

To:

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From:

C.S. Noel, President



Date: Sept. 27, 2022

Carmel Valley Association
PO Box 157
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Re: Response & Comments to Revised NOP Initial Analysis and Scoping provided by Monterey County HCD and Ascent Environmental, Inc.

In our comments below, in addition to inserted hyperlinks to specific institutions and data, please find:

Contents

- I. Introductory remarks updated to the current NOP Initial Analysis reiterating our letter to the Board of Supervisors of August 9, 2021 regarding the draft ordinances.
- II. Detailed analyses and evidence on pertinent Environmental Impacts from the NOP Checklist (1.1-1.21) and recommendations for further study prior to the issuance of the draft EIR, including some impacts where we question the No Impact determination of the Initial Analysis. This section supplies some links to related documents, photos, and references for use in further study.
- III. Suggested Alternatives and Mitigations
- IV. Additional Evidence

I. Introductory Remarks

The [Carmel Valley Association](#) (CVA) is concerned that the Draft Ordinances (henceforth, Project) will cause deterioration in residential neighborhoods rather than ‘preserv[ing] and enhanc[ing] the residential character and sense of security and safety in stable neighborhoods of residential properties.’ (NOP pg. 3, 2nd Paragraph) in the Carmel Valley Master Plan Area (henceforth, CVMP).

The many unique neighborhoods in Carmel Valley are what attract new residents to the area and retain long-standing resident families when housing is available. Vacation Rentals have proliferated virtually unchecked and unregulated over the last two decades.

The commercialized whole-house vacation rentals that constitute 85% of the 166 currently advertised properties (sourced from CVA's Grannicus Host Compliance Address Identifier Account), create the greatest environmental threats to our communities and this Project's allowing of their permitting essentially rezones our Low Density 5 neighborhoods into Commercial Visitor Accommodations while side-stepping the established legislative process for doing so. The NOP chart on page 9 [1.2-1.3] shows only 129 advertised rentals, while our Grannicus account shows 166 with 4 new listings added in the last month (Please see screenshot below).

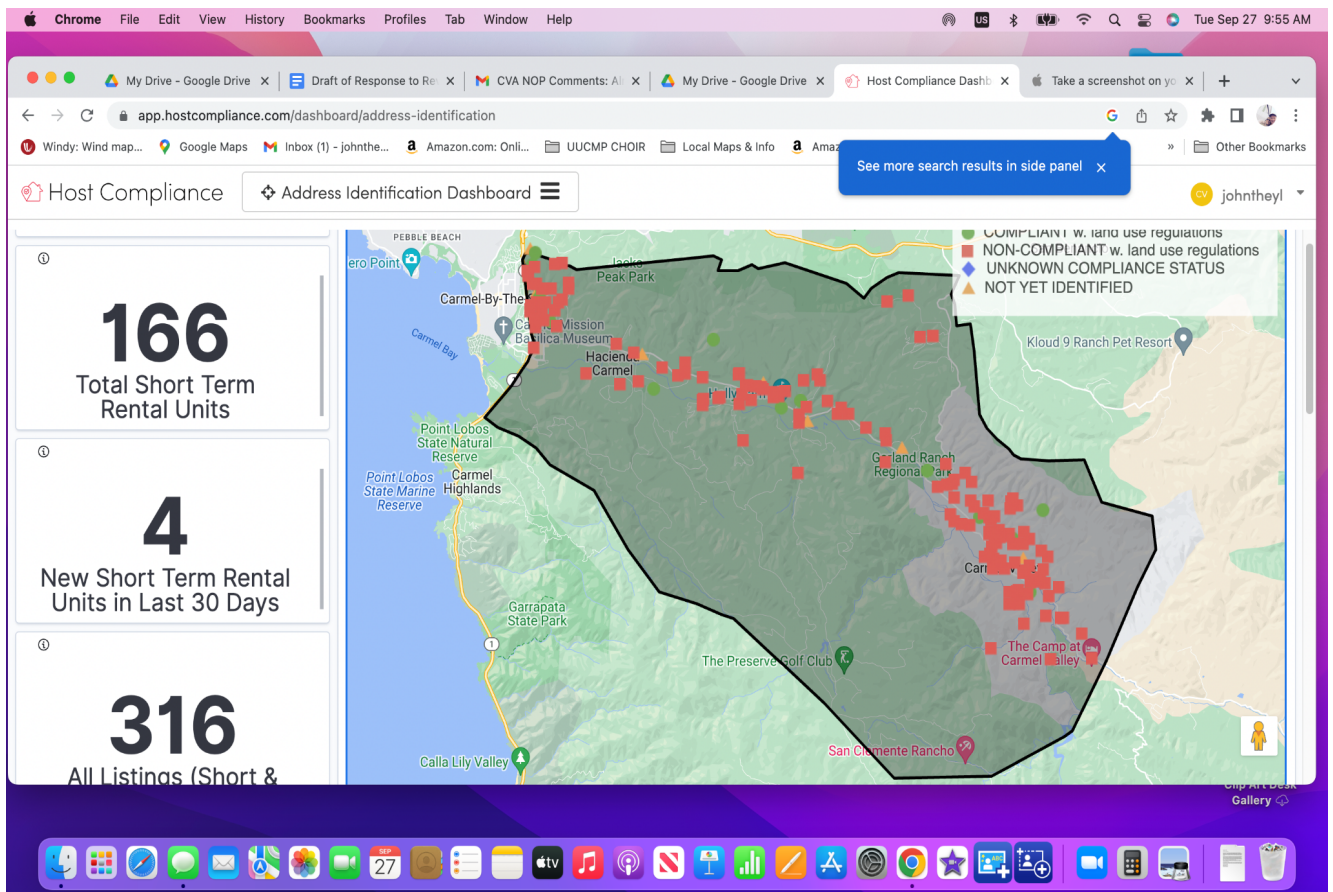
Thus the accuracy of the HCD Agency numbers is brought into question, then, in the fourth column of the chart on page 9 [1.1-1.3] of the NOP in the row “Carmel Valley” titled 'Allowable Commercial Vacation Rentals'; therefore, further study is needed to identify how Housing and Community Development is arriving at their numbers of currently advertised vacation rentals.

Also in question are the figures for the total number of single family residences eligible for either Limited or Commercial Vacation Rental Operating Permit (henceforth VROP) in the CVMP area. The 5,003 number HCD Agency was provided by the Tax Assessor's office needs more complete detailing through further study. What are the boundaries covered in the number? How was the data

pulled from the Assessor's data? By planning area boundary? By zip code? By previous flagging as CVMP?

Both Residential Dwelling Units and Current Advertised Dwelling Units columns' numbers need to be further justified through further study before the drafting of the EIR to avoid challenges at the hearings.

As indicated in our August 9, 2021 letter to the Board of Supervisors there remain inconsistencies in the draft ordinances with CVMP 1.15 and a distinct relaxing of regulations of the existing Title 21 Code (Zoning Ordinance Title 21.64.28).



