on any parcel in any zoning district that allowed single-family residences, subject to certain limitations. The Commission's 2006 approval of the project allowed for the conversion of an existing mobile home to a senior citizen's unit. In 2015, the County approved and the Commission certified LCP amendment number LCP-3-MCO-15-0022-1, which replaced the LCP's previously allowed "senior citizens' units" and "caretakers' units" with accessory dwelling units (ADUs) in the entire coastal zone, and also prohibited ADUs within the entire North County coastal zone. The County found such a prohibition necessary due to the North County area's known water supply deficiencies, finding that allowing for ADUs (in essence, a potential doubling of allowable residential density) is not supportable given the area's water supply inadequacies. In October 2015, the Commission approved this LCP amendment. In doing so, the Commission made the following finding:

*Thus, the Commission concurs with the County's determination that allowing for additional growth beyond that which is already allowed within the North County coastal zone, including through such measures as authorizing accessory dwelling units and the subdivision of land, is not supportable by the area's potable water supply. The Commission concurs with the amendment's prohibition of ADUs within the North County coastal zone, and finds that doing so is consistent with LUP policies that do not allow development in areas with inadequate water supply. (LCP-3-MCO-15-0022-1, p. 17.)*

Because senior citizens' units are no longer an LCP-allowed land use in North Monterey County, and because ADUs are not allowed in the North County area at all, this constitutes changed circumstances affecting the approved project's consistency with the LCP.

### **4. Other Issues**

In addition to the above-identified changed circumstances regarding groundwater resources, water neutrality conditions, and accessory dwelling units, other issues may also have changed affecting the project's LCP consistency, including with respect to drinking water quality, the presence of ESHA, and other local government discretionary project approvals. Specifically, the area's water quality has suffered from nitrate contamination in the past, including having a well on the Permittee's property fail health tests due to nitrate contamination in 2000. This was noted in the Commission's approval in 2006, but the degree to which this condition may have worsened since that time is not known. The property also contains central maritime chaparral, which the LCP designates as ESHA. The Commission's 2006 approval recognized and addressed the extent of ESHA at that time, but it appears likely that the boundary of the ESHA is likely to have changed since then. Finally, it is unclear whether the County's other project approvals from the early 2000s, including the project's tentative map pursuant to the Subdivision Map Act, remain valid today. To the extent that the site's drinking water supply has suffered from additional nitrate contamination, the extent and delineation of central



maritime chaparral ESHA has changed, and/or Monterey County's discretionary approvals, including its tentative map, are not still valid, such issues would constitute changed circumstances affecting the project's consistency with the LCP.

#### ***5. Changed Circumstances Conclusion***

There are changed circumstances affecting the project's consistency with the Monterey County LCP. These changed circumstances include new information with respect to the Pajaro Valley Groundwater Basin's overdraft condition and safe yield, the management policies and tools needed to bring the Basin into the safe yield level, the approved project's inability to meet necessary water offsetting conditions, and the approved project's allowance for now-LCP impermissible senior citizens' housing units. CCR Section 13169(d)(1) indicates that, following a determination of changed circumstances by at least three Commissioners, the development shall be set for a full hearing of the Commission. CCR Section 13169(d)(1) also requires the Permittee to pay an application filing fee as well as to submit "any information that the Executive Director determines is necessary to evaluate the effect of the changed circumstances".

Here, in addition to the filing fee, the Executive Director determines that, at a minimum, the Permittee must provide evidence of still-valid local government discretionary approvals, including in this particular case, evidence of a valid and approved tentative map by Monterey County. In addition, the Permittee must provide evidence of water availability, including a hydrogeologic report identifying water source, current and estimated water use and demand, and water quality, including showing consistency with all applicable drinking water quality standards. Finally, the Permittee must provide an updated biological resources report, including delineating the boundaries of central maritime chaparral habitat, oak woodland habitat, and any other sensitive resources on the project site. After the fee and this material has been received, the application will be set for a new hearing in front of the Coastal Commission as is provided for by the Commission's regulations.

## **Appendix A – Substantive File Documents**

1. Fugro West, Inc., 1995. *North Monterey County Hydrogeologic Study, Vol. 1: Water Resources*. Prepared for Monterey County Water Resources Agency, October 1995.
2. Monterey County Water Resources Agency and EDAW, Inc., 2002. *North Monterey County Comprehensive Water Resources Management Plan*, January 2002.
3. Pajaro Valley Water Management Agency and Carollo Engineers, 2014. *Basin Management Plan Update*, February 2014.

## **Appendix B – Staff Contacts with Agencies and Groups**

1. Applicant
2. Friends, Artists, and Neighbors of Elkhorn Slough
3. Pajaro-Sunny Mesa Community Services District
4. Pajaro Valley Water Management Agency
5. Monterey County Resource Management Agency
6. California Department of Water Resources

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# W32

DATE: January 25, 2016  
TO: Coastal Commissioners  
FROM: John Ainsworth, Acting Executive Director  
SUBJECT: **DRAFT MINUTES of MEETING of NOVEMBER 2-4, 2016**  
Oceano Hotel  
280 Capistrano Drive  
Half Moon Bay, CA 94019

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## WEDNESDAY, NOVEMBER 2, 2016

1. **CALL TO ORDER.** The meeting of the California Coastal Commission was called to order by Vice Chair Bochco at 9:00 a.m.
2. **ROLL CALL.** Present: Chair Kinsey, Vice Chair Bochco, Cox, Groom, Luevano, McClure, Mitchell, Shallenberger, Uranga. Vargas arrived at 9:20. Howell arrived at 5 p.m. Absent: Turnbull-Sanders  
  
Non-voting present: April, Baker, Gibson
3. **AGENDA CHANGES.**
4. **GENERAL PUBLIC COMMENT.** Members of the public addressed the Commission on various issues affecting the coast.
5. **CHAIR'S REPORT.** Information only.

## STATEWIDE

6. **ACTING EXECUTIVE DIRECTOR'S REPORT.**
  - a. **Executive Director's Report.** Information only.
  - b. **Briefing and Update on Sea Level Rise Policy Guidance Implementation.** Information only.

7. **Status Update on Executive Director Search Process.** Information only.

## **NORTH CENTRAL COAST DISTRICT**

8. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Kinsey ruled that the Commission concurred.
9. **CONSENT CALENDAR (removed from Regular Calendar).** None.
10. **LOCAL COASTAL PROGRAMS (LCPs).**
  - a. **Marin County LCP Amendment No. LCP-2-MAR-15-0029-1 (Marin LCP Update)**  
Staff recommended denial as submitted and approval if modified as suggested.

**Motion & vote:** Kinsey moved to continue the components of the Land Use Plan amendment and the Implementation Plan amendment that address environmental hazards and recommended a yes vote, seconded by Groom. Vice Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

**Motion & vote:** Kinsey moved to certify the Land Use Plan as submitted and recommended a no vote, seconded by Groom. Vice Chair Bochco ruled that the vote was unanimous in opposition to the motion. **Certification denied as submitted.**

**Motion & vote:** Kinsey moved to certify the Land Use Plan if modified as suggested pursuant to the staff recommendation and recommended a yes vote, seconded by Groom. Vice Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with modifications.**

**Motion & vote:** Kinsey moved to reject the Implementation Plan as submitted and recommended a yes vote, seconded by Groom. Vice Chair Bochco ruled that the vote was unanimous in favor of the motion. **Certification denied as submitted.**

**Motion:** Kinsey moved to certify the Implementation Plan if modified as suggested pursuant to the staff recommendation and recommended a yes vote, seconded by Groom.

**Amending motion & vote:** Kinsey moved to eliminate the term “existing legally established” from the definition of Agriculture Ongoing and recommended a yes vote, seconded by Groom. Vice Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved.**

**Amending motion & vote:** Kinsey moved to remove the conversion of grazing area to crop production from the list of activities in the definition of Agriculture Ongoing that are not considered ongoing agricultural activities and recommended a yes vote, seconded by Groom. The roll call vote was 9 in favor (Cox, Groom, Luevano,

McClure, Mitchell, Uranga, Vargas, Kinsey, Bochco) and one opposed (Shallenberger). **Approved.**

**Vote on main motion:** Vice Chair Bochco ruled that the vote was unanimous in favor of the motion. **Approved with modifications.**

**11. PERMIT AMENDMENTS.**

- a. **Permit No. 2-15-1458-A1 (Cartel Management, San Mateo Co.)** Staff recommended approval with conditions.

