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April 21, 2017

Mary Adams, Chair, and Members of the Board of Supervisors
County of Monterey
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Re: Carmel Valley Association objections to the Hilltop Ranch applications and code violations – PLN130041, PLN140234, 15CE00348, PLN160833
62 East Carmel Valley Road, Carmel Valley Master Plan area.

Dear Chair Adams and Supervisors Alejo, Parker, Phillips and Salinas:

Carmel Valley Association (CVA) objects to the new 2016 permit application by the Hilltop Ranch Vineyard in Carmel Valley. CVA has objected over the years to unpermitted commercial activities and special events at the site, and to the 2013 and 2014 applications (PLN130041, PLN140234) that seek County permits for commercial activities at the site. The County describes the pending 2014 application as this:

PLN140234 – HILLTOP RANCH & VINEYARD LLC:

Use Permit to allow assemblages of people including corporate wine educational dinners and social events for up to 250 people at a time, not exceeding ten events per year located both within an existing 2,400 square foot barn and outdoors on existing lawn areas and within the vineyard. Planning Commission determination of what constitutes an allowed ancillary use within a vineyard.

In 2014, CVA submitted to the County a detailed letter objecting to the applications.

In 2015, a County code enforcement case arose from commercial activities that took place at Hilltop Ranch without benefit of a County permit (15CE00348). The status of that code enforcement case and the further site violations since then has been disrupted by County staff. It is currently muddled.

In 2016, the Hilltop Ranch made a third project application to the County. The third application seeks an “administrative permit” for uses similar to those Hilltop requested in its 2013 and 2014 applications. The new 2016 application is described as this:

PLN160833 – HILLTOP RANCH & VINEYARD LLC

Administrative Permit to allow the vineyard (Hilltop Ranch) to operate in relation to the tasting room (Cima Collina), permitting routine vineyard activities (i.e., wine business dinners/meetings, members tastings, educational programs, etc.).

Carmel Valley Association Objects to the Hilltop Ranch Applications
Which All Seek Approval of Prohibited Commercial Uses In a Residential Zone

CVA objects to the newest application (PLN160833) by Hilltop Ranch for “vineyard activities” including “wine tasting,” “marketing activities” and “educational programs” at the vineyard. The request, if approved, would be precedent-setting and would require prior CEQA review. CVA objections include these:

- Back door piecemeal attempt. PLN160833 is an attempt to stage commercial events at Hilltop Ranch by seeking much of what the pending PLN140234 application also seeks. The similarities are evident.
 - The 2014 application proposes “corporate wine educational dinners and social events.”
 - The 2016 application proposes “wine business dinners/meetings, members tastings, educational programs, etc” with no limit on frequency or number of attendees.
- Zoning violation. The proposal is for a commercial use not allowed in and inconsistent with the LDR zone. The conditional use is not allowable and cannot be permitted legally. The vineyard is in a residential zone and surrounded by residential uses.
- Significant environmental impacts: including noise, traffic impacts on Carmel Valley Road and Highway One, sewage disposal, water demand, water supply, fire safety, food preparation, and more.
- AWCP policies are inapplicable in CV. The County planners have alluded to the policies in the Ag Wine Corridor Plan (AWCP) of the County General Plan, and claimed that the AWCP policies somehow allow the proposed uses at Hilltop Ranch. The claim is baseless. The Salinas valley AWCP policies do not apply to Carmel Valley, The General Plan is specific about the limits of the wine corridor, and the corridor does not include Carmel Valley. The County General Plan EIR did not evaluate the impacts of extending AWCP policies to Carmel Valley, and the AWCP policies are the subject of pending litigation, in any event.
- No precedent. The proposal seeks to get special favorable treatment for (1) the proposed commercial uses of the vineyard *in a residential zone* due to its “relation to” (2) a tasting room in Carmel Valley Village *in a commercial zone*. The “relation to” claim has no basis in planning and zoning law.

- Violation of the County's Proof of Access ordinance. The neighbors on the private road oppose the application and its proposed commercial use of the private shared road. Safety is a major concern, especially considering the steep banks, narrow creekside location, buses, and private vehicles whose occupants' focus would be on drinking wine.
- Inconsistent with the County position on events in a vineyard. The official County position is as follows:

Can events be held in a vineyard?

No. Events are not associated with a vineyard by itself (Ag is an allowed use in many zoning districts). However, if the vineyard is on a parcel permitted for a winery and/or tasting room the vineyard may be used in support of activities associated with the winery. Marketing activities such as buyers touring the vineyard and tasting wine (limited number not including music or tents) would be allowed in agricultural zoning classifications (F, RG, PG, AP, CAP).

(Oct. 17, 2016, Director's Interpretation, emphasis added [annotated excerpts included as Exh. A to this letter].) To recap, the County's stated position is that:

- Events cannot be held in a vineyard.
- Special events uses are not properly associated with a standalone vineyard use, meaning a vineyard at a different site from its winery.

Thus, the 2014 and 2016 applications cannot be approved and must be denied. In any event, the Hilltop Ranch vineyard is not in an agricultural zone and does not qualify for the exception claimed by the County for agriculturally zoned areas.

The 2016 Application Has the Same Issues and Problems as the 2013 and 2014 Applications

PLN160833 suffers from the same problems identified by CVA in CVA's 2014 letter that is attached to this letter as Exhibit B. CVA restates each of its objections as if fully set forth herein.

CVA also joins in the objections stated in detail in the March 1, 2017 letter by the neighbors of the Hilltop Ranch site objecting to PLN160833. That letter was authored

by Anthony Lombardo and is attached as Exhibit C. That letter goes into detail as to many reasons why the project should be denied. Under the California Environmental Quality Act (CEQA, Pub. Resources, § 21000 et seq.), any person or entity may raise issues in litigation that were presented to the public agency by any other person or entity. (Pub. Resources Code, § 21177(a).)

The Hilltop Ranch/Cima Collina Applications Require Comprehensive CEQA Review

The three Hilltop Ranch/Cima Collina applications show what the applicant is trying to do: add commercial uses to a vineyard that is located in a quiet residential neighborhood on a site zoned LDR – Low Density Residential. The three applications are all part of the same effort. The County must consider them together.

Dividing up the development request into separate applications is called “piecemealing.” CEQA prohibits piecemealing of projects. (E.g., CEQA Guidelines, §§ 15065(a)(3), 15300.2(b); *Laurel Heights Improvement Association v. The Regents of the University of California* (1988) 47 Cal.3d 376, 396, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1226.)

Contrary to the requirements of CEQA, the County has encouraged piecemealing. For example, Mr. Holm expressly advised the applicant in 2016 to apply for an “administrative permit,” according to County records. Then Mr. Holm agreed to make a “Director’s interpretation” to facilitate the new permit, all without holding a public hearing or presenting the issues to the Planning Commission, and without adequately acknowledging the pending 2014 application for similar commercial uses.

The impacts, the piecemealing, and the highly controversial nature of the applications and code violations at the site require the County to prepare an EIR.

Requests

Carmel Valley Association requests that any County consideration of anything involved with the Hilltop Ranch be placed on a public hearing with at least ten days’ advance notice to CVA.

CVA requests that the County not issue an administrative permit or an “interpretation” applicable to the site, contrary to the private offer by County Resource Management Agency Director Carl Holm to the applicant in March 2017. Make no mistake: None of the Hilltop Ranch applications qualify for administrative approval.

CVA requests that no Hilltop Ranch matter proceed until the County has first:

1. Investigated what appears to be secretive back-room agreements with the Hilltop Ranch applicant’s attorney and agents.

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2. Made this letter part of the public record on each of the projects.
3. Prepared an environmental impact report in full compliance with CEQA. Alternatively, a more efficient approach would be for the County to deny the pending applications outright because the projects cannot be legally permitted. No CEQA review is required for projects that are denied.

If the County refuses to agree to any of these requests, please promptly advise me so CVA can consider its options.

Thank you.

Very truly yours,

STAMP | ERICKSON


Molly Erickson

cc: Charles McKee, County Counsel
Chair Cosme Padilla and members of the County Planning Commission
Carl Holm, Director, Resource Management Agency

Attachments: Exhibits A, B and C

Director's Interpretation

Please note that this memorandum is issued solely for informational purposes, written to provide the Board of Supervisors, Planning Commission, Public and staff a written interpretation of how special events are currently considered..