Screenshot: CVA's Address Identifier Dashboard for CVMP Area taken 9.27. 2022

Inconsistency with the Carmel Valley Master Plan

The Plan provides the following:

CV-1.15 Visitor accommodation uses shall follow the following guidelines:

- a. Expansion of existing hotels, motels, and lodges should be favored over the development of new projects.
- b. Visitor accommodation projects must be designed so that they respect the privacy and rural residential character of adjoining properties.
- c. Bed and breakfast facilities shall be counted as visitor accommodation units and be limited to a maximum of five (5) units clustered on five (5) acres in accord with Monterey County Code Chapter 15.20, unless served by public sewers.
- d. All further development of visitor accommodations in the area west of Via Mallorca and north of Carmel River shall be limited to moderately-sized facilities, not to exceed a total of 175 units.
- e. There shall be a maximum of 110 additional visitor accommodation units approved east of Via Mallorca, including units at Carmel Valley Ranch.

The Project does not protect the privacy and rural residential character of adjoining properties.

The CVMP defines bed and breakfast facilities as visitor accommodation units. Based on this precedent, the draft ordinance should treat all short term rentals subject to the CAP identified in the Plan as visitor serving units (see CV 1.15, d. and e. above). CVA undertook a detailed investigation of existing Visitor Serving Units (henceforth VSU's). This was done to determine the baseline number of existing VSU's. This number should be compared to the actual number of VSU's existing at the time of the 2010 Carmel Valley Master Plan. Those numbers then should be deducted from the CAP numbers of VSU's East of Majorca and the CAP west of Majorca in the Carmel Valley Master Plan. The issue of the Project's ability to allow vacation rentals that still meets the established CAPS of the 2010 CVMP requires further study before drafting an EIR for the Project.

This draft ordinance allows vacation rentals far in excess of the established CAPS, and will overburden Carmel Valley, which already sees significant environmental impacts from excessive tourism in traffic, noise, lighting, and hazards.

The draft EIR should find inconsistency of the project with the CVMP 1.15 as significant and unavoidable.

[Link to the full CVMP](#)

Relaxing of Regulations within Existing Zoning Ordinance Title 21.64.28

The draft Ordinance includes requirements that are less stringent than the existing Title 21 requirements. The existing ordinance and CVMP policies constitute CVA's recommended Alternative: No Project / No Change (see Section III of this letter: Alternative a.).

The proposed ordinance allows Limited Vacation Rentals to receive a Vacation Rental Operating Permit (henceforth VROP) with no land use permits required. Further study is required to explain how the Project's proposed Limited Rental for 14 days three times a year for up to 5,000 residences would not have impacts or need not require a land use permit.

This relaxation of requirements should be further studied and evaluated as indicated in the Initial Analysis (1.11 b).

The applicable sections of Title 21.64.28 follow:

- A. 3. The use of single and multiple family dwelling units, duplexes, guesthouses, caretaker units and other structures normally occupied for residential purposes, for bed and breakfast, hostel, hotel, inn, lodging, resort, or other transient lodging purposes has impacts on residential areas which must be addressed through existing County use permit processes.
- A. 5. If not properly regulated, such use of residential property may create adverse impacts on surrounding residential uses including, but not limited to,

increased levels of commercial and residential vehicle traffic, parking demand, light and glare, and noise detrimental to surrounding residential uses and the general welfare of the County. Moreover, such use may increase demand for public services, including, but not limited to, police, fire, and medical emergency services, and neighborhood watch programs.

B. Purpose. The purpose of this Section is to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods of owner-occupied residences.

3. Except as provided in this Section, restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts in Title 21.

C. Definitions

5. “Transient Use of Residential Property” means the use, by any person, of residential property for bed and breakfast, hostel, hotel, inn, lodging, motel, resort or transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is, except as provided herein, for not less than seven (7) nor more than thirty (30) consecutive calendar days.

D. Administrative Permit

1. Permitted Use.

a. Transient use of residential property for remuneration shall be permitted in all zoning districts which allow residential use upon the issuance of an administrative permit pursuant to Chapter 21.20 of Title 21, subject to regulations in Section D.2.

Link to further details of the Title 21 code governing [transient use of residential property for remuneration.](#)

CEQA Initial Analysis and Scoping

Please refer to the NOP pg 11 (1-4) Section 1 – Environment Checklist:

In the Environmental Checklist, Wildfire has **NOT** been selected as one of the “Environmental Factors Potentially Affected”. This is a serious omission and represents a very concerning defect in the scope of environmental review for the Project.

Vacation Rentals will significantly increase the risks and impacts from Wildfire in the CVMP area. In fact, as this Comment Letter provides information to demonstrate, the other 9 areas not indicated for study in the NOP all do demonstrate potential environmental hazards for the CVMP area, some mitigatable, others not.

The Scoping and Initial Analysis of Impacts must assume a worst case scenario of allowable vacation rentals in the CVMP area, e.g., 5,003 residential units rented a total of 42 days (three 14 day periods) per year. We understand the Board directed Agency staff to revise the draft ordinance to provide for Commercial Vacation Units at a CAP of 6% of total residential units for a total of 302 units in the CVMP area. Since Commercial Vacation Units would not be limited in the number of days for which units could be rented, a worst case scenario must assume 302 units times 365 days per unit of VSU's. These allowable vacation rentals would exceed by far the CVMP CAPS, or any reasonable evaluation of low density 5 rural zoning. Further study is required for use permit project level analysis under cumulative impacts (1.21 b & c) as indicated in the NOP.

The Agency’s Project description states, “... Limited Vacation Rental uses are similar in character, density, and intensity to residential use, are not anticipated to convert long-term housing out of the market, and therefore are allowed uses, where applicable...”. Further study is required to support this conclusion, e.g., three concurrent rentals in one neighborhood for 14 days each would certainly increase the intensity of residential use. (See NOP pg. 3, paragraph 2). Please see detailed comments under 1.1, 1.11, 1.13, 1.14. and 1.21 in Section II of this letter).

In addition, in paragraph 4 on the same page, the Agency states: "...The regulations limit establishment of vacation rentals to existing, legally established dwellings. Therefore, no specific development or construction is proposed for or would be entitled by any of the draft ordinances." (See NOP pg. 4 paragraph 3). Because this reasoning is cited often in the NOP's Initial Analysis Discussions of potential for environmental impact classifications, further study is required to address possible development or construction related to allowable vacation rentals:

1. How many permit applications to operate vacation rentals already processed have resulted in further construction to mitigate areas of deficiency?

2. A chart to correlate permitted improvements cross-referenced to advertised vacation rentals whether permitted or not could be informative.

3. Please review and tally the content of all the complaint emails HCD has received through Host Compliance, focussing here on those discussing current renovations, fence construction, new lighting , etc. due to vacation rental property usage.

Although not new construction, certainly an addition, a new deck, a new hot tub and string of lights, or extensive fencing would constitute "development" and be directly attributable to the Project's allowed vacation rentals.

And then there are neighbors' needs to protect themselves from significant impacts, and to preserve a "sense of security and safety in stable neighborhoods" e.g.this complaint from an email CVA received:

"...renters have picked flowers off our trees or looked over our fences, We have had to build fences to keep renters and their pets out of our yard."