**Motion:** Shallenberger moved to approve pursuant to the staff recommendation and recommended a yes vote, seconded by Groom.

**Amending motion & vote:** Shallenberger moved to amend the permit to be a one-year permit and recommended a yes vote, seconded by Groom. Chair Kinsey ruled that the vote was unanimous in favor of the motion. **Approved.**

**Vote on the main motion:** Chair Kinsey ruled that the vote was unanimous in favor of the motion. **Approved with conditions as amended.**

**CENTRAL COAST DISTRICT**

12. **DEPUTY DIRECTOR'S REPORT.** Report by Deputy Director on permit waivers, emergency permits, immaterial amendments & extensions, LCP matters not requiring public hearings, and on comments from the public. There being no objection, Chair Kinsey ruled that the Commission concurred.

13. **CONSENT CALENDAR (removed from Regular Calendar).** Staff moved 2 items [**15a, 15b**] and recommended approval with conditions.

**Motion & vote:** Howell moved to approve the consent calendar pursuant to the staff recommendation and recommended a yes vote, seconded by Shallenberger. Chair Kinsey ruled that the vote was unanimous in favor of the motion. **Approved with conditions.**

**14. NEW APPEALS.**

- a. **Appeal No. A-3-STC-16-0016 (Honjo, Santa Cruz)** Staff recommended that the Commission determine that the appeal raised substantial issue on the grounds on which the appeal was filed. There being no objection, Chair Kinsey ruled that the Commission found substantial issue and continued the hearing to a future meeting. **Substantial Issue Found.**

15. **COASTAL PERMIT APPLICATIONS.**

- a. **Application No. 3-16-0350 (St. Dennis, Pacific Grove)** Moved by staff to the expanded consent calendar. **Approved with conditions.**
- b. **Application No. 3-16-0420 (Monterey Harbor Dredging, Monterey)** Moved by staff to the expanded consent calendar. **Approved with conditions.**

16. **PERMIT EXTENSION.**

- a. **Permit No. A-3-MCO-04-054-E3 (Sunridge Views Subdivision, Monterey Co.)**  
Staff recommended denial of the extension.

**Motion & vote:** Cox moved to find that there are changed circumstances that affect the consistency of the development and recommend a yes vote, seconded by Shallenberger. Chair Kinsey ruled that the vote was unanimous in favor of the motion. **Extension denied.**

**STATEWIDE (TRAILED TO FRIDAY, NOVEMBER 4)**

The meeting of the California Coastal Commission recessed at 7:15 p.m.



# MONTEREY COUNTY

## RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director

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LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

(831) 755-4800

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)



July 7, 2017

Jack Ainsworth  
Executive Director  
California Coastal Commission  
45 Fremont Street # 2000  
San Francisco, CA 94105

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

Honorable Chair and Members of Coastal Commission:

I am writing regarding the subject project that was appealed by/to the Coastal Commission about 10 years ago and is just now coming before the Commission. The legal benchmark to assess a subdivision application under California's Subdivision Map Act is when the application was deemed complete, about 20 years ago. Conditions under which this project was approved have significantly changed. For example, a new interchange at Salinas Road has been built that addressed a circulation deficiency identified in the project's environmental impact report (EIR).

The staff report summary of staff recommendations (and discussions with coastal staff) identifies water as the primary issue, stating that water would be "extracted at a level that exceeds its LCP-required safe yield amount", which is factually incorrect. Monterey County's LCP, as certified by the Coastal Commission and by which this project is to be evaluated, established 50% of potential buildout as the safe yield in the North County Coastal area for the first phase of new development (NC LUP Section 2.5.3.A.2). This was done as a result of and with full knowledge of the basin condition. The total buildout for North County under this restriction was 2,043 new units/lots. Rancho Los Robles would bring the approved total to 1,443, which means there are 600 units, or 30% of the 50% Phase I threshold, remaining if Rancho Los Robles were approved for 80 units.

Recognizing water issues in North County, Monterey County consulted with Coastal Commission staff on a few projects that were termed "pipeline" projects. The intent was to allow projects that had been deemed complete prior to January 2000 to proceed based on the conditions at that time. Rancho Los Robles was approved as a "pipeline" project that would reduce total withdrawals from the 20-year historic average of 86.09 acre feet per year (afy) to 41.61 afy (44.48 afy reduction). In addition, the groundwater balance would improve from minus 64.76 afy to minus 31.46 afy. These positive changes were determined to be a de minimus impact on the aquifer, especially when considering this would be the last "pipeline"

subdivision in the North County Coastal area. This project included water studies and an appropriate water management program as required by the LCP. It would eliminate well pumping for the existing homes and agriculture (unregulated) and connect to a public water service system (regulated).

Your staff report states/implies the project location is a prime rural agricultural site, which gives an incorrect perception. The certified LCP designates this site as Medium Density Residential (MDR) 1-4 unit per acre, zoning is Medium Density Residential (4 units per acre) and Coastal General Commercial. LUP Policy 4.3.5.2 designates the Las Lomas area as appropriate for concentrated development. With a site totaling 33.58 acres, the designated density would allow up to about 130 units. This designation and LUP Policy 4.3.5.2 is indicative that the certified LCP recognized the project site to be infill for the existing Las Lomas community. This is not creating a new community as reported by coastal staff.

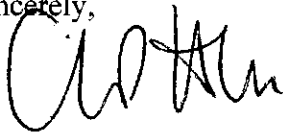
The application proposed a 100-unit project. As an infill project, it included several much-needed amenities for the Las Lomas community including a 2.5-acre community park plus pocket parks (Quimby Act requirement for 100 units is 0.9 acres). This applicant is a life-long resident in this area, and as a local developer also agreed to install sidewalks to the nearby school which greatly surpasses the minimum requirement, to assist the community. The applicant is now proposing to donate additional lands to a Community Services District, together with an existing building for use as a library or a community meeting building.

The County-approved lot configuration and project design minimizes impact to trees (25 trees out of 138 total) while providing the required access and infrastructure. The project is designed to retain most of the oak woodland habitat located on the west end of the site without impact, it even designed one of the two access points to retain a significant oak trees as part of the entrance (median island).

This is a good project in the right location that brings tremendous benefit to the Las Lomas Community and provides much needed affordable housing for North Monterey County. In order to reduce project impacts, the applicant has proposed to reduce the project from 80 to 54 units, yet provide a higher level of amenities and an even greater percentage of affordable and workforce housing. Unlike pipeline projects recently denied on appeal by the Commission, this project offers a net positive recharge to the aquifer.

I request that the Coastal Commission approve the reduced project for the much-needed housing and recreational amenities it will bring to the underserved Las Lomas Community. If the Commission accepts the staff recommendation, you are basically placing a moratorium on all housing (including affordable housing) within the North County coastal area. The Commission can interpret the policies to make the necessary findings to support this project under the existing, certified Local Coastal Program based on the science and facts showing a net positive aquifer recharge, reduced potential for impacts in every category, protections and enhancements to the oak woodlands, and creation of a jurisdictional wetlands where none now exists.

Sincerely,



Carl P. Holm, AICP  
RMA Director

cc: District 2 Supervisor  
Jacqueline Onciano, Chief of Planning Services  
Brandon Swanson, RMA Planning Manager  
CC Central Coast District Office -- Santa Cruz

# Sara Wan

22350 Carbon Mesa Rd., Malibu, CA 90265; 310-456-6605  
email: sarawan425@gmail.com

July 3, 2017

Chair Dana Bochco and Commissioners  
California Coastal Commission  
45 Fremont Street,  
Suite 2000  
San Francisco, CA 94105

Re: Friday 6a: **Appeal No. A-3-MCO-09-009 (Rancho Los Robles  
Subdivision, North Monterey Co.)**  
URGE DENIAL

Dear Chair Bochco:

When I appealed this project it was because it violated many policies of the LCP regarding protection of ESHA, views, traffic, conversion of prime ag land, created urban sprawl into a rural area and of course all of the issues surrounding water, its use and the lack of it. Since that time nothing has really changed, except perhaps it has become worse.. The situation with the critical lack of water and salt-water intrusion that is adversely affecting agriculture has not improved and if this development is allowed to proceed it will set an adverse precedent that will make matters much worse. The water deficiencies that are present are the ones the LCP makes it clear require denial of this project. Your staff has done an excellent job of laying out the issues that deal with the fact that the area is already over-drafted and that the LCP specifically requires denial where there is a limited supply of water, as there is in North County, and that coastal dependent uses shall have priority over other non-coastal development. In the coastal zone there is no such thing as an over-riding consideration, and rightly so. The reason there is a Coastal Commission is because the people of this State realized that the Coastal Zone was a special place and its resources and special uses needed protection above all other considerations. The State's future economy and sustainability was dependent on this protection.