Date: October 17, 2016

By: Carl P. Holm, AICP, RMA Director

Application: County-wide

What is the Question?

A question that was presented by the public is: *“How can a golf and country club in P/QP zoning be allowed to exceed the number of members and guests for which it was permitted for any purpose, and in particular a commercial purpose not remotely related to the anticipated operation of a golf and country club, without a specific use permit. (Assemblages of people such as this could be allowed within reasonable parameters with a use permit for up to 10 days per year – the Code provides a path for this.) Such a permit should clearly explain the parameters of the event as well as the methods by which any impacts will be mitigated.”*

Questions raised by this inquiry:

- 1) Can a golf course/country club have events?
- 2) Is there a limit on the number of people that can attend an event?
- 3) Can wineries/tasting rooms hold events?
- 4) Can events be held in a vineyard?

Applicable Monterey County Policy/Regulation:

- Zoning Code - Uses:
 - P/QP uses/zoning; allowed in most zoning designations with a Use Permit. P/QP allows golf courses and country clubs with a Use Permit/Coastal Development Permit.
 - “Assemblages of people...”; allowed in most, if not all, zoning districts with a Use Permit/Coastal Development Permit.
 - “Other uses of similar nature, density and intensity as those listed...”; language contained in all zoning districts, subject to approval of Planning Commission.
- 20.58/21.58 MCC (Regulations for Parking).
- AWCP Section 3.2: allows events up to 150 people (allowed without a planning permit)
- AWCP Section 3.3: events with 151-500 subject to ministerial permit
- AWCP Section 3.4: events over 500 require a use permit
- 15.20.050 MCC: Public Assemblage. Maximum 10 calendar days per year.
- CEQA – Baseline: Generally is the condition at the time the environmental assessment is made or in the case of an EIR when the Notice of Preparation (NOP) is issued.

Director's Interpretation

- **21.68.020 - Legal nonconforming land use.**

A legal nonconforming land use may be continued from the time that legal nonconforming land use is established, except that.

- A. No such use shall be expanded, enlarged, increased, or extended to occupy a greater area than that occupied when the legal nonconforming use was established.*
- B. No such use may be intensified over the level of use that existed at the time the legal nonconforming use was established.*
- C. The legal nonconforming use may be changed to a use of a similar or more restricted nature, subject to a Use Permit in each case.*

- **21.68.030 - Legal nonconforming structure use.**

A legal nonconforming use of a structure may be continued except that:

- A. The nonconforming use of a structure may be changed to a use of the same or more restricted nature subject to the issuance of a Use Permit in each case.*
- B. The nonconforming use of a portion of a structure may be extended throughout the structure subject to the issuance of a Use Permit in each case.*
- C. A structure maintaining a legal residential nonconforming use may be increased for the expansion of the use by one hundred twenty (120) square feet, or ten (10) percent of the floor area, whichever is greater.*

Short Answers:

The following numbered responses correspond to the questions, above:

- 1) Yes. Events are considered part of this type of use. However, the event needs to be on the parcel(s) identified in the permit.
- 2) Yes. Threshold depends on zoning regulations in place at the time the event is/was established and if there is a valid entitlement with any limitation, such as: application, adopting resolution, environmental documentation, site design (e.g. parking lot).
- 3) Yes. Events are considered part of this type of use. However, the event needs to be on the parcel(s) identified in the permit.
- 4) No. Events are not associated with a vineyard by itself (Ag is an allowed use in many zoning districts). However, if the vineyard is on a parcel permitted for a winery and/or tasting room the vineyard may be used in support of activities associated with the winery. Marketing activities such as buyers touring the vineyard and tasting wine (limited number not including music or tents) would be allowed in agricultural zoning classifications (F, RG, PG, AP, CAP).

Discussion:

Events can cause issues (noise, traffic, etc) if not managed properly. Most types of events require a permit of some sort – land use entitlement can include a use permit for an assemblage of people or public/quasi public use, building permit for structures (e.g. tents over 400 sf), ABC permit for alcohol sales, permit for chemical toilets (maximum 10 days per year), encroachment

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May 18, 2014

Janet Brennan, Chair
Carmel Valley Land Use Advisory Committee
County of Monterey
168 W. Alisal Street
Salinas, CA 93901

Subject: PLN140234/PLN130041 – Hilltop Ranch (May 19, 2014 agenda)

Dear Ms. Brennan and members of the Carmel Valley Land Use Advisory Committee:

This Office represents the Carmel Valley Association (CVA). CVA objects to the proposed applications for new commercial uses of the Hilltop Ranch property. The project should be denied due to its incompatibility with the neighborhood and the unmitigated potentially significant adverse environmental impacts. (County Code, § 21.04.030.)

In this letter, we first address the law of conditional use permits, the law of zoning, and the specific zoning applicable to the Hilltop Ranch location. We then address the Hilltop Ranch applications, the California Environmental Quality Act (CEQA), and the environmental impacts of the proposed use. This letter is intended as the expression of the views of CVA on the specific facts and circumstances presented by the specific applications of Hilltop Ranch.

**A Conditional Use Permit Is Appropriate Only for Uses that Are
(1) Appropriate to the Location and (2) Permitted in the Zoning Ordinance.
Those Requirements Are Not Met Here.**

A use permit may be granted only if (1) the use is compatible with the proposed location and other criteria identified in the zoning ordinance and area plan, and (2) it is a use permitted in the zoning ordinance. The Hilltop Ranch applications seek approval for a commercial wedding and special event use that is not appropriate to the location and that is not listed in the zoning ordinance for the applicable zone.

The Fifth District California Court of Appeal addressed a remarkably similar issue in *Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal.App.4th 997 (*Neighbors*). In *Neighbors*, the owners of a 37-acre property – including vineyards and water storage ponds – applied to Tuolumne County for permission to operate a business hosting weddings and other special events. The zoning ordinance did not permit such uses at the site. The site was bordered on three sides by residences on lots of two to five acres. (*Id.* at p. 1001.) The neighbors opposed the application due to noise and parking problems experienced during the

wedding of the owners' daughter. The owners then withdrew the application (*id.* at pp. 1001-1002).

A month later, the property owners submitted a revised application for the business, seeking to add as conditional uses in the applicable zoning districts, "lawn parties, weddings, or similar outdoor activities" (*Neighbors, supra*, at p. 1002). The Tuolumne County Board of Supervisors declined to amend the zoning ordinance to allow weddings and special events in the applicable zone. (*Ibid.*) However, the County staff "opined that the county could still approve the . . . application by creating a special exception to the zoning ordinance" (*id.* at pp. 1002-1003).

The Tuolumne County Board of Supervisors then approved a development agreement at the site that purported to grant an exception to the zoning ordinance, along with a conditional use permit for "commercial events such as lawn parties, weddings or similar activities" (*Neighbors, supra*, at p. 1003). The County also approved a mitigated negative declaration under CEQA stating that, with mitigation measures, the project would not have a significant effect on the environment. (*id.* at p. 1003) The neighbors sued. The trial court and the Court of Appeal agreed with the neighbors and held that the County had not followed Planning and Zoning Law (Gov. Code, § 65000 et seq.) because the use was not permitted in the zone. (*id.* at pp. 1003-1004, 1016.)

A Use Permit Is Discretionary.
Which Means an Application for a Use Permit Can Be Denied.

A conditional use permit is a method by which a County can approve a use that is not strictly allowed as a matter of right in the zone. An application for a conditional use permit is evaluated on a case-by-case basis, and a permit is granted only if the use is compatible with the proposed location and other criteria in the zoning ordinance. Some types of uses raise site-specific concerns such as potential noise, traffic, and parking, which is why a case-by-case evaluation is essential. Because a conditional use permit can be considered for a use that "could be incompatible in some respects with the applicable zoning, a special permit is required." (*County of Imperial v. McDougal* (1977) 19 Cal.3d 505, 510.)