CVA would like to see a revision of the scope of the EIR, objecting to Part 9 of the Revised Initial Study that states the proposed "ordinance is for the entire County and not location specific." To date Carmel Valley has been the most impacted land-use area of the County as measured by advertised short-term vacation rentals. As proposed, the study does not recognize that the environmental impacts of

vacation rentals will vary widely among different regions of the County. Accordingly, the scope of the EIR should specifically address those areas with distinct land-use policies and boundaries, such as the CVMP, in separate sub-sections, for all potentially affected environmental factors. (Please see also Mitigation d. in Section III of this comment letter)

Enforcement

Enforcement continues to be an issue under existing codes, as pointed out in the Grand Jury findings of 2021. [Link to 2021 Monterey County Grand Jury findings on STRs](#). One wonders how this will improve under the new ordinances; little to no attention is paid to this in the NOP Initial Analysis. How will any environmental impact determined to be significant be mitigated through code compliance, especially in the 30 minute response time the project regulates for owners or their representatives? (7.110.040. Regulations for Vacation Rentals D. D 5) How will the County provide additional resources to bring operators into compliance with the ordinances?

This NOP does little more than state that ordinances exist and will be enforced. When and how, we ask, having not seen any for the last decade? This creates further conflict of the Project with the CVMP's (CV-1.15) existing land use plan, policy, and regulations (NOP 1.11 b), conflicts with existing Title 21 code, and kicks the increasing problem of enforcing illegally operating or code-violating vacation rentals down the Carmel Valley road.

CVA recommends that the Project stipulate mitigations needed to address significant environmental impacts to neighborhoods due to allowable vacation rentals. The Project should stipulate how the Transient Occupancy Tax and fees collected for permitting of vacation rentals will be used to fund the hiring of adequate staffing and support for existing local public service entities (Fire, Sheriff, HCD Code Compliance, etc.). In addition, the Project needs to detail how local entities and designated representatives of the owners will provide enforcement of the draft ordinances and environmental impacts such as Noise

(1.13), Lighting (1.1), Population and Housing (1.14), Traffic (1.3,1.6,1.8,1.9,1.17,1.20), and Transportation (1.17), and the penalties for non-adherence.

Permit Fees and TOT collected through this Project should not be used to support the General Fund. Further study is required as to how this might be documented.

Potential County Risk of Liability on Limited Vacation Rentals in the Draft Ordinance

Since Limited Vacation Rentals are allowable through a VROP without land use discretion, how do we know that they will "conform with applicable state building and fire codes" (draft Ordinance, pg. 9 of 24) without on-site inspections? Would the County be liable for not policing these rentals in the event of accidents at rental units? If an owner is not resident at least 6 months and 1 day of any given year, is that property still legally a residence?

In further analysis before drafting the EIR for the project, please identify how compliance for renters would be known or enforced. Please address whether or not the county would be liable for not policing these Limited Rentals in the event of accidents or harm at rental units.

II. Detailed Analyses, Links to References, and Evidence on Pertinent Environmental Impacts

Introduction

CVA questions the "No Impact" determination on several of the Initial Analyses.

Under the heading "The Evaluation of Environmental Impacts" (#2 on pg. 13), "All answers must take account of the whole action involved, including ...cumulative...indirect as well as direct...impacts." Several discussions of the NOP Initial Analysis appear to fail to follow this guideline. Please see also below comments on (1.21 d).

On #6 on pg. 13 states, “Lead agencies are encouraged to incorporate...references to information sources for potential impacts (e.g. general plans, zoning ordinances).” There is no mention in this analysis of the Carmel Valley Master Plan or its set CAP limits on visitor serving units to be available as rentals to visitors to Carmel Valley.

The NOP Analysis of the Project carries a false assumption that because the use of residential properties is involved, there will be no increase in visitors accommodated in low-density residential zoning and that the allowable use through the project is the same as residential living. This is a major misconception, as CVA shows below.

There is no reference to, or analysis of, what would happen to neighborhoods in Carmel Valley currently zoned low density residential if they suddenly found 6% of the structures therein permitted as “Commercial” short term rentals--possibly with no resident or their representative present, albeit in violation of the ordinances. Further study shows again the unmitigatable nature of the Project's total lack of CAP on “Limited” vacation rentals. As aforementioned and indicated in the Initial Analysis, much further study is required in 1.11 b. before the draft EIR is prepared.

Detailed Analyses for All Environmental Factors

1.1 AESTHETICS

1.1.1 a)-c):

CVA strongly disagrees with the No Impact findings. Most properties in the Low Density Residential zoning of Carmel Valley have views to a ridgeline, a dark night sky, or a field that would be impacted by the Project's allowing of added parked cars, fencing, and possible additions to existing residential properties to accommodate vacation rental activities.

Here are excerpts from some emails CVA has received:

"I live in Mid Valley on a quiet private road. The house across from me was just sold to a San Jose family. Their first order of business was to build an 8 foot fence around the property. I was talking to a gentleman taking photos and was told that they plan on ST renting it. Another person working on the property said the same."

"...residents have been complaining of Airbnb guests trespassing/hiking through their properties, speeding, picking fruit from their trees, using their garbage cans, knocking on their doors at night asking for directions, dropping cigarette butts, letting their dogs run loose."

"Many of us choose a rural environment because we want privacy, quiet, dark skies, and a good old fashion commune with nature. I don't really care what local pro-business county officials have to say about short term rentals. What is happening is destroying a way of life for all time to come. No walking it back once the full extent of damage is done. During this particular time of climate / earth-borne disaster and species extinction the issue of commercialization of private property could not be more relevant or more tragic."

"...renters have picked flowers off our trees or looked over our fences. We have had to build fences to keep renters and their pets out of our yard."

1.1.1 d):

CVA finds lighting a potentially significant impact based on several complaints we've received from existing vacation rentals, even those operating legally at this time. The Ordinance's inclusion of Lighting as needing to be regulated would indicate the same. Some examples from emails received:

"And the dark skies--my how we love being entertained by the dark skies that broadcast glimmering constellations. Artificial strings of lights [are] strewn everywhere on this property..."

"The outdoor dining area is just below my bedroom window and is, in my opinion, garishly lighted by a newly installed system."

"Outdoor "party" lights are left on all the time,"

Please refer to Title 7 draft ordinances:

3. Limited Vacation Rentals shall comply with Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended, of the Monterey County Code. Outside amplified sound associated with the Limited Vacation Rental is prohibited at all times. Limited Vacation Rental operation shall adhere to nighttime noise and quiet time requirements set forth in Monterey County Code Section 10.60.040, as periodically amended.)

If all these things are regulated, why not lighting, too?

Further study is required to mitigate this shortcoming of the draft ordinances. Here's a link to the [County's exterior lighting guidelines for new construction](#). And here's a [link to the County's Lighting Ordinance](#).

Please see a letter from Meredith Nole, MIES lighting expert, in the Additional Evidence section at the end of the Comment letter.

1.2 AGRICULTURE AND FOREST RESOURCES

The NOP indicates potentially significant impacts in 1.2.1 (b) 'Conflict with existing zoning for agricultural use or a Williamson Act contract' . CVA sees no need for further study outside this area, but wishes to point out that the wording "The ordinance would not result in a change to land use designations or zoning, nor would it result in any new development" in the same item is misleading; for indeed, the fact that a new Land Use permit for any Commercial vacation rental parcel is required indicates there would be a change in land use designation, and we've already discussed the potential for some development due to the Project, albeit not 'new'.