I realize that the applicant has presented a tempting offer of land for needed community services but that is irrelevant under the Coastal Act and, as stated above, for good reason. Former Coastal Commission legal counsel used to compare providing community benefits to Christmas ornaments hung on a project that has no merit. They look pretty but they don't make the project legitimate. In this case, the offer may also be illusory and never actually benefit the community, since it is only the land with no funding. In addition, the fact that he has removed the affordable housing units in his revised project makes it even worse. Regardless, there is no over-riding consideration in the Coastal Act and therefore none in the LCP. The development must be consistent with the LCP in all cases.

Frankly, it is hard to imagine a project that is more inconsistent with the LCP and the Coastal Act. It's approval would go the core of what is important for this State and its state-wide priorities and destroy them. Protecting coastal agriculture, its scenic beauty and natural resources and insuring that its infrastructure is adequate to handle the needs of its population is essential to the long-term sustainability of this State.

I urge you to deny this project and send notice to the County of Monterey that they need to deal realistically with their over-draft and seawater intrusion issues. They have a responsibility to their farmers and to this State to do so.

Sincerely,

A handwritten signature in black ink, reading "Sara J. Wan". The signature is written in a cursive, flowing style with a large initial "S" and "W".

Sara J. Wan

cc: Dan Carl, Susan Craig, Kevin Kahn

---

**Gary A. Patton, Attorney At Law****Post Office Box 1038, Santa Cruz, California 95061****Telephone: 831-332-8546 / Email: gapatton@mac.com**

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July 7, 2017

**F6a**

Dayna Bochco, Chair [Sent By Email c/o: [kevin.kahn@coastal.ca.gov](mailto:kevin.kahn@coastal.ca.gov)]  
California Coastal Commission  
45 Fremont Street #2000  
San Francisco, CA 94105

RE: Appeal No. A-3-MCO-09-009 Rancho Los Robles Subdivision  
URGE APPROVAL OF STAFF RECOMMENDATION / DENY APPLICATION

Dear Chair Bochco and Members of the Commission:

I am writing on behalf of LandWatch Monterey County, a nonprofit organization whose mission is to promote sound land use policies that will achieve the long-term economic vitality of Monterey County, high agricultural productivity, environmental health, and social equity.

LandWatch and Friends and Neighbors of Elkhorn Slough appealed Monterey County's approval of the Rancho Los Robles Subdivision because the proposed subdivision was (and is) inconsistent with the North County Coastal Land Use Plan, and particularly because there is no sustainable water supply for the project. LandWatch continues to oppose the project for these same reasons.

The North County Coastal Land Use Plan requires, among other things, that:

- New developments be controlled to a level that can be served by an identifiable, available, and long-term water supply (Key Policy 2.5.1);
- Development levels that generate water demand exceeding safe yield of local aquifers are only allowed once additional water supplies are secured (LUP Policy 2.5.2.3);
- New development be phased so that existing water supplies are not committed beyond their safe long-term yields (LUP Policies 2.5.2.3, 4.3.5-7, 4.3.6.D.5); and,
- The County should reduce the remaining build-out to limit groundwater use to the safe yield level or, if required, in order to protect agricultural water supplies (LUP policy 2.5.3.A.2).



The staff report furnished to the Commission outlines the many reasons that the current application should be denied. LandWatch urges you to support the staff recommendation and to deny the application.

Thank you for taking seriously the LCP land use policies that both the County and the Commission have prudently directed must be followed, with respect to proposed development in Monterey County's North County area.

Very truly yours,

A handwritten signature in blue ink, appearing to read "G. Patton", with a stylized, cursive script.

Gary A. Patton, Attorney for  
LandWatch Monterey County

# TRANSMITTAL FORM

NO. PGS. 23

OPPOSITION TO:  
RANCHO LOS ROBLES  
SUBDIVISION  
APPLICATION # F6A

DATE: JULY 6, 2017

FROM: KENNETH J. WALKER  
24 MILLER RD. ROYAL OAKS, CA.

TO: CALIFORNIA COASTAL COMMISSION  
725 FRONT ST. SUITE 300  
SANTA CRUZ, CA 95060-4508

ITEMS: EXHIBITS:  
"A" THRU "D"

REMARKS: LAND DELIVERED

C.C. JOE KUHN  
28 MILLER RD.  
ROYAL OAKS, CA.  
95016

RECEIVED

JUL 06 2017

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

# EXHIBIT "A" (Re: PN970159)

SUBJECT: RANCHO LOS ROBLES SUBDIVISION  
OUTLINE OF REPORT GIVEN BY KEN WALKER  
ARCHITECT - RETIRED. TO MOCO SENIOR PLANNER

WATER OVERDRAFTING, NITRATES AND SALT-WATER INTRUSION IN NORTH MONTEREY COUNTY REMAIN UNRESOLVED. WITH THIS PROPOSED HOUSING ADDITION CALIFORNIA WATER COMPANY WOULD BE REQUIRED TO PLACE A NEW WELL, AS STATED IN THE EIR. WITH THIS ADDITION INCREASED CAPABILITY IN THE AREA OF SANITATION, (SEWER) WOULD ALSO BE REQUIRED WITH INCREASED CAPABILITY AT THE EXISTING SEWAGE PUMP STATION. ALSO PER THE EIR.

POLLUTANTS THE DRAFT EIR STATES THERE WOULD BE A REDUCTION OF EXISTING NITRATES WHEN THE LAND IS COVERED. PROBABLY TRUE, BUT YOUR JUST TRADING POLLUTANTS WHEN AUTO FLUIDS, LANDSCAPING CHEMICALS ARE INTRODUCED. THESE POLLUTANTS WILL THEN SURFACE DRAIN INTO CARNEROS CREEK AND ELKHORN SLOUGH. ACCORDING TO THE EIR THERE IS NO TREATMENT PLANNED WITH REGARD TO THE STORM DRAIN COLLECTION ONLY SURFACE DRAINAGE INTO A COLLECTION POND WHICH PERKS INTO THE CREEK AND SLOUGH.

TRAFFIC ELKHORN - HALL - TARPY ROADS ARE THE MAIN VEHICLE CUT-OFF LINK BETWEEN HIGHWAY 101 AT THE RED BARN AND HIGHWAY ONE AT SALINAS ROAD. WHEN THE INTERSECTIONS AT 101 AND SAN JUAN ROAD AND HIGHWAY ONE AND SALINAS ROAD ARE COMPLETED THIS LINK WILL BECOME EVEN MORE IMPACTED THAN IT ALREADY IS. KEEPING THE AFOREMENTIONED IN MIND A COMMERCIAL AREA IS PROPOSED AT THE EAST END OF THE PROPERTY WHICH WILL BE ENTERED AND EXIT ONTO HALL ROAD, NOT TO MENTION ITS LOCATION NEXT TO AN ELEMENTARY SCHOOL, NOT A GOOD IDEA. AS FOR SILL ROAD IT IS ALREADY IMPACTED WITH SCHOOL BUSES BETWEEN THE HOURS 6:30 - 8:30 AM, 1:30 - 3:30 PM DAILY NOT TO MENTION MOTHERS WALKING THEIR CHILDREN TO AND FROM HALL DISTRICT SCHOOL, WITH NO SIDE WALK. WITH NO DEVELOPMENT PLANNED BETWEEN THE PROPOSED PROJECT AND HALL DISTRICT SCHOOL SERIOUS INJURY TO PEDESTRIANS COULD OCCUR. THE DRAFT EIR STATES THAT SILL ROAD IS A LOCAL STREET, THAT IT IS, WITH LITTLE TRAFFIC, WHOMEVER RESEARCHED THIS DOESN'T LIVE ON OR HEAR SILL, MILLER OR LAS LOMAS DRIVE.