A use permit runs with the land. (*County of Imperial v. McDougal, supra*, 19 Cal. 3d 505, 510.) A use permit does not expire automatically even when a condition to the conditional use permit provides for an expiration within a matter of years. (*Community Development Commission of Mendocino County v. City of Fort Bragg* (1988) 204 Cal.App.3d 1124, 1131-1132; *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530-1531.) The Monterey County staff's proposed attempt to limit the proposed PLN140234 use permit to three years is of dubious enforceability.

The careful consideration of use permits is so important that Monterey County requires two key steps:

1. All use permit applications are subject to a public hearing with notification of the neighbors (County Code, § 21.74.050.A), and
2. The County must deny any application if the County finds that “under the circumstances of the particular case” the use could “be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood.” (County Code, § 21.74.050.A.)

The Monterey County Zoning Ordinance Does Not Allow
the Proposed Commercial Uses in the Low Density Residential Zone.

The Hilltop Ranch property is in the Low Density Residential (LDR) Zone. The County Zoning Ordinance clearly states the purposes of the LDR Zone:

[T]o provide a district to accommodate low density and intensity uses in the rural and suburban areas of the County of Monterey and to insure that allowable land uses are compatible in the area. (§ 21.14.010)

The Zoning Ordinance states three categories of uses in the LDR Zone:

Category 1. Low impact “Allowed uses”: Numerous uses are allowed as a matter of right – these uses include a single family residence, similar low-intensity residential uses like day care, low-intensity farming uses, and cottage industries (§ 21.14.030 “Uses allowed”). The proposed Hilltop Ranch use is not a use that is allowed as a matter of right in the LDR zone.

Category 2. Medium impact “Administrative Permit”: Next, LDR zoning identifies more intense uses that require an administrative permit (§ 21.14.040 – Administrative Permit). This category is for specific types of housing, such as a second housing unit, and small water system facilities. The proposed Hilltop Ranch use does not qualify for that “administrative permit” category.

Category 3. Highest impact category “Use Permit”: The most intense category of uses that the County will consider for parcels in the LDR zone are specifically listed as “Use permit required in each case.” (§ 21.14.050). This category is discretionary, which means that the County can and should deny applications if the proposed use is not a good fit with the location and the neighborhood. A special permit is required, and this category of uses are not allowed as a matter of right. (*Neighbors in Support of Appropriate Land Use v. County of Tuolumne, supra*, 157 Cal.App.4th 997, 1006.) There is no guarantee that the County will approve applications that fall into this third category. The Hilltop Ranch applicant is arguing that this third category applies to the proposed commercial use for weddings and special events.

The pre-eminent policy in the Carmel Valley Master Plan says that "All policies, ordinances, and decisions regarding Carmel Valley shall be consistent with the goal of preserving Carmel Valley's rural character." (Carmel Valley Master Plan, policy CV-1.1.) If the environmental benefits of land use planning are to be enjoyed, Monterey County must take affirmative steps to protect and preserve the quality of life of its residents.

The 2013 Project

In April 2013, Hilltop Ranch submitted an application for: 1) a "Use Permit to allow the use of the property to include: a) up to 25 wine hospitality and viticultural functions per year with up to 75 attendees; and b) up to 10 social events in a vineyard setting including engagement parties, wedding ceremonies and/or wedding receptions with 75-250 guests and staff at each gathering" – which the County described as "a Use Permit to allow for assemblages of people to conduct private vineyard and wine educational tours; weddings, non-profit and business events, and in-house winery events for club members" – and 2) a permit for transient occupancy of an existing dwelling. (See County project description, PLN130041, April 15, 2013 LUAC meeting.) The events proposed to use four parcels:

APN 197-011-015-000	an existing 2,400 square foot barn and 3,600 square foot outdoor area adjacent to the barn
APN 197-011-012-000	a 1,600 square foot lawn area (adjacent to the house proposed for transient rentals)
APN 197-011-013-000	vineyard
APN 197-011-014-000	vineyard

The County did not address the issue that the zoning ordinance does not allow up to 35 special events/year in the LDR zone, as requested by the application.

On April 15, 2013, the PLN130041 application was reviewed by the Carmel Valley Land Use Advisory Committee (LUAC). The CV LUAC heard significant concerns from the public, and the LUAC expressed significant concerns about noise, traffic, parking, water, land use, lighting, lack of code enforcement, and the precedent-setting nature of the approvals, given the other nearby wineries. The LUAC voted unanimously to continue the item, stating as follows:

The matter should be continued there are too many unresolved issues. There is a need for a master plan for wineries as event space in the Carmel Valley. The cumulative impact of winery events needs to be addressed[. T]his should go to the Planning Commission for a review of the entire context.

- Clear limits in the Permit need to be drafted.
- There should be an objective measure of permitted sound levels.
- The zoning is inconsistent.
- The number of people at the maximum needs to be reduced.
- Fire and life safety issues must be addressed
- Private road issues to be addressed.
- A traffic study is needed.
- The total number of events should be reviewed.

The recommendations and comments of the LUAC were ignored.

On March 3, 2014, the CV LUAC again considered the PLN130041 application. The LUAC again heard serious concerns about noise, traffic, parking, the potential cumulative impacts of multiple winery event venues, the fact that Hilltop Ranch is a vineyard and not a winery, and more. LUAC members expressed concerns about the parking, traffic, noise and cumulative impacts of event venues. LUAC continued the item because LUAC had not had time to review the traffic study and LUAC also wanted a noise study.

On March 31, 2014, Planning Director Mike Novo stated that the County “has recently received evidence showing that unpermitted events have recently been held at Hilltop Ranch and events have already been booked for the near future” and that “The County has opened a code enforcement investigation” (see Attachment A to this letter). This open code enforcement investigation was not disclosed in staff reports to the Zoning Administrator.

The County staff has admitted that the Hilltop Ranch application PLN130041 has “issues (i.e., traffic, water and septic) that need to be resolved before that application can proceed.” (Staff report to Zoning Administrator, May 8, 2014, p. 1.)

The 2014 Project Application Is for a Part of the 2013 Project.

On April 10, 2014, Hilltop Ranch submitted a second application to the County. The 2014 application was identical to the 2013 application – in fact, it was the 2013 application, signed in 2013. The County accepted the identical application, and crossed off the handwritten “PLN130041” and instead wrote in “PLN140234.” The 2013 application is Attachment B to this letter, and the 2014 application is Attachment C.

Less than a month later, on May 1, 2014, the County planner rushed the second application to a public hearing before the Zoning Administrator. The Zoning Administrator took public comment, heard objections from the public, asked probing questions of staff, continued the item, and referred the matter to the CV LUAC for review and advice.

The planner described the 2014 project as follows:

Temporary Use Permit to allow Assemblages of people, such as corporate wine educational dinners and weddings, not exceeding ten (10) days, and not involving construction of permanent facilities until such time as the original permit PLN130041 has been finalized.

(Undated mail from E. Gonzales; see email from J. Faulk of Env. Health to E. Gonzales, April 16, 2014.) In short, the applicant has "chopped up" the original PLN130041 application into smaller pieces, and still intends to pursue the original application, as well. The approach is illegal, as described below.

CEQA Prohibits a Segmented or Piecemealed Review of the Project.

Pursuant to CEQA, a public agency is required to consider the "whole of an action" when the agency considers the environmental impacts of a project. CEQA mandates "that environmental considerations do not become submerged by chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.) Thus, the CEQA Guidelines define "project" broadly as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CEQA Guidelines, § 15378, subd. (a)).

In the seminal case of *Laurel Heights Improvement Assn. v. University of California* (1993) 47 Cal.3d 376, the California Supreme Court set aside an EIR for failing to analyze the impacts of the reasonably foreseeable second phase of a multiphased project. That case involved a plan by the University of California, San Francisco (UCSF) to move its school of pharmacy to a new building, of which only one-third was initially available to UCSF. (*Id.* at p. 393.) Although the EIR acknowledged that UCSF would eventually occupy the remainder of the building once that space became available, the EIR only discussed the environmental effects relating to the initial move. (*Id.* at p. 396.) The Court concluded that the EIR should have analyzed both phases and was deficient for omitting the expansion plans. (*Id.* at p. 399.) In so holding, the court announced the legal test: "[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." (*Id.* at p. 396.)