1.3 AIR QUALITY

1.3.1.a)-c):

CVA agrees with the findings of potentially significant impact. Residents use [AIR NOW](#), [AIR VISUAL](#), or [Purple Air](#) (most sensors) to monitor air quality under wildfire conditions. Further study should compare air quality along Carmel Valley Road on weekdays to a busy holiday weekend when many vacation rentals are in operation, and take note of the potential for very unhealthy air during a wildfire emergency with potential impact on vacation rental tenants' health.

In 1.3.1 d):

CVA still disagrees with this faulty conclusion, as the premise indicates "facilitate" and the conclusion "not result". The proposed regulations would not authorize **or facilitate** any new development. Therefore, the proposed regulations **would not result in any construction activities.**"

Many applicants have to make adjustments to their properties to obtain a permit, such as a new or updated septic system, renovated exterior lighting, or optional additions or decks, etc.; hence, the VROP (permitting) process will inevitably facilitate some construction activities.

1.4 BIOLOGICAL RESOURCES

1.4.1 b):

Steelhead trout have been long protected in the riparian areas of the Carmel River. A significant number of currently operating vacation rentals draw water from wells in the same aquifer. The Carmel River has been running dry during the current drought conditions. Surely this rates further study, as vacation rentals will draw on more water resources than current residential uses do.

1.4.1 d):

CVA maintains that further research will show that the proposed regulations could facilitate development and more human interactions with wildlife in low-density residential areas where wild turkeys, deer, bobcats, foxes, many bird species, pets and horses, and other livestock and animal life lives alongside humans, so there may be potential significant impact on Carmel Valley's biological resources due to the Project's allowing of vacation rentals in WUI (wildlife urban interface) areas.

Further study is required.

1.5 CULTURAL RESOURCES

1.5.1 c) & d):

Again, this faulty assumption that the Project would not involve any digging related to the permitting of a vacation rental operation is faulty, therefore potential impact could occur, mitigatable by requiring archeological inspectors on-site at any septic or construction project related to permit compliance which might result in an approved vacation rental land use.

1.6 ENERGY

1.6.1 a), b):

The NOP provides solid analysis of potential additional vehicle trips and lengths due to allowed vacation rentals, but again, this faulty assumption that the Project would not involve any construction related to the permitting of a vacation rental operation is faulty; at a minimum, most commercial operations hire third party providers to maintain cleaning and services on a vacation rental which inevitably leads to increased trips in addition to those of the transient tenants.

This is a significant finding of these environmental impacts in b): "...and they [vacation rental tenants] may be more apt to drive to area attractions than typical long-term residents. Additionally, there is a potential that the users of vacation rentals utilize more energy than permanent residents on a per-night basis." This finding has implications in 1.9,1.15,1.16, and 1.17 for the NOP initial analysis and further study is required.

1.7 GEOLOGY AND SOILS

1.7.1 d):

Septic issues abound in Carmel Valley. This item requires further study. Please see these findings:

Management plan for septic systems:

<https://www.co.monterey.ca.us/home/showdocument?id=64073>.

Perhaps this link is better, with link to plan in the above:

<https://www.co.monterey.ca.us/government/departments-a-h/health/environmental-health/environmental-health-review/monterey-county-local-agency-management-program-lamp>.

1.8 GREENHOUSE GAS EMISSIONS

1.8.1 a) & b):

CVA supports further study for the EIR, aligned to Air Quality (1.3), Energy (1.6), Hazards (1.9), Transportation (1.17), Wildfire (1.20), and Findings of Significance (1.21).

1.9 HAZARDS AND HAZARDOUS MATERIALS

1.9.1 f) & g):

CVA questions the reasoning here. "No aspects of this project would inhibit access to hospitals, emergency response centers, school locations, communication facilities, highways and bridges, or airports." A simple look at a map of Carmel Valley road would indicate that, in an emergency, wildfire, or any other hastily announced evacuation, any additional vehicles would clearly create an unmitigatable impact.

1.10 HYDROLOGY AND WATER QUALITY

1.10.1 b) and e):

Please see the attached letter in the appendix at the end of this Comment Letter from residents of Sky Ranch Rd impacted by vacation rental use of their limited local water system.

The Carmel River is currently running dry for much of its course through the valley. Many vacation rentals have wells that tap this aquifer. Much of Carmel Valley has experienced significant flooding.

The Carmel River Watershed Conservancy has provided the link below to a video showing an incredible encounter with Steelhead spawning in the Carmel River on March 22, 2021. Even though early in the year at a time still once considered "the rainy season", the river is low. Drought had already set in by this date. But it is still enough, and something magical ensues. Watch here: <https://youtu.be/CIB6tks-M6k>

Here's what it looks like this month:

Exactly 18 months after the video above was shot, Carmel Valley River behind Dampierre Park, 37 Paso Hondo, CV

Carmel River Looking East – 9/22/2022 Carmel River Looking West – 9/22/2022



Footbridge over bone dry river bed



A River of Rocks as far as you can see

The proposed Short Term Rental ordinance allows a 6% CAP county-wide on commercial short term rentals. The Project has no CAP on Limited vacation rentals, which are bounded only by no more than a restriction of three instances of 14 day stays. This option is available for all 5,033 residences in Carmel Valley (per the County's statistics), which affords this category the opportunity collectively for 211,386 rental days a year. Add to that the 365 days per year potential Commercial rentals. There is no question that this activity will require more water than "regular residential uses."

1.11 LAND USE AND PLANNING

1.11.1 a):

Although the intent of this section is indications of **physically** dividing neighborhoods, CVA questions the No Impact rating here, because, by allowing vacation rentals in the Low Density Residential neighborhoods of Carmel Valley, the vacation rental properties are essentially **divided** from the non-permitted neighbors who are subjected to the significant environmental impacts.

1.1.1 b):

As previously mentioned, much further study is needed here to address these significant impacts. CVA maintains that further study will confirm the Project's significant and unavoidable relaxing of quotas and standards in the Monterey County Zoning Ordinance Title 21.64.28 and with the previously established CAPS in the CVMP 1.15.

1.12 MINERAL RESOURCES

CVA agrees with the No Impact findings.

1.13 NOISE

1.13.1 a):

CVA has had many complaints around Noise, and some around Nuisance and Nuisance Animals. Examples provided here:

"One evening there was yelling of great intensity and, for a few minutes, of a possibly violent intensity. I considered calling the sheriff, but, before I took this step, there was a slight abatement of the yelling."

"Dogs have been locked in the courtyard and painfully howled for 90 minutes while the renters went to dinner."

"Loud party at house for sale on my street....We called the sheriff who did come by and speak to the partiers... .The entire street is upset at our loss of quiet enjoyment, should this persist." July 2019. House is still available as vacation rental.