LAW ENFORCEMENT IT IS LIMITED AT BEST. SHERIFFS DEPUTIES ARE OVER EXTENDED DUE TO UNDER STAFFING AND THE LARGE COUNTY AREA THAT THEY ARE REQUIRED TO COVER. TO IMPACT THE LAS LOMAS VALLEY WITH PLUS OR MINUS 400 MORE RESIDENTS IN SUCH A CONFINED AREA AS PROPOSED IS NOT IN THE RELM OF GOOD DESIGN PRACTICE.

WOODLANDS THE PROPOSAL IS TO REMOVE 40 TREES, 25 OF WHICH ARE DESIGNATED AS PROTECTED OAKS WHICH BY OBSERVATION EXCEED 100 YEARS OF AGE, EVEN WITH A COUNTY REPLACEMENT RATIO OF 5:1 IT IS NOT WISE OR PRUDENT CONSERVATION TECHNIQUE WHEN IT TAKES MANY YEARS FOR OAKS TO MATURE. IT HAS BEEN QUOTED THAT ONE PERSON IN ONE DAY CAN PRODUCE ENOUGH CARBON THAT IT TAKES FOUR MATURE TREES TO ABSORB SAME. THINK ABOUT IT THE DRAFT EIR ALSO MENTIONED THAT THE DEPLETION OF THE EXISTING WILLOW RIPARIAN WOODLANDS WOULD BE "LESS THAN SIGNIFICANT" AND WOULD REQUIRE ESTABLISHMENT ELSEWHERE. WHERE? THE DEVELOPER SHOULD WORK THEM INTO THE DESIGN. SEE PHOTOS ATTACHED.

IN CLOSING THE ISSUES INSUFFICIENT WATER,  
ADDED POLLUTION, SANITATION, TRAFFIC IMPACTS,  
MINIMAL LAW ENFORCEMENT, WOODLAND DEPLETION,  
AIR QUALITY AND THE CURTAILMENT OF THE RURAL  
CHARACTER OF THE LAS LOMAS VALLEY. ALL OF THE  
AFOREMENTIONED ISSUES MUST BE ADDRESSED BY  
MONTEREY COUNTY STAFF IN A MOST DEMANDING  
MANNER WITH PERTINENT DIRECTION BY SAME TO  
THE DEVELOPER OF AND HOW TO MITIGATE THE  
PROBLEMS WITH-IN AND WITH-OUT THIS PROJECT  
AND NOT WAIT UNTIL THERE IS NO WATER BECAUSE  
"IT WAS SUCKED DRY."

RESPECTFULLY SUBMITTED,  
*Donna D. Walker* C5915  
ARCHITECT - RETIRED



# Building moratorium declared

*Lack of water in N. County cited*

By KEVIN HOWE

*Herald Staff Writer*

An immediate 18-month moratorium, forbidding construction of water-using subdivisions or other building projects in North County, won unanimous approval Tuesday from the Monterey County Board of Supervisors.

The moratorium applies to the broad North Monterey County Hydrogeologic Study Area, extending north of Blackie Road and the communities of Moss Landing and Castroville to the Santa Cruz and San Benito county lines.

Included in the area are the unincorporated communities of Pajaro, Royal Oaks, Prunedale, Aronas and Las Lomas.

North County residents packed the supervisors' chambers to speak in favor of the moratorium, saying action to control overpumping of water is long overdue.

The ordinance, which will cut off most North County development applications submitted since Aug. 9, is scheduled for final, formal adoption at the supervisors' meeting next Tuesday.

Supervisors enacted a moratorium stricter than one that had

been recommended Sept. 6 by the county Planning Commission, which would have prohibited only new developments that enhance use of water.

The enhancement language was thrown out at the recommendation of county planning staff, said Assistant County Administrator Jim Colangelo, because subdivisions use less water per year than irrigated farm fields, and it would encourage conversion of agricultural land to urban uses.

And, he said, the county would lose its ability to control future water use. Farm fields can lie fallow during times of water shortage; housing units and commercial businesses demand water in wet years or dry.

Supervisor David Potter added that farm crops "don't send their kids to school and don't drive on our roads."

Supervisor Lou Calcagno, chairman of the board, argued at first for a blanket exemption for agriculture, but withdrew it after Supervisor Judy Pennycook and County Administrative Officer Sally Reed

Please see Moratorium page A2

## Moratorium

From page A1

contended that everyone needs to be involved in finding a water solution for North County.

"The best thing we can do for agriculture," Reed said, "is solve the water problem." The proposed moratorium isn't perfect, she added, but it is fair and requires everyone to make sacrifices.

The ordinance will automatically expire 18 months after Aug. 9, the deadline that the board set for considering development applications in the area, or when the new county General Plan is approved.

The ordinance notes that over-draft of water in the study area exceeded 100 percent of recharge in 1996, nitrate and salt contamination levels are increasing, and wells are running dry or becoming contaminated.

Exemptions that were approved include:

➤ Applications for construction of a first house on a vacant lot of

record, or for additions, remodeling or reconstruction of an existing residence.

➤ Applications for projects that were submitted before Aug. 9, the date on which the planning staff made its recommendation for a moratorium.

➤ Building permits for projects approved before Aug. 9.

➤ Rebuilding of structures destroyed by fire, explosion or "acts of God."

➤ Applications for commercial or industrial development on a vacant legal lot of record that will not use more than .4 acre-feet of water a year.

➤ Any application for a new or replacement well construction permit.

In addition, after pleas that farm-worker housing, particularly in the Pajaro Redevelopment Area, be exempt, the supervisors, at Potter's suggestion, said any conflicts with the Pajaro Redevelopment Project Area should be brought to them for

resolution during the moratorium.

Colangelo conceded arguments raised by developers and their attorneys that a moratorium is not a solution to the area's serious water problem, but said the county needs breathing space to come up with a solution.

But contractor Don Chapin said residents were suffering from an illusion if they think a moratorium will end development in North County.

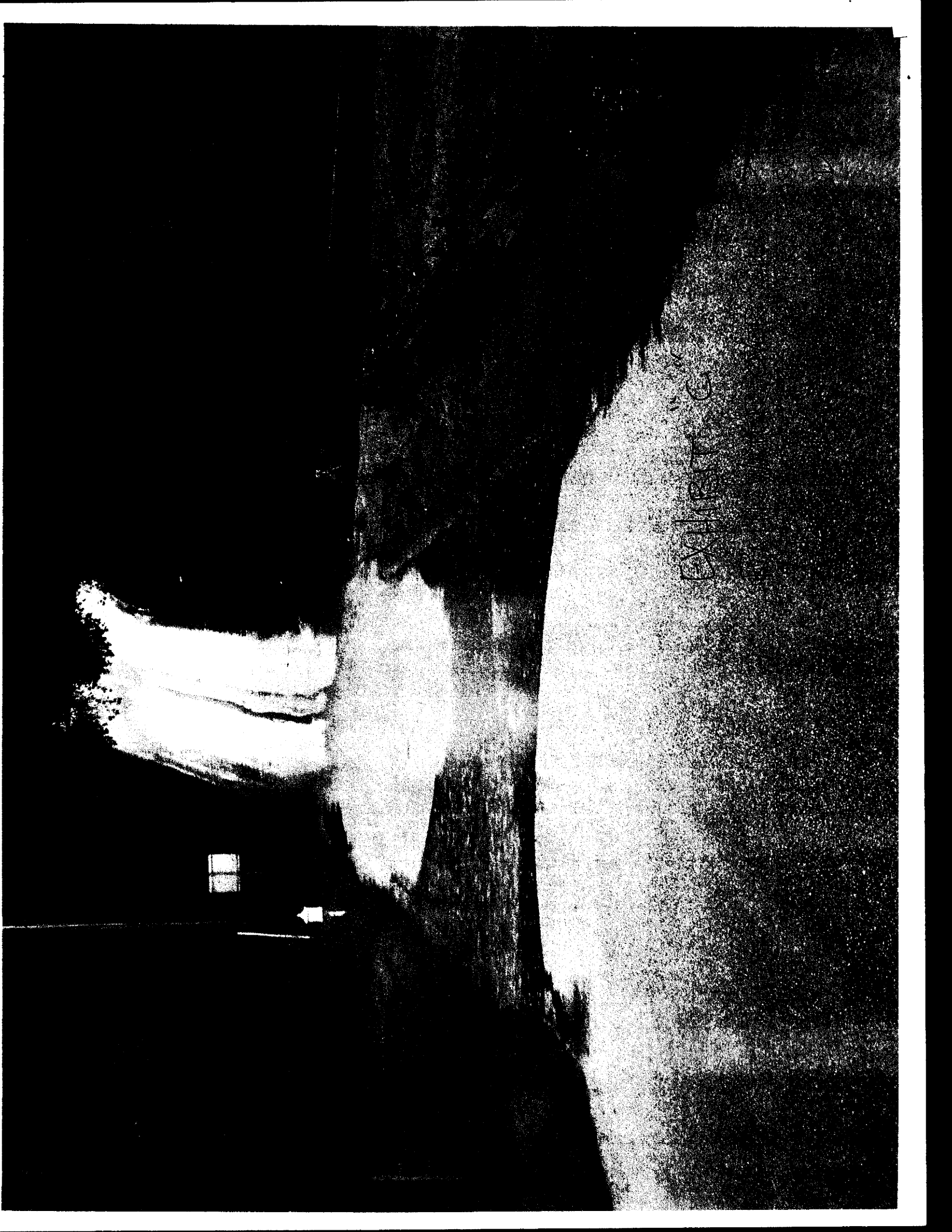
"People think there's a drawbridge they can pull up," he said, but noted that there are 1,600 lots of record in the area, all of which could have a house built on them.