Numerous other cases have reinforced this holding. "CEQA forbids 'piecemeal' review of the significant environmental impacts of a project." (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1358.) A complete description of a project must address not only the immediate environmental consequences of going forward with the project, but also all "reasonably foreseeable

consequence[s] of the initial project” (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 428).

The holdings in these CEQA opinions prohibit the approach taken by Monterey County with regard to the Hilltop Ranch applications. The 2014 Hilltop Ranch application and the 2013 Hilltop Ranch application are interdependent. The Hilltop Ranch 2013 proposed project and 2014 proposed project perform the same function at the same location: private events for private customers. (See *Berkeley Keep Jets, supra*, 91 Cal.App.4th at 1361-1362.) The 2014 application proposes 10 events – part of the 35 events of the 2013 application. The 2014 application “depends on,” and is a foreseeable consequence of, approval of the 2013 application. As the County planner stated, “The applicants would like to move forward with the ability to have a limited number of special events prior to approval of the site as a location for regular special events.” (County staff report, May 8, 2014, p. 1.)

The Hilltop Ranch Projects Are Not Exempt from CEQA.

The County has claimed that PLN140234 is exempt from CEQA pursuant to CEQA Guidelines section 15304, subdivision (e). The claim is not supported by the CEQA guidelines or case law. Categorical exemptions may be provided only for classes of projects which have been determined not to have a significant effect on the environment. Accordingly, categorical exemptions should not be interpreted so broadly as to include classes of projects which would not normally fall under the exemption’s statutory requirements. This is consistent with the general rule that CEQA must be interpreted to afford maximum possible environmental protection, consistent with the reasonable scope of the statutory language. (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192-1193.) As the Sixth District Court of Appeal has held with regard to a project in Monterey County,

Since a determination that a project falls within a categorical exemption excuses any further compliance with CEQA whatsoever, we must construe the exemptions narrowly in order to afford the fullest possible environmental protection.

(*Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677, 697, emphasis added.) “Exemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.)

The CEQA exemption claimed by Monterey County, CEQA Guidelines section 15304, exempts “minor public or private alterations in the condition of land, water, and vegetation” and subdivision (e) exempts “Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc.” The described uses for that so-called “class 4 exemption” are for temporary uses of empty unimproved land – Christmas tree sales on empty lots in commercial

zones, or carnivals on undeveloped fields or school soccer fields. Those are very different from the Hilltop Ranch location in a quiet residential area, and very different from an ongoing use that would have significant environmental impacts.

The evidence in this case shows that the two Hilltop Ranch applications each could have significant environmental impacts on parking, traffic, water, sound, and other impacts, as discussed further below. Because the project would have potentially significant impacts, instead of "negligible or no permanent effects on the environment," the claimed exemption is not applicable. No other exemption applies.

Here, the County has proposed to stretch the class 4 CEQA exemption past its breaking point. The County's effort is not appropriate – the County should not try to shoehorn this commercial use into a low-density residential zone of Carmel Valley. Even if a project meets the strict definition of an exemption, its environmental impact might not be minor. (*Day v. City of Glendale* (1975) 51 Cal.App.3d 817; *California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173 [rejecting agency's use of § 15304 exemption].) As the record shows, the Hilltop Ranch project could have significant environmental impacts. Under the circumstances, a CEQA exemption is not appropriate. The project should be denied. If the project is to proceed, an initial study – and possibly an environmental impact report – would be required first for the reasons given in this letter and the many comments from the public.

Even if the Hilltop Ranch use is exempt from CEQA, which it is not, several exceptions apply, as shown by facts discussed in this letter. (See CEQA Guidelines, § 15300.2, subds. (a), (b), and (c).) In short, this application requires an initial study pursuant to CEQA.

The Proposed Commercial Use Is Not Permissible in the LDR Zone.

The County staff report for the project proposes to allow a use permit for "assemblages of people." The application echoes that language - for example, the applicant submitted a document called "Hilltop Ranch Parking Plan - Assemblages of People." The applicant's "parking plan" document is not dated, and it is not stamped "applicant submittal" as required by adopted policy of the County Board of Supervisors.

In the Low Density Residential (LDR) zone, certain uses are allowed by a conditional use permit only. One of those uses is this:

Assemblages of people, such as carnivals, festivals, races and circuses, not exceeding ten (10) days, and not involving construction of permanent facilities (ZA).

(County Code, § 21.14.050.S, emphasis added.)

The list of examples of allowable “assemblages” under this category is for “carnivals, festivals, races and circuses.” Each of those uses is open to the public. Each of those uses are temporary, impermanent happenings that may or may not happen each year. They are to be allowed only where there is adequate access, parking, and other considerations. They do not involve the construction of permanent facilities. The allowance for a time period of “not exceeding ten days” is designed to allow time for setting up temporary structures (e.g., tents, amusement rides, kiosks, games), plus time for holding an event several days in length, and time for breaking down the temporary structures.

The Hilltop Ranch application does not meet the definition for a number of reasons. CVA asserts that the nature of uses “such as carnivals, festivals, races and circuses” is inherently different from the use proposed by Hilltop Ranch. Weddings and the special corporate and club events described by the applicant are not open to the public. It is undisputed that the weddings and corporate events envisioned for Hilltop Ranch are private events. The Hilltop Ranch use is claimed to be ten days scattered throughout the year, entirely at the discretion of the applicant. The Hilltop Ranch use is designed to be a permanent use that occurs intermittently – which is different from a temporary and impermanent use like a circus or a festival.

The zoning code category for public “assemblages of people” should not be stretched past the breaking point, as the County is attempting here. This category does not include a private commercial special event use that would have significant impacts. That would not be consistent with the overriding County policy that “All . . . decisions regarding Carmel Valley shall be consistent with the goal of preserving Carmel Valley’s rural character.” (CVMP, policy 1-1.)

The Proposed Hilltop Ranch Project Would Require Construction and Development of Permanent Facilities.

As CVA members Dale McCauley and Frank Hennessy have stated in writing, the 2014 application would require the construction of permanent facilities. Facilities are things that are designed, built, or installed to fulfill a specific function. (See, e.g., Conditions 1 and 2 proposed for the 2013 project, which also would be appropriate conditions for PLN140234 if the special event use was a permissible use in the LDR zone, which it is not.)

As one example, a parking lot – with a surface with necessary drainage, space dimensions, and similar features – is considered to be a facility. The PLN140234 project would require the installation of additional parking spaces. The placement of paving or other similar ground covering for parking purposes is construction and development, as defined in the County Code. (§§ 21.06.200, 21.06.310.) The road to the Hilltop Ranch would be improved and expanded as a result of this use (see County Condition 8, PLN140234, May 8, 2014 staff report). That development would be a permanent facility required by this conditional use permit. Other new permanent

facilities required by the 2013 and 2014 Hilltop Ranch projects include remodeling the barn to create a catering/kitchen space, a 60,000-gallon water tank, fire sprinklers in the barn, fire hydrants, and reconfiguration of the access road including turnarounds, improvements, and expanded dimensions.

The Proposed Use Is Not Similar to Any Other LDR Use.

There is no zoning code category that would allow a standalone permit for ten special events of the nature that Hilltop Ranch is proposing. A senior Monterey County planning staff member has stated orally that the proposed Hilltop Ranch project might be similar to a use that allows social events for club members and guests. That argument is deeply flawed. It purports to rely on a "Country Club" use that in the LDR zone requires a conditional use permit. County Code section 21.06.230 defines "Country club" as "any premises, structures or facilities used for meetings, dining, dancing, other social events, or recreational activities for club members and guests."

A country club use has indoor enclosed facilities designed for the purpose of "meetings, dining, dancing, and other social events." Prior to approval of a country club use, the County would have prepared, circulated and approved an initial study and environmental documentation supporting the use and investigating and mitigating impacts. Country clubs have parking on site, legal and adequate access, enclosed bathrooms connected to an approved septic disposal system, a reliable water supply, and a management and staff structure familiar with holding and managing special events. Country clubs are sited where they will not have significant impacts on the neighbors, and they are sited where the neighbors know of the existence of the club when they move in, and understand the periodic impacts.