"Illegal campground on property. Owners have 3 rv trailers rented out to different people that they charge rent for and 1 school bus as well. The school bus has a dog living it too. Which barks a lot and must be very hot inside it. Some of the rentals/units run generators all night. Fire hazard, health hazards, and nuisance. Also illegal use of property." August 2022

"..but after three occasions of rental noise from the neighboring house in the last month, it has become more emotional (lost sleep). Where on the web do I find the rules, especially noise rules, for home rental in mid Valley? Whom do I contact, and how, regarding a complaint?" Sept 2022

"There is no doubt traffic has increased. So have animal deaths on the road....has been noisy after 10--playing ping pong ball and smashing the balls over our shared fence. However, while 10PM might be the official cut-off time for noise, some of us treasure the quiet nights we used to have. Some of us like to go to sleep early and rise early. (Healthier and good for the soul)."

Because no discussion is provided as to how the regulations related to permitting compliance and Noise in vacation rentals can be effectively enforced to relieve this environmental impact on abutting neighbors when these and corollary ordinances are violated (draft Ordinance Title 7.110.040. pg. 5 D. 3), the significance of this impact appears unmitigatable, unless further study can show evidence of the ability to stop the noise when it happens, e.g. owner-representative on site.

1.14 POPULATION AND HOUSING

1.14 (a):

Induce substantial unplanned population growth in an area...

Contrary to the “No Impact” statement, there certainly could be a “facilitation” of new development. Such a permissive vacation rental ordinance will encourage investors to consider purchasing and building on property to take advantage of the profits they can make from operating these rentals. The county states that these regulations “only apply to existing, established dwellings,” but can the county legally prevent someone currently owning a lot, or someone who purchase a lot in the future, from building a structure on their property which would then be used as a vacation rental? Note that aggressive groups, such as Pacaso are already active in the county. This will inevitably test current resources and infrastructure.

In Section 1 Environmental Impact - Project Information - Paragraph 6

“Description of Project,” it states “These regulations also provide an amortization of investment for existing vacation rental operators.” Doesn’t that suggest that these operators have made investments, probably including construction, in the preparation of the rentals? Perhaps the county has figures for the number of permits issued for the construction involved in those properties, at least those known to be paying TOT. Since many current vacation rentals have required construction, renovation, or improvement of some sort, it must be expected that further, similar construction and renovation will occur with an ordinance that allows such noticeable growth of these rental activities. Further study is required before drafting the EIR.

From a complaint email:

"The house across from me was just sold to a San Jose family. Their first order of business was to build an 8 foot fence around the property."

1.15 PUBLIC SERVICES

1.15 (a):

“...In order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services...”

There is no “acceptable service ratio” stated but there certainly would be an increase in the potential demand on the Sheriff’s department and emergency services because of the additional people in the county staying at vacation rentals. The county is already unable to respond to complaints about vacation rental problems. With the additional numbers of vacation rentals demand will grow. Further study is required before drafting the EIR.

1.16 RECREATION

1.16 a) & b):

“Increase the use of existing neighborhood and regional parks or other recreational facilities...”

One of the most important reasons for visitors to come to Monterey county is to see our county, regional, and state parks. The increase in the number of people in the county due to those visiting on a short term basis will definitely increase the use of these parks, and there will be an unavoidable strain on those properties. Please recall the recent problem of the illegal removal of the succulent Dudleya from Point Lobos. This should be considered a “Potentially Significant Impact” and should be analyzed further.

There should be an examination of how many vacation renters visit the parks, how they use the facilities and what pressure this puts on park CAPacity and staff. The analysis should take into account trail degradation which requires more maintenance, the increase in use of already inadequate bathroom facilities, and the greater likelihood of accidents at the parks which might necessitate emergency rescue. The current challenges to safe parking on Highway 1 for visitors to Point Lobos State Park is a perfect example of how the growth of visitors to the

area, many of whom are using vacation rentals for their stay, has adversely influenced our park resources. Further study is required before drafting the EIR.

1.17 TRANSPORTATION

1.17 c) & d):

The CVA disagrees with the less than significant finding of this impact . Further study is required, as, contrary to what is stated in the Discussion 1.17.1 d), because this ordinance **does not limit** Limited rentals at all, hence up to 5,003 homeowners could have an additional car parked at their home in the CVMP area in the event of a fire emergency. This issue should be studied further in the EIR with **input from the fire authorities** in order to back up the claim that “No aspects of this project would inhibit or change existing emergency access within the County”. The study should include input from: fire authorities, the fire districts, CAL FIRE, the County Sheriff, and the County Office of Emergency Services. Emergency access is a well-known problem in the county and particularly in Carmel Valley. Residents are generally advised to shelter in place until help arrives where there is limited egress CAPacity. Would vacation rental transient occupants know or follow these established guidelines? The EIR must have a thorough review of this issue.

1.18 TRIBAL CULTURAL RESOURCES

CVA agrees with the findings, but disagrees that "The proposed regulations would not authorize or facilitate any new development. No grading or excavation is proposed as part of the project, nor are such activities reasonably foreseeable consequences of activities authorized by the project." Such projects would arise due to the application process for applying for a permit to operate an allowed vacation rental.

1.19 UTILITIES AND SERVICE SYSTEMS

1.19.1 a), c), d), and e):

CVA finds the No Impact designation requires much further study. As residential property is allowed to operate under increased loads, most with existing OWTS systems and many antiquated, impact is potentially significant.

Again, for further study, please see these findings:

Management plan for septic systems:

<https://www.co.monterey.ca.us/home/showdocument?id=64073>.

Perhaps this link is better, with link to plan in the above:

<https://www.co.monterey.ca.us/government/departments-a-h/health/environmental-health/environmental-health-review/monterey-county-local-agency-management-program-lamp>.

1.20 WILDFIRE

The environmental impacts of Wildfire must be recognized and addressed:

Properties in Carmel Valley are located in a State Responsibility Area (SRA), where land and property have a high fire hazard severity rating. Properties located in an SRA have legal requirements associated with them that fall under PRC 4291. Properties must be maintained at a certain level, and to be compliant, property owners must: Maintain a 100-foot defensible space that includes a 30-foot lean, clean and green zone, and 70 feet of fuel reduction where trees are limbed up six feet, brush is thinned out and annual grasses are mowed down to a maximum four inches. Remove tree branches from within 10 feet of a chimney or stove pipe, remove all leaves and needles from the roof and roof gutters and remove all dead limbs away from the home.

In addition, starting January 2023 for new homes and 2024 for existing homes, there will be a new zone where no combustibles will be allowed and only fire resistant plants and materials will be allowed within the first five feet of your home.”

It is incumbent on the County that the new ordinance(s) related to vacation rentals include these legal requirements and ensure compliance as part of the process to obtain a permit.

In addition, ordinance(s) should stipulate a mechanism to monitor regular ongoing adherence to PRC 4291, and see that it is being enforced rigorously.

Please note that PRC 4291 specifically further calls out that: “A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation.” This can and should be done where property line distances make it practicable. Many vacation rental properties are owned by individuals or entities which are either unaware of, or out of compliance with these regulations which require frequent and ongoing effort to be sufficiently maintained.