Potter commented that "this is a resource management issue, not a growth issue. . . . We can't pull up a drawbridge, but there's no water in the moat."

Kevin Howe can be reached at [khowe@montereyherald.com](mailto:khowe@montereyherald.com) or 753-6771.

WHAT HAS CHANGED?

EXHIBIT "B"



# EXHIBIT "B"

October 29, 2007

Mr. David Greene  
Senior Planner  
County of Monterey  
168 W. Alisal St. 2<sup>nd</sup> Floor  
Salinas, CA. 93901

Kenneth J. Walker  
Architect - Retired  
24 Miller Road  
Las Lomas, CA. 95076

RE: Draft EIR Rancho Los Robles Subdivision  
Plan 970159

Dear Mr. Greene:

Thank you for the opportunity as a resident of the Las Lomas area to review the above - referenced document. I live roughly 400 feet from the proposed project and know and experience daily the impacts that already exist and can project what a project of this magnitude can insert on an area the size of Las Lomas.

A project of this size where proposed in this narrow valley of Las Lomas will triple the existing density and impact the following mentioned services and rural quality of life north county residents all enjoy.

In response to the EIR table S-1, the residual impact column, the comment of "Less Than Significant" is after mitigation but before mitigation the impact is "More Than Significant". To place the impacts in proper perspective all significant impacts should be addressed and resolved prior to this development being approved. Please refer to page S-11 of the Rancho Los Robles Subdivision EIR. The addition of housing in this area of North Monterey County which straddles the main vehicular cut off link between highway 101 at the Red Barn to Highway 1 at Salinas Road is for sure not a good idea when improvements are not planned until after 2030.

WATER is a known problem in the area. Over drafting, nitrates and salt water intrusion remain unresolved. With the addition of 101 houses, roughly 400 persons, the proposed project will increase pollutant levels such as automotive fluids, landscaping chemicals and other pollutants This accumulation of surface water pollution unless policed, will drain into Carneros Creek and ultimately into Elkhorn Slough?! The EIR states the reduction in nitrates would, happen when the land is covered, but what about auto and landscaping chemicals won't they add to the problem not detract from it? Who is kidding who?

According to the EIR California Water with PUC approval would require a new well to serve the project. In Conjunction with the addition of water and its use the Pajaro County Sanitation District requires approval from LAFCO to annex the site and increase the capability at the pump station. In the year period of 1997-98 PCSD was flooded and service was halted to the existing residents. This problem has not been mitigated as of yet and could happen again due to the Pajaro River flooding the area.

TRAFFIC existing on Sill Road is already impacted with school buses traveling the road between 6:30&8:30AM and again at 1:30&3:30PM thereby adding greatly to traffic and pedestrians walking on the undeveloped rural road to and from the Hall District School. The increase in pedestrian and vehicular traffic will produce a much greater impact than the EIR comment of "Less Than Significant". Construction traffic is hardly addressed. The county has no plans to upgrade Sill Road. The EIR page 2-115 states that Sill Road is a "local street with little traffic..." Whoever researched this statement does not live on Sill Road and now the proposal is to add 101 new dwellings! Let's get real here.

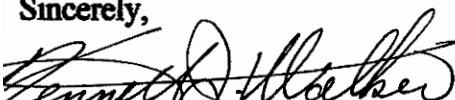
Please refer to paragraph three of this letter regarding the cut-off link between Hwy 101 and Hwy 1. Improvements not planned until year 2030. You should hear the sirens as the safety vehicles travel Hall Road day and night. Again add 101 dwellings????????

LAW ENFORCEMENT is limited at best. Sheriffs Deputies are over-extended due to the large county area that they are required to cover. To impact the Las Lomas Valley with 400 more residents is not wise given the existing demographics of the area.

WOODLANDS depletion would be definite and in many cases irreplaceable. When approximately 56,800 cubic yards of soil grading and the removal of 40 trees including 25 of which are designated as protected oaks which will in many cases exceed 100 years of age is not wise conservation to say the least. The impact to existing Willow Riparian Woodland will also require conservation techniques that are greater in scope than "Less Than Significant" as stated in the EIR table S-1, pg. S-4. Re-establishment, good idea, but where on the site????? .Near water?

In closing the issues with Water, Sewage, Traffic and Law Enforcement should be addressed and upgraded now rather than depending on the possibility that infrastructure will be expanded due to the development increased demand. In regard to Air Quality and Woodland depletion is the Las Lomas Valley GREEN enough to handle this large of an addition?

Sincerely,

  
Kenneth J. Walker  
Architect - Retired

CC: Louis Calcagno  
Supervisor District #2  
Cosme Padilla  
Planning Commissioner



# Monterey County LOCAL STATE

OCT 9, 2008  
www.montereyherald.com

uncho Los Robles: Water supply is issue

EXHIBIT "C"

## Panel rejects development

By JIM JOHNSON  
Herald Salinas Bureau

one of the last major projects left to be  
sidered under the 1982 general plan  
ived another setback from the  
ity Wednesday.

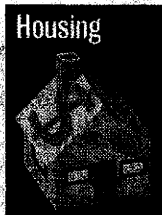
voicing concerns about the  
term water supply in North  
terey County, the Planning  
mission decided to recom-  
d denial of the long-delayed  
cho Los Robles subdivision to  
Board of Supervisors, which  
make a final decision.

the county planning staff had  
mmended a smaller project,  
that was dismissed by the  
mission. A motion by Com-  
missioner Jay Brown directing the  
to investigate the impact of  
smaller project failed before  
commission voted to present  
denial recommendation to  
rvisors on Oct. 29.

is proposed by developer Heritage  
ern Communities, the controversial  
ect on the edge of Las Lomas would  
vert 33.6 acres of farmland, pasture and  
dland into 97 single-family lots and  
multi-family townhouse complexes,  
g with commercial development parks  
open space. The project, located  
reen Hall and Sill roads, has been in  
works for 20 years.

he recommended alternative, proposed  
the county Subdivision Committee,  
ld have included 68 single-family lots,

four duplexes, mixed-use commercial  
development with second-floor apartments  
and a smaller area designated for parks  
and open space.



**"This is not  
the place.  
This is not  
the time."**

Carolyn Anderson  
North County  
resident

### Water supply

Under the existing general plan,  
the proposed project site is zoned  
for medium-density residential  
development, but under the pro-  
posed new general plan no subdivi-  
sions would be allowed in North  
County and any development  
would be restricted to existing lots  
of record.