The Hilltop Ranch project is not a country club under the County definition. A country club use does not require extraordinary treatment like unenforceable claims of shuttle busses, offsite parking to which there is no legal and permanent right, no onsite water use, and portable toilets. Here, the neighbors of Hilltop Ranch reasonably expect a peaceful and quiet environment, not one impacted by commercial uses, noise, and traffic. The neighbors reasonably expect the County to protect their low density residential neighborhood and the environment. The County should not allow country club uses to be established in their neighborhood.

If the County insists on arguing that the proposed Hilltop Ranch use is like a country club, then the County should make that argument publicly, and the applicant should revise the application to seek approval for a "Country Club." Only the Planning Commission may consider an application for a Country Club; the Zoning Administrator may not. (County Code, §§ 21.14.00.C, 21.74.030.B and C.)

Environmental Impacts.

Parking: The project will have unmitigated and unidentified environmental impacts. The County has failed to comply with its own parking regulations, as described County Code chapter 21.58. The County requires that “off-street parking areas shall be provided and maintained as set forth in this Chapter.” (§ 21.58.030)

The staff analysis to date has failed to discuss and identify the applicable parking requirements pursuant to County Code section 21.58. The County’s parking requirements are required to be met, pursuant to the County’s LDR zoning (see § 21.14.060 “Site development standards”) which requires compliance with section 21.58. As another problem with the parking analysis, the applicant’s off-site parking scheme is essentially a request for a variance from the parking requirements mandated by County Code section 21.58. The County has failed to recognize this requirement. Even if the County had properly noticed the need for a variance, a variance is not appropriate under the circumstances.

The County has relied on a submittal by the applicant that attached a map marked “preliminary” and “not for County submission.” (See map attached to Gogliucci letter, p. 21 of 55-page County staff report, May 8, 2014.) The map does not contain an engineer’s stamp.

For its special events of up to 250 people, the Hilltop Ranch project proposes that event attendees drive to Carmel Valley Village, park their cars at Hidden Valley Music Seminars, and then take shuttles from Hidden Valley through the village, up the private road easement over property owned by others, to the Hilltop Ranch site. There are significant problems with the proposal.

- Hilltop Ranch has no legally enforceable right to allow parking at Hidden Valley in perpetuity or for the duration of the Hilltop use permit. This violates County Code chapter 21.58, which states that “All off-street parking facilities required by this Chapter shall be maintained for the duration of the use requiring such areas.”
- Absent those enforceable rights in place for the duration of any Hilltop Ranch use permit, Hidden Valley’s conditional permission could be rescinded at any time.
- Any parking by Hilltop Ranch customers would be conditional – only when Hidden Valley has no large events.
- Hidden Valley has events of its own on Saturdays, Sundays and weekday evenings which would pre-empt parking use by Hilltop Ranch.
- More than a dozen other operations and businesses, including Gardener Ranch, Carmel Valley Fiesta, Wine and Art Event, also use Hidden Valley for special events parking during summer weekends and other times. It is

reasonably foreseeable that parking at Hidden Valley would not be available for parking by Hilltop Ranch for one or more of its large events.

Traffic: The proposed use would create traffic, including possible 150 cars for a single event traveling on Carmel Valley Road. Carmel Valley Road is already at an "Unacceptable" Level of Service E on two road segments over which Hilltop Ranch traffic would pass. Highway One is at Level of Service F, and pursuant to County policy even one additional car at peak hour is considered a significant impact on traffic. There is no practical way to prevent the applicant from having events during peak hour. It simply cannot be done, and the County does not have the code enforcement capability to enforce such a condition. In any event, the County has not placed a condition stating the times and days of the week that events could be held, and such a condition likely would not be enforceable.

Noise: Sounds travel remarkably well and sometimes in unusual ways in Carmel Valley. It is no excuse to argue that this 2014 project is only ten events per year. As shown elsewhere, the impacts of the entire project (PLN130041 and PLN140234) must be evaluated. Over ten years there could be 100 events, and in 20 years, there could be 200 events under this permit alone. If the 2013 project is included in the calculations, as under CEQA it must be, there would be 35 events per year, which means 350 events every ten years, or 700 events every 20 years. The neighbors are entitled to peace and quiet, and the quiet enjoyment of their homes. The neighbors should not be subjected to 350 events or more every ten years. The special events foreseeably would include the sounds of a public address system and amplified music. People at parties involving alcohol often make loud and sustained noise. The project must have a noise study.

Water: The County has not made an adequate and good faith effort to quantify and analyze water use. These are important issue that must be adequately investigated and disclosed before the applications can be considered. The County has acknowledged that the 2013 project raises serious and significant water impacts. The 2014 project has the same impacts. It is not enough to dismiss the important issue of water by saying that the caterer will prepare the food offsite and the portable toilets will have hand-washing facilities. By remaining silent on water use, the County approvals would allow unlimited water to be used for this commercial event business. The water use foreseeably would increase in the Cal Am service area as a result of this use.

It is reasonably foreseeable that the project would have water impacts that the County has failed to investigate and mitigate. The County cannot reasonably prohibit all new water use as a result of this project. There will be additional water use because the events would create more water demand than currently exists at the site. The caterers and party attendees would use the various water-using facilities that already exist. The plans submitted by the applicant show that the barn would be reconfigured to provide facilities customized for special events. The applicant's plans state that "Work includes electrical, plumbing and misc. finishes." (Emphasis added) The new

"kitchen staging area" that would be constructed is adjacent to a room that already has existing plumbing facilities. The remodeling and other work would require building permits, according to County records.

The Hilltop Ranch gets its water from Cal Am and from a well, according to County records. As of May 15, 2014, the County planning staff could not state what water source – well or Cal Am – supplied the various parcels, and for what purposes. As of May 18, 2014, the County had not responded to specific questions about the water sources and uses.

Cal Am water: The SWRCB Order WR 2009-0060 against Cal Am, also called the Cease and Desist Order, prohibits Cal Am from serving new or intensified uses. Condition No. 2 of Order WR 2009-0060 prohibits Cal-Am from serving an increased use of water at an existing service address due to a change in zoning or use. The State Water Board has specifically explained as follows:

Condition 2 prohibits any increased water use at an existing service address that results from a change in zoning or use approved by either MPWMD or a local land use authority after October 20, 2009.

(SWRCB letter to Cal Am, April 9, 2012, p. 3.) A discretionary approval by the County – the local land use authority – of the proposed Hilltop Ranch use would allow an increased water use. Therefore, the application would violate the Cease and Desist Order.

The Cease and Desist Order prohibits a "change in zoning or use at an existing service address." Cal Am and the State Water Board have concluded that the addition of a fire service connection due to a remodel, where such connection is required by the Fire Code, is not allowed if the addition constitutes a "change in zoning or use at an existing service address." (SWRCB letter to Cal Am, April 9, 2012, pp. 3-4.) This Office has asked the County whether a fire service connection would be required as a result of the proposed Hilltop Ranch use, and the County has not responded.

Well water: According to the Monterey Peninsula Water Management District, the active onsite well pumps water from the Carmel Valley Alluvial Aquifer. The MPWMD manages the water in the aquifer. As of May 16, 2014, the County planning staff had not consulted with the MPWMD staff regarding the proposed Hilltop Ranch applications. Attachment D to this letter shows the location of the Hilltop Ranch well. Attachment E shows the pumping from the well over the last ten years..

Access: The burden of proof is on the applicant to prove that the applicant has legal access for the proposed use. The Hilltop Ranch has an easement across properties owned by others. Under the facts and circumstances presented here, the applicant has not demonstrated legal access for the proposed commercial use at Hilltop

Ranch. The additional burdens placed on the easement may not be legal. Determining the legality of access for this use is a highly factual investigation and dependent on facts available to the owners of the dominant tenement and servient tenements. The County has not adopted the private road ordinance that would have provided some guidance to the County on this issue.