Monterey County Regional Fire District has provided educational information alerting property owners that embers from wildfires, which can travel as far as five miles ahead of the fire, are the #1 cause of home ignition. To forestall this high risk, home hardening is imperative, with frequent and regular maintenance as described in PRC 4291 is equally important. The County should provide this info to all owners and renters of vacation rental properties and require an LA 100 (or other equivalent assessment) prior to awarding a permit, and re-issue annually with ongoing inspections. TOT will need to provide the funding required for Regional Fire District staffing to inspect each operating vacation rental in the County.

Furthermore, it is strongly recommended that installation of new fire pits be denied, and regulations regarding fire screens be strictly enforced on those that are existing.

Link to PRC 4291:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4291.&lawCode=PRC

Resources for further study in scoping the environmental risks of wildfire in the draft EIR for the CVMP area:

Emergency Operations Plan – (April 2022) County of Monterey
Operational Area

Annex | Evacuation and Transportation

<https://www.co.monterey.ca.us/home/showpublisheddocument/114301/637961624584000000>

Evacuation and Transportation Plan Draft (2021) Monterey County Office of
Emergency Services

<https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/office-of-emergency-services/response/evacuation-guide/evacuation-plan>

Carmel Valley has been cited in two studies on Communities at High Risk in Fire
Evacuations:

1) <https://www.nytimes.com/2021/09/29/us/fire-risk-california.html>

Please see complete text of this analysis in the Additional Evidence section at the
end of this Comment Letter.

1.20.1 a)-d):

CVA disagrees with the less than significant ranking on a-d. If approved, the
Project will mean that traffic will be substantially impacted, particularly during an
emergency evacuation. The CVA recommends that there be further study focused
on this issue.

Carmel Valley Road and its associated side roads have limited capacity. A small
accident can move it into Level of Service (LOS) rating F in minutes. In addition,
California Title 14 has been recently revised by the Forest Service and adopted by
the State.

The new regulations of Title 14 alone require further study to prepare the draft EIR on this Project; the EIR will need to determine to what extent the proposed ordinance allows for enforcement of these safety guidelines in any individual permitted Commercial or Limited vacation rental. Particular attention in the EIR should address the cumulative effects of the up to 302 Commercial and 5,003 Limited rentals operating.

1.21 MANDATORY FINDINGS OF SIGNIFICANCE

Complain email received from a Carmel Valley Resident:

"We have a single family commercial stand alone short term rental next to our house and it has changed the character of our neighborhood. This month [August, 2022] has brought 3-night rentals on each weekend. Outdoor "party" lights are left on all the time, renters have picked flowers off our trees or looked over our fences. Dogs have been locked in the courtyard and painfully howled for 90 minutes while the renters went to dinner. We have had to build fences to keep renters and their pets out of our yard. With every new rental comes a flurry of cars to check out, clean, check in renters. This has wrecked our retirement and devalued our house."

Cumulative impacts of the Project will unmitigatedly cause a situation in Carmel Valley where "incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

1.21.1 a)

CVA disagrees with the No Impact finding. The Carmel River is running dry most summers now, and this Project will have potential significant impact in its allowed use of residential properties for vacation rentals, a significant number of which draw water from wells in the same aquifer. Steelhead trout are already threatened enough to have the State reduce pumping from the river for drinking water. How

could thousands of the Project's allowable operating vacation rentals have no impact?

Further study is required as to potentially significant additional impact to the delicate state of the environmental quality of the riverine basin in Carmel Valley.

Please see additional commentary in 1.10 HYDROLOGY AND WATER QUALITY

1.21.1 b)

CVA maintains that the possibility for significant impact due to this project exists in "...aesthetics, agriculture and forestry resources, biological resources,... geology and soils, hazards and hazardous materials, hydrology and water quality (except groundwater use), mineral resources, public services, recreation, utilities and service systems (except water use) or wildfire". Please see our arguments and evidence under the appropriate impact areas detailed in Section II of this comment.

1.21.1 C)

When CVA met to discuss these Comments, many issues outside of this EIR process were discussed, not the least of which is the anxiety and psychological burden placed on neighbors where a vacation rental "party house" or similarly poorly managed commercial operation exists. Time and again, CVA has heard complaints from otherwise laissez faire neighbors after a residential parcel turned to providing unmanaged short term vacation rentals, whether permitted or not, without the owner present.

We don't get complaints about well-managed owner-occupied vacation rentals.

Legally operating hotels, motels, event centers, and the like contain the noise, trash, and other potential nuisances by having hired staff and security on site at all times. They bear the brunt of additional expense to adhere to the Carmel Valley Master Plan guidelines and maintain good relations with their neighbors and the County.

Residential property, especially whole houses turned over unsupervised to large groups of transient tenants who are visiting with no stake, who often ignore regulations with impunity under the current enforcement conditions and response times, are a potential threat and hazard to a peaceful neighborhood, and have caused substantial adverse effects on human beings here in Carmel Valley and in other areas of the County.

III. Suggested Alternatives and Mitigations

ALTERNATIVES

a. No Project - No Change. The existing ordinances and CVMP policies constitute the No Project / No Change alternative. Further amendments may be required to specific elements of existing regulations in Title 21.64.28 D.2) Regulations, e.g. 'length of stay'. This alternative addresses major inconsistencies in the draft ordinances with CV 1.15, the relaxing of standards set out in current Title 21.64.28, and the large number of unmitigatable significant environmental impacts of the Project.

b. HomeStay Only Project. County-wide home-stay vacation rentals only can be permitted on the condition that the homeowner be present on the property during the rental period. This alternative mitigates inconsistencies of the Project with Purpose # 2 on page 3 of the Agency's Project Description:

"...provide opportunity for visitors to access public areas of the County through Vacation Rental opportunities, benefiting the local economy while preserving the housing supply and quality of life, and protecting public health, safety, and general welfare..."

It also mitigates environmental and enforcement issues not met by the Project's Limited division and particularly not by the Commercial division. It also mitigates inconsistencies with the CVMP 1.15, while still allowing for some vacation rentals within established CAPS.

PROPOSED MITIGATIONS

a. **Increase affordable housing requirements** to counteract potential project impact due to displacement of tenants. Population and Housing (1.14 b)

b. **Increase sheriff and HCD staffing and response time** to accommodate project's environmental impact on noise (1.13), parking (1.17 d.), public services (1.15), Nuisance and Nuisance animals, and other anxiety-provoking substantial adverse effects on human beings, in this case for neighbors, resulting from the Project's increased allowable vacation rentals. (1.21d)

c. **Consider other working ordinances**, such as the city of Pacific Grove or Santa Cruz County, as guidelines for Monterey County's ordinances.

d. **No Project.** Consider a new localized approach to creating workable vacation rental ordinances and policies arrived at through local determination. HCD staff hires 3rd party Focus Group facilitators to solicit resident input through each Land Use Area or Planning Area of the County, asking citizen committees with LUACs or other Planning agencies to fill in options to develop localized addenda to existing Title 7, 21, or 20 (each requiring BOS approval). This addresses the fact that, in the case of vacation rentals across Monterey County, one size does not fairly fit all, and the disparity between the TOT generated and percent of services rendered can be addressed.