Commissioner Keith Vandevere  
summed up the crux of the argu-  
ment against either project. The  
project's environmental impact  
report found the development  
would have a potentially signifi-  
cant and unavoidable impact on  
the already overtapped North  
County groundwater supplies, which show  
evidence of seawater intrusion. That  
impact, Vandevere said, clearly out-  
weighed any community benefit from the  
proposed subdivision.

"There's a very severe water problem in  
that area and all the water solutions we  
thought might resolve that problem seem  
to have fallen through," Vandevere said,  
referring to the Pajaro Valley Water Man-  
agement Agency's failures to provide alter-  
native water supplies. "I'd need very, very  
strong evidence of overriding

considerations. Nothing I've heard today  
comes close."

During public comment, several North  
County residents testified about the water  
supply problem in their area, and argued  
that the project should wait until solutions  
are found.

"We may find solutions, but until we do I  
think it's absolute folly to approve this  
project," Carolyn Anderson told the com-  
mission. "This is not the place. This is not  
the time."

**AS OF JULY 2017  
THIS CONDITION  
HAS NOT CHANGED**

But attorney Mark Blum, representing  
the applicant, pointed out that the environ-  
mental impact report found that the project  
would actually result in a more than 50  
percent reduction of water demand on the  
property because of the large amount of  
water previously used in farming the land.

Blum argued that denying the project  
would likely result in a return to the more  
water-intensive uses on the site, which he  
said had previously resulted in degradation  
of the property's woodland and wetland  
areas.

He also pointed out that the developer  
would have to pay associated fees that  
would legally reduce the overall impact of  
the project to acceptable levels.

The bottom line, Blum argued, was that  
the project met the county's own land-use  
guidelines under the existing general plan.

ancho

page A2

ld provide much needed  
ising and other benefits for  
area, and predates any  
problems in the area  
way. Even a reduced alter-  
was inappropriate, he  
ed, and argued that the  
ect was bolstered by prior  
a law

Brown agreed, arguing that  
the EIR was clear that the  
water supply was adequate for  
the project and that specula-  
tion about the extent of over-  
draft in North County was not  
sufficient grounds to deny the  
proposal. He called the project  
a "great use of land" that would  
provide exactly the kind of  
housing the county needs.

But Vandevere pointed out  
that most of the proposed  
housing would consist of

single-family homes, and that  
there remain plenty of existing  
lots in North County for those  
kinds of homes.

Commissioner Martha Diehl  
said she objected to the appli-  
cant's suggestion that a rejection  
of the project would result  
in what some have called  
"over-use" of water on the  
property, and rejected the  
argument that previous case  
law justified the project's  
impacts.

"You can't drink case law  
when it comes right down to  
it," Diehl said.

Developers originally pro-  
posed a much larger, 204-  
home project in 1996, but that  
was rejected by the county and  
the courts upheld the county's  
decision. The current proposal  
was submitted in 2000.

Jim Johnson can be reached  
at 753-6753 or jjohnson@  
montereyherald.com

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Friends, Artists, and Neighbors of Elkhorn Slough

Mailing Address: c/o Kenyon Yeates, LLP, 2001 N St., Suite 100

City: Sacramento

Zip Code: 95811

Phone: 916-609-5000

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of Monterey

2. Brief description of development being appealed:

Rancho Los Robles Subdivision, which includes: (1) Demolition/removal of two single-family dwellings, two barns, a garage and two mobile homes; (2) Subdivision of 33.58 acres into 76 total lots: 68 single-family lots, 4 duplex lots, a 1.76-acre mixed use lot with a General Development Plan allowing 17,000 square feet of commercial space with four apartment units above, and 9.7 acres of open space including a 2.5-acre park; (3) Removal of 25 oak trees and relocation of 0.1-acre of willow trees; and, (4) Two access roads on Sill Road and one access road to Hall Road.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

The project site is located in the unincorporated town of Las Lomas in the north Monterey County coastal zone, at 100 Sill Road, and is comprised of Assessor's parcel numbers 412-073-002 and 412-073-015.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions  
☒ Approval with special conditions:  
☐ Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☒ City Council/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: December 9, 2008

7. Local government's file number (if any): Monterey County PLN970159

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Heritage Western Communities, LTD  
Attn: Chuck Allen  
563 Auto Center Drive  
Watsonville, CA 95076

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attached List

(2) See Attached List

(3) See Attached List

(4) See Attached List

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

FANS brings this appeal pursuant to the California Coastal Act, Public Resources Code, section 30603, subdivisions (2) and (4). The Rancho Los Robles project is a development project approved by the Monterey County Board of Supervisors, that includes a subdivision, park, and multi-family housing building that are not designated as a principal permitted use under the County zoning designation for the project site, MDR/4. (Monterey County Coastal Implementation Plan, §§ 20.12.050, 20.18.060.) In addition, a biological assessment prepared for the project identified a wetland, as defined under the Coastal Act, within the southern portion of the project site.

FANS hereby states its reasons for this appeal.

The Monterey County Board of Supervisors made its final determination on the project on December 9, 2008, approving the Rancho Los Robles subdivision project, and certifying the project Environmental Impact Report ("EIR").

The Monterey County Board of Supervisors' approvals are inconsistent with the North Monterey County Land Use Plan/Local Coastal Program ("LUP/LCP"), and the Monterey County Coastal Implementation Plan ("CIP"), for the following reasons:

#### **1. THERE IS INADEQUATE WATER TO ACCOMMODATE THE PROPOSED SUBDIVISION.**

The EIR admits that the project will have a cumulatively significant adverse impact to groundwater. The EIR states that "[t]he north Monterey County hydrogeologic area is in a state of significant overdraft, and the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured." Accordingly, the project is directly inconsistent with the following policies of the North County LUP/LCP, and Monterey County CIP.

First, the project is inconsistent with the North County LUP/LCP, policy 2.5.1, which states that "new development shall be controlled to a level that can be served by identifiable, available, long term-water supplies." In addition, policy 2.5.2.3 requires new development "to be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies are secured." Here, the EIR admits that there is no identifiable, available, long-term water supply to safely serve the proposed project's demands, and the proposed project is, therefore, in direct conflict with these policies.

Second, the project is inconsistent with Monterey County CIP section 20.144.070 (E) (11), which prohibits development that "will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer." Again, the EIR admits that the proposed project's expected water demand cannot be safely served by the over drafted groundwater basin, and that the project's impacts to the basin would be significant and unavoidable.

Third, the proposed project is also inconsistent with CIP section 20.144.140(B)(3)(a), which limits development to 50% of buildout of the North County Land Use Plan area, unless information shows that even 50% of buildout would adversely impact groundwater supply. Here, the EIR admits that "the current demand for water in north Monterey County is approximately double the sustainable supply," and expects overdraft estimates to continue to increase. Therefore, this development, as part of the 50% buildout of the North County Land Use Plan area, would "adversely impact groundwater supply," and is inconsistent with CIP section 20.144.140(B)(3)(a). (See also LUP/LCP Policy 2.5.3 (A)(2).)

Fourth and finally, the project is inconsistent with the North Monterey County Subdivision Ordinance, section 19.03.15 (L), which requires conclusions regarding adequacy of a long-term water supply.

The EIR incorrectly asserts that the project's payment of "the hydrological impact fee," required at the time the project application was deemed to be complete eight years ago, provided the project with "alternatives and/or mitigation measures that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer." This claim is simply wrong. Payment of a hydrological impact fee does not produce any change in the groundwater condition, does not mitigate the project's significant and unavoidable impact to less-than-significant levels, and does not reasonably render the project consistent with the CIP. As the EIR admits, even with the payment of this fee, the project would still "generate a water demand for which a long-term sustainable supply of water supply cannot be assured." Therefore, the hydrological impact fee does not "reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer," as CIP section 20.144.070.E.11 requires.


## II. CONCLUSION

For the foregoing reasons, FANS appeals the decision of the Monterey County Board of Supervisors to approve the Rancho Los Robles subdivision project and EIR, and requests that the Coastal Commission deny approval of the proposed project as inconsistent with the North Monterey County Land Use Plan / Local Coastal Program, the Monterey County Coastal Implementation Plan, and relevant state and local laws designed to protect water supply in North Monterey County.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

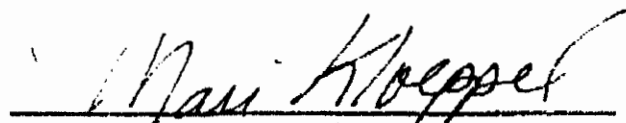
Date: February 10, 2009

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I We hereby authorize Kenyon Yeates LLP

to act as my/our representative and to bind me/us in all matters concerning this appeal.