The Hilltop Ranch applicant has asserted that a chain of title report was done for the applicant's claimed road easement (March 20, 2014 letter from J. Panzer). However, the applicant did not attach the entire report. Instead, the applicant presented one document and claimed that it was carried forward to all subsequent deeds. (*Id.* at p. 1.) The County cannot rely on mere representations by the applicant. A representation of the applicants is not reliable because the applicant has "a vested interest" in asserting a claim that would "allow the project to go forward." (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 122). The *Save Our Peninsula* case was about the September Ranch subdivision application in Carmel Valley. In that case, the Sixth District Court of Appeal rejected the County's reliance on a claim that the applicant had made, because the County had relied unquestioningly on the claim about water without investigating and confirming it. (*Ibid.*)

County files also show that Hilltop Ranch representatives have tried to claim that its proposal is similar to Holly Farm and Chateau Julien. Those two locations are very different from the Hilltop Ranch location. In this letter we identify just a few of the differences. Holly Farm and Chateau Julien are located directly on Carmel Valley Road, with direct access to the road – without easements over property owned by another. They have plenty of parking. They are on the valley floor, where sound travels differently. They were businesses established before the Cease and Desist Order against Cal Am went into effect.

Ordinance: The County is actively processing an ordinance on short term rentals and special events which would address the wedding and special event uses proposed by Hilltop Ranch, as well as the transient occupancy request in the 2013 Hilltop Ranch application. The County ordinance will be subject to CEQA review. It would be premature for the County to consider the proposed use at Hilltop Ranch prior to the County's analysis of the environmental impacts of special events and the County-wide regulation of special events.

Past Grading: Storage Permit

Grading for agricultural reservoirs require a permit from the County. (County Code, §§ 16.08.090 16.08.040.J.) The County's Accela database for this site – 62 East Carmel Valley Road and for APN 197-011-015-000 – does not show a County grading permit for the onsite reservoir at Hilltop Ranch. The County should address this issue. As a separate matter, storage of pumped groundwater typically requires a permit. It is unknown whether Hilltop Ranch has a permit for the water stored in its reservoir.

Request

The project should be denied due to the lack of neighborhood compatibility, the presence of conflicts with the County zoning code, and unmitigated environmental concerns. An initial study is required pursuant to CEQA, if the applicant wants to pursue the project.

The Carmel Valley Association joins in all the concerns and objections expressed by others on these projects.

Thank you.

Very truly yours,

STAMP | ERICKSON



Molly Erickson

Attachments:

- A. March 31, 2014 letter from Mike Novo re: code enforcement violation
- B. 2013 application (PLN130041)
- C. 2014 application (PLN140234)
- D. Well location at Hilltop Ranch (MPWMD record)
- E. Well water production from wells at Hilltop Ranch (MPWMD record)

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Benny J. Young, Director
Carl P. Holm, AICP, Deputy Director



Michael A. Rodriguez, C.B.O., Chief Building Official
Michael Novo, AICP, Director of Planning
Robert K. Murdoch, P.E., Director of Public Works

168 W. Alisal Street, 2nd Floor
Salinas, CA 93901
<http://www.co.monterey.ca.us/rma>

March 31, 2014

VIA EMAIL

Annette Hoff Danzer
Annette@cimacollina.com;
Michele Gogliucci
michelemgogliucci@gmail.com;
Joel Panzer
joel@mwruck.com;

RE: Social Activities at Hilltop Ranch

Dear Annette, Michele and Joel,

The RMA-Planning department has recently received evidence showing that unpermitted events have recently been held at Hilltop Ranch and events have already been booked for the near future.

The County has opened a code enforcement investigation. Should you continue to hold events at Hilltop Ranch, you will be required to pay double fees on your current planning permit PLN130041 (\$11,066.93 x 2), and code enforcement will begin issuing citations for the illegal activities, which could become costly.

Please halt all illegal activities until such time that you have obtained the entitlements.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Novo".

Mike Novo
Director of RMA - Planning

Cc: code enforcement



MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY
PLANNING DEPARTMENT
168 WEST ALISAL, 2ND FLOOR, SALINAS, CA 93901
OFFICE: 831.755.5025 FAX: 831.757.9516

DEVELOPMENT PROJECT APPLICATION

PLN B0041

This application is for:

- Combined Development Permit
- Rezoning
- Administrative Permit [Coastal Non-Coastal]
- Use Permit
- Variance
- Design Approval
- General Development Plan
- Coastal Development Permit
- Modification of Conditions
- Local Coastal Plan Amendment [L.U.P. or C.I.P.]
- General Plan Amendment
- Other _____
- Tentative Parcel Map [Minor Subdivision]
- Tentative Map [Standard Subdivision]
- Vesting Tentative Map
- Preliminary Map
- Preliminary Project Review Map
- Lot Line Adjustment [Major/Minor]
- Revised Tentative Map
- Revised Tentative Parcel Map
- Amended Final Map
- Amended Parcel Map
- Subdivision Extension Request

1. Owner[s] Name: Richard Lumpkin
 Address: 62 E. Carmel Valley Rd City: Carmel Valley State: CA
 Telephone: 217-254-3425 Zip Code: 93924
2. Applicant's Name: Annette Hoff Denzer
 Address: 3344 Paul Davis Drive #6 City: Marina State: CA
 Telephone: 831-384-7806 Zip Code: 93933
3. Applicant's interest in property [Owner, Buyer, Representative, etc.] Representative / Employee

4. Property address and nearest cross street: 62 E. Carmel Valley Rd, Carmel Valley 93924
Cross street Jolie Vista
5. Assessor's Parcel Number[s]: 197-011-012 thru -015
6. Current Zoning: LDR
7. Property area [acres or square feet]: 20 acres total over 4 parcels
8. Describe the proposed project: Special Events on site including educational tours, weddings, corporate & non-profit events, transitional use of "guesthouse" in conjunction with events or as a short-term, vacation rental

9. REZONING OR AMENDMENT ONLY: The applicant wishes to amend Section _____ of the Monterey County Code, from a _____ Zoning District to a _____ Zoning District or some other classification.

10. GENERAL PLAN AMENDMENT OR COASTAL PLAN AMENDMENT ONLY: Describe the proposed amendment:

11. SUBDIVISION INFORMATION ONLY: Number of Lots: _____
 Purpose of Subdivision: Sale: Lease: Financing: Other: _____

12. LOT LINE ADJUSTMENT INFORMATION ONLY: What is the purpose of the adjustment: _____

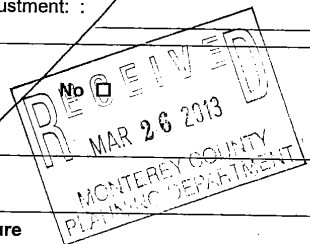
WILL THE ADJUSTMENT RELOCATE THE BUILDING AREA? Yes No

ADJUSTED PARCEL SIZE[S]: _____

Owner's Signature _____ Owner's Signature _____

Owner's Name [Please Print] _____ Owner's Name [Please Print] _____

Assessor's Parcel Number _____ Assessor's Parcel Number _____



13. VARIANCES ONLY: Describe the proposed variance: _____

14. If new or additional construction is proposed, complete the following information: n/a
- A. Residential Development: Single Family Residence Other [how many total units] _____
 No. of covered parking spaces _____ No. of uncovered parking spaces _____ Lot Coverage _____ %
- B. Commercial or Industrial Development: No. of employees [include all shifts] _____ n/a
 No. of covered parking spaces _____ No. of uncovered parking spaces _____
 No. of Loading Spaces _____ Lot Coverage _____ %
15. Will grading or filling be required: Yes No Cubic Yards _____
16. Will the project require placement of structures, roads, grading cuts or fills on slopes of 30% or greater: Yes No
17. Will any trees be removed: Yes No If yes, indicate the number, specie[s] and diameter: _____

Other vegetation to be removed: _____

18. How will water be supplied: Individual Wells Mutual System _____
 Name of Public or Private Water System: and C&I - Arm Connection
19. How will sewage or other waste be disposed: for events - portable toilets; septic tank
 Name of Public or Private Sewer System: Tom's Septic
20. Is this land currently in row crop production: Yes No
21. Is this land used for grazing: Yes No
22. Is this land under an Agricultural Preservation Contract: Yes No If yes, indicate the Contract No. _____
23. Is this proposed project located on a hazardous waste facility: Yes No [Government Code 65962.5]. [A list of hazardous waste sites is maintained by the Environmental Health Dept., Phone 831-755-4500.]