e. **Include a sunset clause** terminating any administrative permit that takes effect with any transfer or change of ownership status of property, or with no rentals in a 6 month period, or with failure to pay TOT for any Commercial Rental.

f. **Increase Staffing and Vigor** for both County staffing in code compliance and Sheriff staffing to provide adequate enforcement to bring all potential Limited and Commercial vacation rentals into compliance. This requires full time staff dedicated to continued monitoring of operations based on neighborhood complaints after administrative permitting, TOT registration and payments, business license, with increased response time for loud parties, trespass, etc. the 30 minute response time for a property is not sufficient to comply with environmental disturbances inherent in the Project.

g. **Project should stipulate how Transient Occupancy Tax and fees collected for administrative permitting of existing vacation rentals will be used to fund the hiring of adequate staffing and support for existing local public service entities** (Fire, Sheriff, HCD Code Compliance, etc.) How will the Project allow for enforcement of the draft ordinances and environmental impacts such as Noise (1.13), Lighting (1.1), Population and Housing (1.14), Traffic (1.3,1.6,1.8,1.9,1.17,1.20), Transportation (1.17)? Permit Fees and TOT collected through this Project should not be used to support the General Fund.

h. **Moratorium on all Vacation Rental Permits.** This should be a separate Board of Supervisors Referral to avoid potential litigation resulting from permitting vacation rentals that change the land use of a parcel in perpetuum without an legislative rezoning process.

Additional Evidence to Enter into the Record

1. Letters from Sky Ranch Rd Residents:

Dear Supervisor Mary Adams,

My name is Jennifer Jackson, and I am a resident of Sky Ranch Road located in Upper Carmel Valley (Cachagua). I was on the EIR/CEQA Zoom meeting on Sept. 6 about the proposed Monterey County Vacation Rental Ordinance. I really appreciated your sincere request to hear from the community regarding the short-term rental problems in our neighborhoods.

I am writing to you because my community is extremely concerned about an unpermitted short-term vacation rental that has begun operating on our private road. In February 2022, the new owners of [35370 Sky Ranch Road](#) listed their [home on the Airbnb website](#) and began regularly renting out the house as well as the adjacent “in-law unit” on this platform. The neighbors were never asked for input regarding this business venture. In fact, soon after purchasing the property the owner told one of my neighbors that many family members would be living in the house, and they would have a lot of vehicles.

Sky Ranch Road is a private road at the top of Tularcitos Ridge, off Cachagua Road. The above-mentioned listing (Assessor Parcel # 417-081-055) is located at the dead end of the road. Residents have seen a substantial increase in traffic driving at unsafe speeds (above the posted 20 MPH). Guests of the Airbnb have also been observed trespassing on community members’ property, taking photos of property affected by the 2020 Carmel Fire, using resident garbage cans, and picking fruit from our trees.

Complaints have been made by community members to the Monterey County Department of Housing and Community Development, and to the Carmel Valley Association (CVA). On August 24, 2022, the CVA’s STR Task Force leader shared our concerns in an email to Erik Lundquist and Joshua Bowling at HCD.

Based on research done by the CVA, the STR property owner [Daniel Boudreault](#) does not have a Monterey County Use Permit to operate this residential property as

a commercial short-term rental. Nor is Mr. Boudreault paying the required TOT tax to Monterey County to operate his business. According to the proposed Monterey County STR Ordinance, even if he had the proper STR permits, he would not be allowed to [rent the in-law unit](#) on the property.

The Sky Ranch neighborhood was severely affected by the 2020 Carmel Fire – half our 34 homes burned down. Fire safety continues to be a top priority. There is no evidence that Airbnb or the host of this property has educated their potential guests of this danger. This lack of awareness of the environment endangers our community.

Additionally, our neighborhood relies on a fragile well water system that we maintain ourselves. At times the system fails, and all residents must stop using water to protect the integrity of the pumps and pipelines until repairs are made. During Car Week in August 2022, we had one of these emergencies. A member of our Tularcitos Mutual Water Company Board notified Mr. Boudreault by telephone of the emergency, and Boudreault stated that he would pass this information to his guests. I had a conversation with one of his guests the next morning, who stated he was not made aware of a no-water-use emergency.

I am asking for the County's assistance in enforcing current county ordinance to protect the safety and welfare of our neighborhood.

Thank you in advance for your assistance. I'm attaching here a letter from a Sky Ranch survivor of the 2020 Carmel Fire about what he has witnessed as a result of this illegal short-term rental.

Sincerely,

signed by President Jackson and 18 other residents of Sky Ranch Road

WHY I DISLIKE HAVING AN AIRBNB IN MY NEIGHBORHOOD

Sky Ranch Road in Carmel Valley August 2022

By: a Carmel Fire survivor who is helping rebuild the family home

As a brief summary of why I dislike having an Airbnb in my neighborhood, I could start by making a list of irritating actions done by the guests. The first reason is I constantly see cars driving way too fast down our private, two-lane Sky Ranch Road. Since August of 2020 when my family home burnt down, me and my family have been working tirelessly to get life back to normal. Often that means I am on the property working long days, and sometimes not even leaving the property for weeks at a time due to a huge construction list of things needing to be done. I see things that go on in the neighborhood because I'm here almost all the time. There have been incidents of Airbnb guests driving too fast right in front of my house and even running people onto the side of the road; including some of our construction employees. The second reason I must complain relates to trespassing. In July 2022, Airbnb guests were caught trespassing on my family's property, as well as my next-door neighbor's property to the west of ours. It was before eight in the morning when one of my family members told me that what looked like a family they didn't know walked partially down our driveway, took pictures, and then kept walking down Sky Ranch Road. Irritated, I got on a quad and road up to see what was going on. I saw the family on Sky Ranch Road in front of my neighbor's property. I noticed there was a couple who I assumed were around their 40s-50s, and two daughters. I didn't want to seem intimidating or spook anyone, so I rode to our neighborhood mailboxes (about a block away on Sky Ranch Road) and turned around to see if they were doing anything else that seemed weird on my way back. I then saw the father in the neighbor's yard, and the rest of the family standing in his freshly planted flower beds. I then stopped and asked them how and what they were doing. After they told me they were staying at the Airbnb, I asked them if they knew anyone from my family or if they knew the neighbor. They said they did not know anyone who lives on Sky Ranch and the man's excuse for being on my neighbor's property was "to use his trash can." I told him that was not OK and to please not trespass and allow their dogs to poop in people's yards. The third incident in August 2022 was Airbnb guests were partially blocking the roadway early in the morning when people are driving to work. The guests were out of their cars, taking photos. I again politely asked them how and what they were doing to

which they answered, “taking pictures.” I told them that Sky Ranch is not a national park for you to enjoy and that they should please move along. Besides Airbnb guests being nuisances, the owner never consulted the community before starting a short-term rental, and in fact he lied to my family about his intentions. When Daniel Budreault first came here, my Grampa was taking his garbage cans up the driveway and noticed a car he didn’t recognize. He stopped the car, asked the driver if he was the new neighbor. My Grandpa is in his late 70s and his memory and basic mental function is getting worse and worse at a more rapid rate than I have seen throughout my whole life. The Airbnb owner told my Grandpa that the house he just bought at 35370 Sky Ranch is going to be his new family home, and that his four children who all drive will be up here frequently along with all of their significant others, so there will be lots of cars due to the large family. My Grandpa, thinking there is nothing to be frustrated about, then told him to have a good day and went about his business. Come to realize this was a big fat lie. Of all the disturbances by the guests, the owner lying directly to my grandfather’s face makes me more disgusted than anything. Thank you for taking the time to read this.