  
\_\_\_\_\_  
Signature of Appellant(s)

Date: 2/10/09

Heritage Western Communities, LTD  
563 Auto Center Drive  
Watsonville, CA 95076

George J. Brothers, Jr.  
123 Harrington Road  
Watsonville, CA 95076

Coastal Development Company LLC  
P.O. Box 1989  
Mariposa, CA 95338

Alejandro Contreras & Rosalinda Velazquez  
1982 Loma Vista Court  
Watsonville, CA 95076

C.L. Chance & Lois & Rhonda S. Powers  
P. O. Box 55  
Aptos, CA 95001

William R. & Carol A. Duemler  
93 Sill Road  
Watsonville, CA 95076

Adeline Garcia, ET AL  
342 Hall Road  
Watsonville, CA 95076

Carlos & Claudia Gonzales  
1980 Loma Vista Court  
Watsonville, CA 95076

Richard & Michele Kirby  
264 Hall Road  
Watsonville, CA 95076

MP Land Holdings LLC  
658 Bair Island Road, Ste 300  
Redwood City, CA 94063

Gabriel & Yolanda A. Magana  
1978 Loma Vista Ct.  
Watsonville, CA 95076

Juan R. Martinez  
89 Sill Road  
Watsonville, CA 95076

Jose H. & Maria Medina  
3000 King Hall Road  
Watsonville, CA 95076

Socorro M. & Josefina Mendoza (JT Ten)  
220 Sill Road  
Watsonville, CA 95076

Teodomiro & Refugio Mendoza  
230 Sill Road  
Watsonville, CA 95076

Sergio R. Navarro & Angelica G. Velazquez  
91 Sill Road  
Watsonville, CA 95076

Santiago J. & Lilia Pineda  
1984 Loma Vista Court  
Watsonville, CA 95076

Pedro V. & Mary Ortega  
P.O. Box 548  
Freedom, CA 95019

Rogelio Rocha & Francisco Ortiz  
333 & 335 Hall Road  
Watsonville, CA 95076

Jesus G. Rios  
2095 King Hall Road  
Watsonville, CA 95076

Francisco & Carolina Sanchez  
85 Sill Road  
Watsonville, CA 95076

Pauline & Jim Whertley  
70 Sill Road  
Watsonville, CA 95076

Jehovah Witnesses South Spanish Congregation  
P.O. Box 975  
Watsonville, CA 95077

Juan  
41 Las Lomas Drive  
Watsonville, CA 95076

Margie Kay  
5319 Starr Way  
Royal Oaks, CA 95076

Dennis R. Kirby  
32960 Lake Mead Drive  
Fremont, CA 94555

Michele & Richard Kirby  
264 Hall Road  
Royal Oaks, CA 95076

Courtney Kuhn  
28 Miller Road  
Watsonville, CA 95076

Howard McGinnis  
PO Box 2170  
Watsonville, CA 95077

Jose & Natalia Mariscal  
52 Sill Road  
Kenneth Walker

Refugio Marquez  
61 Oak Road  
Watsonville, CA 95076

Iwao Matsunami  
257 Live Oak  
Watsonville, CA 95076

Bonnie and Vince Matulich  
P.O. Box 563  
Aromas, CA 95004

Janet Mayor  
32 Miller Road  
Watsonville, CA 95076

Karen and Clint Miller  
P.O. Box 399  
Watsonville, CA 95077

Kathleen L. Mitani  
56 Sill Road  
Royal Oaks, CA 95076

Dominic and Martha Muzzi  
176 Bluff Rd.  
Moss Landing, CA 95039

Miguel & Elva Navarro  
39 Willow Road  
Watsonville, CA 95076

Mary Nichols  
41 Willow Road  
Watsonville, CA 95076

Pedro V. & Mary Ortega  
P.O. Box 548  
Freedom, CA 95019

Frank & Francisco Ortiz  
16805 Little Hill Lane  
Watsonville, CA 95076

Carol & Richard Parker  
11 Spring Road  
Watsonville, CA 95076

Gabriel Perez  
25B. Las Lomas Drive  
Watsonville, CA 95076

Thomas Perez  
66 Miller Road  
Watsonville, CA 95076

Aldo Pini  
527 Pini Road  
Watsonville, CA 95076

Beverly & Ray Pini  
569 Pini Road  
Watsonville, CA 95076

Connie A. Ramirez  
120 Hathaway Avenue  
Watsonville, CA 95076

Eva Renteria  
75 Sill Road  
Watsonville, CA 95076

Jesus G. Rios  
2096 King Hall Road  
Watsonville, CA 95076

Augie Rodriguez  
48 Sill Road  
Watsonville, CA 95076

Gustavo & Maria Rodriguez  
79 Sill Road  
Watsonville, CA 95076



Petra Rodriguez  
5 Thomas Road  
Watsonville, CA 95076

Joy Rosales  
417-C Maher Road  
Watsonville, CA 95076

Howard Shurtz  
25 Warm Canyon Way  
Hillsborough, CA 94101

Patricia & Alex Solano  
333 Elkhorn Rd.  
Royal Oaks, CA 95076

Tammi Stuart  
978 San Miguel Canyon Road  
Watsonville, CA 95076

Vaudine Thayer  
971 San Miguel Canyon Road  
Watsonville, CA 95076

Ernestine Torres  
16 Willow Road  
Watsonville, CA 95076

Ardell Tuzon  
40 Willow Road  
Watsonville, CA 95076

Yadira Vega  
283 Holm Road  
Watsonville, CA 95076

Kenneth Walker  
24 Miller Road  
Las Lomas, CA 95076

Harry Wiggins  
35 Second Way  
Watsonville, CA 95076

Max Witcher  
30 Willow Road  
Watsonville, CA 95076

Darryl Wise  
525 Pini Road  
Watsonville, CA 95076

Gary and Yvette Yoshida  
15 Willow Road  
Royal Oaks, CA 95076

Armando Zamora, ET AL  
30 Miller Road  
Watsonville, CA 95076

Gustavo Zamora  
30 Miller Road  
Watsonville, CA 95076

Reynoldo Zamora  
195 Las Lomas Drive  
Watsonville, CA 95076

Dennis Zumaran  
260 Las Lomas Drive  
Watsonville, CA 95076

Jorge & Cresencia Zuniga  
230 Hall Road  
Watsonville, CA 95076

Cal Water Services Company  
254 Commission Street  
Salinas, CA 93901

Haro, Kasunich & Assoc, Inc  
116 East Lake Avenue  
Watsonville, CA 95076

Jon Ifland - Ifland Engineers  
1100 Water Street  
Santa Cruz, CA 95062

Richard James- EMC Planning Group  
301 Lighthouse, Suite C  
Monterey, CA 93940

Chuck Allen - Landmark Real Estate Company, Inc.  
563 Auto Center Drive  
Watsonville, CA 95076

Nolan, Zinn & Associates  
1509 Seabright Avenue, Suite A2  
Santa Cruz, CA 95062

Pinnacle Traffic Engineering  
930 San Benito Street  
Hollister, CA 95023

Schaeff & Wheeler Consulting Civil Engineers  
100 N. Winchester Blvd., Suite 200  
Santa Clara, CA 95050

Dan Smith, Jr. - Smith Engineering & Management  
5311 Laroy Road  
Union City, CA 94587

Monterey County Clerk to the Board  
PO Box 1728  
Salinas CA 93902

Monterey County Planning Dept. Secretary  
168 W. Alisal St., 2nd Floor  
Salinas, CA 93901

Monterey County Public Works Dept.  
168 W. Alisal St., 2nd Floor  
Salinas, CA 93901

Monterey County Parks Department  
P.O. Box 5249  
Salinas, CA 939155279

Mary Anne Dennis -Mo Co Environmental Health  
1270 Natividad Road  
Salinas, CA 93907