I/We state that as the owner[s] or agent for owner[s] for the development permit application. I/We have read the complete application and know the contents herein. I/We declare under penalty of perjury that the information contained in this application including the plans and documents submitted herewith are true and correct to the best of my/our knowledge.

Dated: March 23, 2013 at Hilltop Ranch, Central Valley, California
 I declare under penalty that I am authorized by the owner[s] of the described property to make this application.

Richard A. Lumpkin
 Owner's Name [Please Print or Type]

Annette Hoff Danzer
 Agent's Name [Please Print or Type]

Richard A. Lumpkin
 Owner's Signature

Annette Hoff Danzer
 Agent's Signature

Some application fees are charged on a deposit basis. Processing hours in excess of the deposit will be billed to the applicant at an hourly rate, prior to issuance of entitlements or permits. Processing hours less than the original fee will be refunded at the same rate after issuance of the entitlements or permits.

For Department Use Only

Plan Designation: Residential Area Plan / Land Use Plan: CUMP
 Legal Lot: yes Zoning Violation Case No.: _____
 Property Owner Verified: Yes No Height: _____ Lot Coverage _____
 Setbacks: F _____ R 7 S _____ Special _____ OPL _____
 FAR _____ Fire Haz. _____ SRA _____ Flood _____
 Advisory Committee: CVLUAC
 Geo. Hazard Zones: _____ Arch. Sensitivity Zone: High ESH: NOPE
 Misc.: _____
 Application Given Out By: [Signature] Date: 2/27/13
 Application Received By: [Signature] Date: 3/26/13



PLANNING DEPARTMENT

168 WEST ALISAL, 2ND FLOOR, SALINAS, CA 93901

OFFICE: 831.755.5025 FAX: 831.757.9516

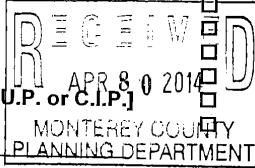
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PW

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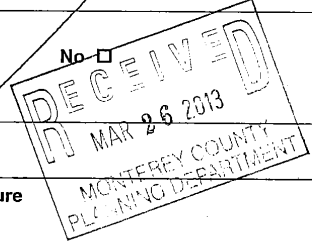
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ADJUSTED PARCEL SIZE[S]: _____

Owner's Signature _____ Owner's Signature _____

Owner's Name [Please Print] _____ Owner's Name [Please Print] _____

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No. of covered parking spaces _____ No. of uncovered parking spaces _____ Lot Coverage _____ %

B. Commercial or Industrial Development: No. of employees [include all shifts] _____ n/a

No. of covered parking spaces _____ No. of uncovered parking spaces _____

No. of Loading Spaces _____ Lot Coverage _____ %

15. Will grading or filling be required: Yes No Cubic Yards _____

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Other vegetation to be removed: _____

18. How will water be supplied: Individual Wells Mutual System _____

Name of Public or Private Water System: End-Cut-Ann Connection

19. How will sewage or other waste be disposed: for events - portable toilets; septic tank

Name of Public or Private Sewer System: Tom's Septic

20. Is this land currently in row crop production: Yes No

21. Is this land used for grazing: Yes No

22. Is this land under an Agricultural Preservation Contract: Yes No If yes, indicate the Contract No. _____

23. Is this proposed project located on a hazardous waste facility: Yes No [Government Code 65962.5]. [A list of hazardous waste sites is maintained by the Environmental Health Dept., Phone 831-755-4500.]

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Owner's Name [Please Print or Type]

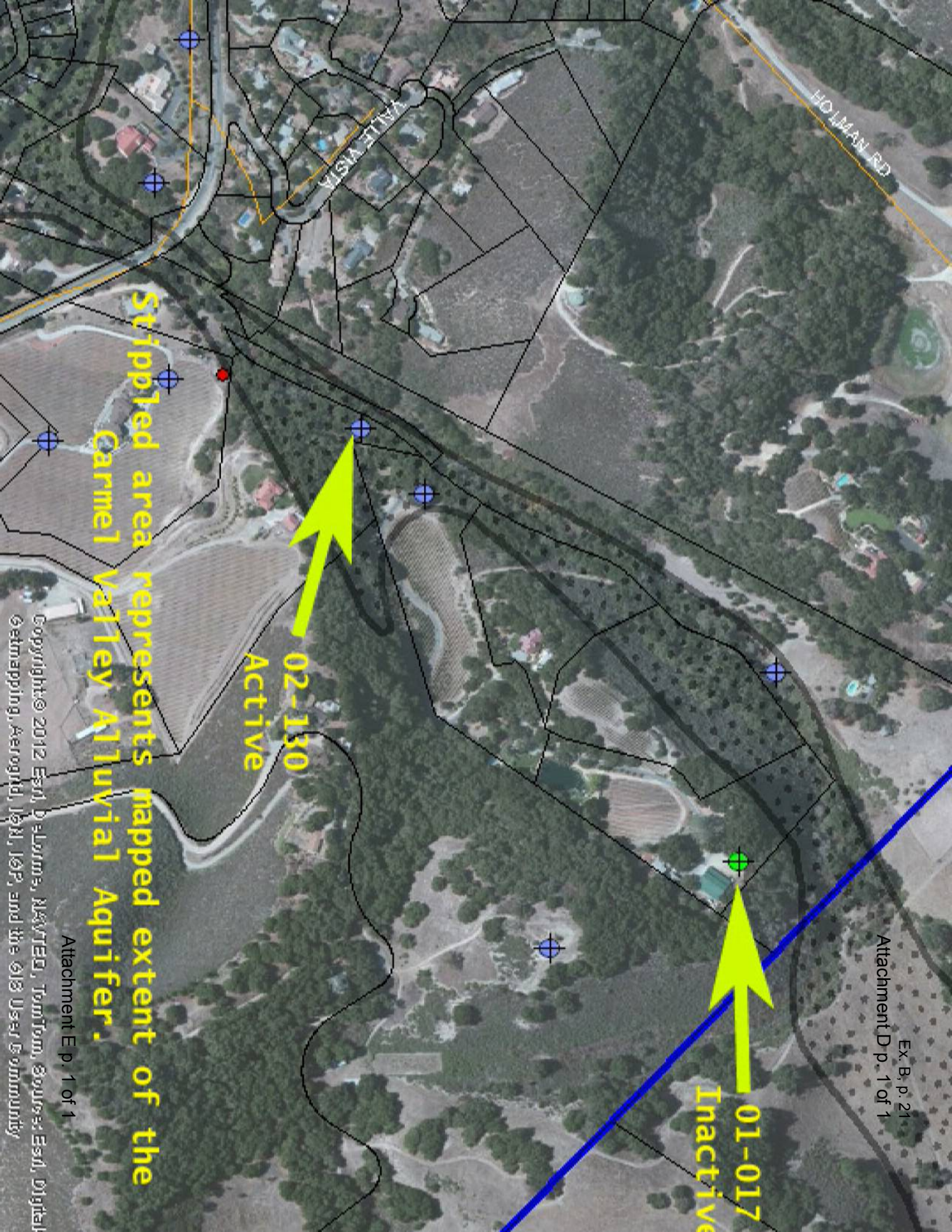
Annette Hoff-Danzel
Agent's Name [Please Print or Type]

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For Department Use Only			
Plan Designation: <u>Residential</u>	Area Plan / Land Use Plan: <u>CUMP</u>		
Legal Lot: <u>yes</u>	Zoning Violation Case No.:		
Property Owner Verified: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Height:	Lot Coverage _____	
Setbacks: F _____ R <input checked="" type="checkbox"/> S _____	Special _____	OPL _____	
FAR _____	Fire Haz. _____	SRA _____	Flood _____
Advisory Committee: <u>Civilian</u>			
Geo. Hazard Zones: _____	Arch. Sensitivity Zone: <u>High</u>	ESH: <u>NOPE</u>	
Misc.:			
Application Given Out By: <u>[Signature]</u>	Date: <u>2/27/13</u>		
Application Received By: <u>[Signature]</u>	Date: <u>3/26/13</u>		



Stippled area represents mapped extent of the Carmel Valley Alluvial Aquifer.