Monterey County Health Department  
1270 Natividad Road  
Salinas, CA 93906

Marti Noel -Mo County Housing & Redevelopment  
168 West Alisal St.,3rd Floor  
Salinas, CA 93901

Tom Moss - Mo County Water Resources Agency  
893 Blanco Circle  
Salinas, CA 93901-4455

David Lutes - Mo Co Parks Department  
P. O. Box 5249  
Salinas, CA 93915

Supervisor Louis Calcagno  
P.O. Box 787  
Castroville, CA 95012

Kate McKenna- Monterey County LAFCO  
P.O. Box 1369  
Salinas, CA 93902

Pajaro Valley Water Management Agency  
36 Brennan Street  
Watsonville, CA 95076

North County Fire Protection District  
11200 Speegle Street  
Castroville, CA 95012

Katie Morange  
C/O California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

Roger Briggs, Exec Officer - CA Regional Water  
Quality Control Board, Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

Governor's Office of Planning & Research  
State Clearing House and Planning Unit  
Terry Roberts, Director  
1400 Tenth Street  
Sacramento, CA 95814

Edmund G. Brown, CA Attorney General  
Unit P.O. Box 944255  
Sacramento, CA 94244-2550

Tara Mueller, Deputy Attorney General  
Department of Justice  
Unit P.O. Box 944255  
Sacramento, CA 94244-2550

Derinda Messenger & Associate  
450 Lincoln Avenue, Suite 103  
Salinas, CA 93901

Mark Blum, Pam Silkwood  
Horan Lloyd Law Firm  
499 Van Buren Street  
Monterey, CA 93940

Molly Erickson - Law Offices of Michael W. Stamp  
479 Pacific St., Ste. 1  
Monterey, CA 93940

Bill Yeates - Kenyon Yeates, LLP  
2001 N. Street, Suite 100  
Sacramento, CA 95811

Law Offices of Horan, Lloyd, Karachale,  
Dyer, Schwartz, Law, & Cook  
o/b/o Heritage Western Communities  
P.O. Box 3350  
Monterey, CA 93942

Elva Acevedo  
52 Thomas Road  
Watsonville, CA 95076

Javier & Lucia Alvarez  
17763 Northwood Place  
Salinas, CA 93907

Salvador Anata  
191 Las Lomas Drive  
Watsonville, CA 95076

Carolyn Anderson  
17-A Maher Road  
Watsonville, CA 95076

Duncan Blue  
350 Hudson Landing Road  
Watsonville, CA 95076

Rhonda & Nick Briano  
P.O. Box 55  
Aptos, CA 95003

Hazel Butler  
702 Hall Road  
Watsonville, CA 95076

Bertha Caesuela  
75 Sill Road  
Watsonville, CA 95076

Javier & Lilia Carabarin  
17 Boling Road  
Watsonville, CA 95076

Balbina & Ismael Cardenas  
343 Berry Road  
Watsonville, CA 95076

Thomas A. Cardinale ET AL  
3 Heitzinger Plaza  
Seaside, CA 93955

Diane Porter Cooley  
103 Hall Road  
Watsonville, CA 95076

Dan  
16410 Bonney Road  
Watsonville, CA 95076

Dolores  
50 Thomas Road  
Watsonville, CA 95076

Brett & Paula Enders  
71 Sill Road  
Watsonville, CA 95076

Tony & Antonio Escareno  
52 Thomas Road  
Watsonville, CA 95076

Marilyn Frandeen  
300 Sill Road  
Watsonville, CA 95076

Friends, Artists, Neighbors of Elkhorn Slough  
PO Box 180  
Moss Landing, CA 95039

Timothy Garcia Trust ET AL  
28 Taylor Road  
Watsonville, CA 95076

Anna Gile  
88 Oak Road  
Watsonville, CA 95076

Carlos & Claudia Gonzales  
1980 Thomas Road  
Watsonville, CA 95076

Victor Gonzales  
46 Thomas Road  
Watsonville, CA 95076

Sharon Green  
171 Las Lomas Drive  
Watsonville, CA 95076

Claudia Grossi  
2473 Rifle Range Drive  
Watsonville, CA 95076

Jenny Godinez  
20B Gregory Road  
Watsonville, CA 95076

Sally Gomez  
22 Willow Road  
Watsonville, CA 95076

Lloyd Humes  
700 Maher Court  
Royal Oaks, CA 95076

Jim Jeffery  
P.O. Box 961  
Los Gatos, CA 95031

Rosalina Jimenez  
19-A Las Lomas Drive  
Watsonville, CA 95076

# EXHIBIT "D"

October 3, 2008

Mr. Carl Holm  
Project Planner  
County of Monterey  
168 W. Alisal Street 2<sup>nd</sup> Floor  
Salinas, CA. 93901

Kenneth J. Walker  
Architect - Retired  
24 Miller Road  
Las Lomas, CA 95076

SUBJECT: Final EIR Rancho Los Robles Subdivision, PLN 970159 Dated 09-17-08.

Dear Carl:

Again, I thank you for the opportunity as a resident of the Las Lomas area to review the above referenced document. As much as you know, have studied and heard about this Project and its constraints as presented with regard to Water, Traffic, Pedestrian Safety, Biology and Aesthetics, my hope, as one of many voices, is still that the Planning Commission will consider the issues at hand and Deny This Project.

## WATER:

The project as proposed will require a permanent commitment of Potable Water. Such Water will have to come then from the over-drafted basin. The same for Landscape Irrigation. The current AG demand is flexible and can be curtailed completely where that can't happen with the Potable Water demand for residential use. As we know Residential and Commercial Water use is of a fixed demand where as AG uses, that are proposed to be replaced, tend to be more variable in demand for obvious reasons of which I will not go into at this time. Therefore, where is the Available long term Water Supply coming from? Of course from the over-drafted basin. Not a wise choice, even when a will serve letter from California Water is Available. Monterey County knows already that Aquifers in the NorthCounty area are in Severe over-draft.

## TRAFFIC:

It is doubtful if road improvements, according to documented Caltrans and County projections, will even be considered for 20 years or more and maybe not even then. So. How can the EIR include these improvements as mitigation for this project not knowing if they will ever be approved. Given the current situation, probably Not.

## VISUAL IMPACTS:

A project of this Magnitude Carl, will permanently alter the rural character of the Las Lomas Valley and its surroundings and should be considered inappropriate and a significant impact to the area as a whole. This project is out of character due to its magnitude and inability to consider the aesthetics of the area. With regard to the proposed Land Mark Tree Removal this should be an absolute denial. The trees in question are located basically in the area most conducive to the building process, however, they should not be removed and should remain visible from Sill Road, Hall and the surrounding higher ground.

In summation, respect for the land and the inability to properly service this project is the issue at hand and is of paramount concern. The inability of the designer, prompted by the developer, to integrate Habitat Aesthetically with the land by forcing one upon the other all the time disregarding placement, view shed and the association of one to the other and the non availability of supportive recourses such as Water, Traffic, Safety, Air Quality and Woodland Depletion is and will remain a Travesty if approved.

Sincerely,

Kenneth J. Walker  
Architect – Retired

CC: Luis Calcagno, Supervisor District #2  
Cosme Padilla, Planning Commissione

# Water levels will be lowest in 30 years, state says

By GARANCE BURKE  
Associated Press

FRESNO — California's second-largest storage reservoir will end this year with the lowest amount of water the state has seen in more than 30 years, Department of Water Resources director Lester Snow said Monday.

Snow spoke at a congressional hearing on California's drought in Fresno, where farmers, climate change experts and area politicians testified about the financial impacts wrought by the water shortage.

State officials are already preparing for another year of drought in 2009, prompted by low storage levels, court-ordered cutbacks, increasing demand for water and

forecasts of another dry winter, Snow told the House Subcommittee on Water and Power. Snow said "2009 could be the worst drought in California history."

Lake Oroville — which sits at the top of the vast system of state pumps and canals that send mountain river supplies to Southern California — is at 40 percent capacity now. The state's second largest reservoir will be at about 20 percent by the end of December, Snow said.

Lake Shasta, the state's largest reservoir, is currently at just 48 percent capacity, department officials said. Numerous farmers told the legislators that another year of tight water supplies could spell economic disaster for the fertile San Joaquin Valley.