02-130
Active

01-017
Inactive

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

**Production History for Lumpkin Wells
APNs 197-011-012 and 197-011-015**

All values in Acre-feet (AF)

1 AF = 325,851 gallons

Water Year	-012		-015	
	lower		upper	
WY 2002	1.58		2.43	
WY 2003	3.95		2.42	
WY 2004	14.02		1.72	
WY 2005	9.79		0.00	
WY 2006	2.41		0.48	
WY 2007	1.11		0.00	
WY 2008	1.11		0.00	
WY 2009	3.03		0.00	
WY 2010	3.03		0.00	
WY 2011	9.68		0.00	
WY 2012	0.91		0.00	
WY 2013	1.46		0.00	

Notes:

1. WY = Water Year, runs from October 1 to September 30.
2. Permit 01-017 for upper well on 197-011-015. Meter was inspected in June 2001, but according to our records it was not active till after September 2001.
3. Permit 02-130 for lower well on 197-011-012
4. Production for WY 2005 was adjusted to account for a period longer than 12-months, meter readings were reported from September 30, 2004 and February 24, 2006.
5. Production for WY 2006 was calculated from meter readings from February 2006 and February 2007. Last record of any production from the upper well.
6. No reports filed in WY 2007; production shown is assumed half of total on meters between February 2007 and September 2008.
7. Production split between WY 2008 and 2007 for meter readings from February 2007 through September 2008.
8. WY 2009 meter readings didn't match previous year's. Used 1/2 of metered total from September 30, 2008 through April 4, 2011.
7. Production split between WY 2010 and 2009 for meter readings from September 30, 2008 through April 4, 2011.
8. WY 2013 readings from September 30, 2012 through October 21, 2013.

ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
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(831) 751-2330
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March 1, 2017

3147.001

Carl Holm, Director
Monterey County RMA
168 W. Alisal Street
Salinas, CA 93901

RE: Hilltop Ranch/Cima Collina (PLN160833; PLN140234; PLN130041)

Dear Carl:

I represent a group of concerned property owners adjoining and surrounding Hilltop Ranch. My clients believe the applications should be denied based on the following:

1. Zoning
2. Traffic safety
3. Noise
4. Precedent

The three separate applications from Hilltop Ranch are summarized below:

- PLN160833: Administrative Permit to allow the vineyard (Hilltop Ranch) to operate in relation to the tasting room (Cima Collina), permitting routine vineyard activities (i.e., wine business dinners/meetings, members tastings, educational programs, etc.).
- PLN140234: Use Permit to allow assemblages of people including corporate wine educational dinners and social events for up to 250 people at a time, not exceeding ten events per year located both within an existing 2,400 square foot barn and outdoors on existing lawn areas and within the vineyard.
- PLN130041: Combined Development Permit consisting of: 1) Use Permit to allow the use of the property to include: a) up to 25 wine hospitality and viticultural functions per year with up to 75 attendees; and b) up to 10 social events in a vineyard setting including engagement parties, wedding ceremonies, and/or wedding receptions with 75-250 guests and staff at each gathering; and 2) an Administrative Permit for transient occupancy to allow the use of an existing 1,200 square foot dwelling in conjunction with events or to rent to customers and members on an occasional basis.

OBJECTIONS

Zoning

On their face these applications should be denied due to their inconsistency and incompatibility with the residential zoning and residential uses in the area. The project site is made up of 4 residential lots ranging in size from 4.03 to 5.71 acres. They are in an area that is zoned for residential use and is designated as Low Density Residential/2.5 acres per unit by the Carmel Valley Master Plan. MCGP 2010 Policy LU-2.34 states "...Low Density Residential areas are

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appropriate for residential (1-5 acres/unit) recreational, public and quasi-public and limited agricultural activities that are incidental and subordinate to the residential use.” The level of activity is clearly not “incidental and subordinate” to the residential use. It is also unclear that the proposed uses are in any way connected to or reliant on the residences. The uses proposed are inconsistent with the MCGP 2010 and CVMP and should be denied.

Traffic Safety

The properties are accessed by a narrow, single lane, private residential driveway that was built to serve a limited number of residential lots and to be maintained by them. It is not designed or constructed to accommodate the large volume of auto, truck and bus traffic that would be associated with the proposed uses. We could find no evidence in the record that the applicants have rights to use this right of way for other than the residential and limited agricultural uses. That right should have been substantiated prior to any application moving forward.

A traffic analysis was prepared in 2014. It is not clear from a cursory review of that report if it addressed both the 2013 and 2014 applications or just the 2014 application. In any event the project description should be defined much more thoroughly to incorporate the three applications and the analysis should be updated accordingly.

The analysis does state however that “The proposed project will generate new vehicle trips on the segment of State Highway 1 between Ocean Avenue and Carmel Valley Road that currently operates at LOS F. Therefore, the project may have a potentially significant impact on State Highway 1.” Based on numerous applications throughout the County the standard has been that if one trip is being added to roads that operate at LOS F, an EIR is required.

The uses proposed are inconsistent with the traffic loads on Highway 1 and Carmel Valley Road and should be denied.

Noise

There is no information on the noise levels that would be expected to be generated by these uses. Prior documented unpermitted gatherings on Hilltop have generated disturbing levels of crowd and vehicle noise before, during and after the event. The noise impacts of these activities on a quiet rural residential area are intrusive to the surrounding countryside and its inhabitants. There are reasons for the LDR zoning classification and noise is one of them.

Because of the intrusive noise coming from Hilltop relative to what the neighbors should rightfully expect in an LDR zoned neighborhood, these applications should be denied.

Precedent

These applications seek to create highly intensified public commercial uses in a residential neighborhood. If allowed to proceed, any unincorporated resident could most likely justify becoming an "event center" so that they, too, could make more money from their property investment no matter how large or small. The serene rural nature of particularly Carmel Valley would be permanently destroyed. Therefore to maintain the serene rural nature of Carmel Valley, these applications should be denied.

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Other Concerns

Piecemeal Development and Project Description: The three separate applications represent a classic attempt to piecemeal a project. So that the public and decision makers can have a full understanding of the scope and scale of the proposals, the applications should have been combined into a single application with a complete project description.

Dividing the application into 3 parts to obfuscate the true nature of this large, noisy, intrusive, non-conforming commercial project and its impacts on the surrounding community supports denial of the applications.

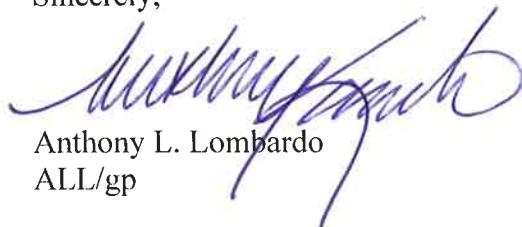
Relationship to the Agricultural Wine Corridor: References apparently have been made that the uses proposed by Hilltop Ranch are uses that are typically found in areas of vineyards and wineries and these could be looked at as an extension of the County's Agricultural and Winery Corridor Plan (AWCP). That is incorrect. The 2010 MCGP specifically designates AWCP areas. The designated AWCP areas are the Central/Arroyo Seco/River Road segment, the Metz Road segment and the Jolon Road segment. There are no AWCP areas in Carmel Valley.

Given the extreme level of detail and scrutiny that was given the 2010 MCGP and the AWCP in their development and adoption, it is clear that it has been decided that AWCP provisions were found to be not appropriate in Carmel Valley. That decision was undoubtedly in recognition of the limited traffic capacity, water constraints and primarily residential nature of Carmel Valley.

Baseline Analysis: The baseline for any of these studies and related CEQA document should be the level of use and activity before events started being held on the property. No credit should be given to on-going illegal activities in the analysis of this project.

In conclusion, my clients object to the Hilltop Ranch/Cima Collina applications for reasons of zoning, noise, traffic safety and precedent along with other concerns not included in this letter. These applications are also inconsistent with the MCGP 2010 and CVMP and should therefore be denied forthwith.

Sincerely,



Anthony L. Lombardo
ALL/gp