2. Information on Lighting Issues from Meredith Nole, MIES, MONTEREY LIGHTING EXPERT

MONTEREY LIGHTING
ilight8@aol.com – T: 831-250-5623 C: 862-220-1406

September 27,2022

RE: VACATION RENTAL LIGHTING

After reading the recommendation indicating that there is NO impact relative to Vacation Rental Lighting, this letter is intended to introduce some facts as to why specific rules on lighting must be incorporated into every lease. Not only will

natural human activity influence the usage of vacation rental lighting patterns, scientific documents are clear about the “Effects of Light on Humans”.

Please see NOP Initial Analysis 1.1.1d): d) [Does the Project] Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? "No Impact. The proposed regulations would not authorize or facilitate any new development. The ordinance only applies to existing dwelling units. There would be no impact associated with a new source of substantial light or glare and this issue will not be analyzed further in the EIR."

The name “ Vacation Rentals” indicates that people will be transient tenants in locations they are unfamiliar with. This fact alone will prompt each vacationer to increase the usage of exterior lighting not only for seeing going in / out, but also for safety / security at night, where they will be prone to leave all exterior lights on all night.

In addition, the name “Vacation Rental" also gives way for Tenants to party, entertain in the back yards and hang LED string lights all around the back yard areas, usually high up in trees, spreading light 360 degrees, into the surrounding properties.

The reasons light at night does indeed need to be regulated and have rules, is the fact that several scientific studies, over many years, have documented the bad effects spill over lighting / light pollution or glare at night has on the health of all people and animals burdened with a lack of complete darkness during nighttime hours of sleep.

Briefly, since 1993 to the current time 2022, the amount of scientific documents specific to “the biological effects of light on humans” is huge. A summation of so many reports by the most noted scientists in their field, all have proven data that there are many effects of light, and the most significant is light at night, during ordinary sleep hours. Sleep times need to have complete darkness, for best health practices.

Light entering the eye stimulates both sensory capacity of vision as well as the non-visual part of the brain called the suprachiasmatic nucleus, a fundamental part of the circadian system that controls daily bodily rhythms and physiological parameters. Light--the intensity, the color, and the use patterns of light--in all its forms affects all living things; humans, animals and plants.

One of the best usages of light, in addition to our daily usage, is in the medical setting for improving Alzheimer's, sleep regulation, physical homeostasis, and the best health-related activity for all humans is proper sleep. Any spillover, glare, overly bright, intrusive light at night must be regulated especially for vacationers, unfamiliar with the terrain.

Also, I recommend each rental property should have all the exterior light fixtures evaluated to be dark sky friendly, and that prior to being included into the listing of available rentals, all exterior light fixtures existing be only dark sky compliant, using 2700 Kelvin color. This certainty will alleviate any potential issues with interfering with any neighboring properties, especially with children getting into bed early, or older residents wanting their rest. It's best to anticipate and prevent any issues early for smooth working relationships all around.

The Illuminating Engineering Society – the Lighting Authority -- develops all standards for good and proper lighting for every type location, and offers suggestions of best levels of light for specific areas and usage types.

I would be happy to offer current documents and scientific reports of over 25 years of research on humans by top scientists as well as some publications of the IES.

To mitigate undo stress of any potential sleepless night for any vacation rental, I urge you to adopt developed lighting principals, practices and measures of “good lighting”, ensure safety and security without spillover, promote efficiency and sustainability, and adopt 2700 Kelvin color for all external lighting in Carmel Valley. The use of the color lighting of 2700 Kelvin will allow for the right light levels needed, without over lighting, and without blue or harsh color.

I remain available for any questions.

Regards

Meredith Nole, MIES

3. Complete Text of Comments on NOP Impact 1.20 Wildfire by Boronda Rd.
Firewise Community Co-chairs C.S. Noel & Fred Rubin

ENVIRONMENTAL IMPACTS OF WILDFIRE ON CARMEL VALLEY

NOP Section 1 – Environment Checklist

In the Environmental Checklist, Wildfire has **NOT** been selected as one of the “Environmental Factors Potentially Affected”. This is a serious omission and represents a very concerning defect in the document. Vacation Rentals will significantly increase the risks and impacts from Wildfire in Carmel Valley.

- ❖ Vacation rentals currently exist, and the new ordinances have the potential to greatly expand their presence in Carmel Valley. The Monterey Peninsula region and Carmel Valley are sought after vacation destination locales for their glorious weather, unmatched scenery, world class dining, and multitude of special events, shopping and sightseeing.
- ❖ Monterey Peninsula Visitors Bureau estimated that Car Week alone this year in 2022 would draw over 85,000 visitors to the area. So, it is no surprise that vacation rentals have increased dramatically in just the last year, and this demand will only increase further based on these recent trends.

1.20 WILDFIRE: The environmental impacts of Wildfire must be recognized and addressed: **Properties in Carmel Valley are located in a State Responsibility Area (SRA), where land and property have a high fire hazard severity rating. Properties located in an SRA have legal requirements associated with them that fall under PRC 4291. Properties must be maintained at a certain level, and to be compliant, property owners must:**

- Maintain a 100-foot defensible space that includes a 30-foot lean, clean and green zone, and 70 feet of fuel reduction where trees are limbed up six feet, brush is thinned out and annual grasses are mowed down to a maximum four inches.
- Remove tree branches from within 10 feet of a chimney or stove pipe, remove all leaves and needles from the roof and roof gutters and remove all dead limbs away

from the home.

- In addition, starting January 2023 for new homes and 2024 for existing homes, there will be a new zone where no combustibles will be allowed and only fire resistant plants and materials will be allowed within the first five feet of your home.”

It is incumbent on the County that the new ordinance(s) related to vacation rentals include these legal requirements and ensure compliance as part of the process to obtain a permit. In addition, ordinance(s) should stipulate a mechanism to monitor regular ongoing adherence to PRC 4291, and see that it is being enforced rigorously.

Please note that PRC 4291 specifically further calls out that: **“A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation.”** This can and should be done where property line distances make it practicable.

Many vacation rental properties are owned by individuals or entities which are either unaware of, or out of compliance with these regulations which require frequent and ongoing effort to be sufficiently maintained.

Monterey County Regional Fire District has provided educational information alerting property owners that **embers from wildfires, which can travel as far as five miles ahead of the fire, are the #1 cause of home ignition.** To forestall this high risk, home hardening is imperative, with frequent and regular maintenance as described in PRC 4291 being equally important. The County should provide this info to all owners and renters of vacation rental properties and require an LA 100 (or other equivalent assessment) prior to awarding a permit, and ongoing annually at a minimum. It is strongly recommended that installation of new fire pits be denied, and regulations regarding fire screens be strictly enforced on those that are existing.

Link to PRC 4291:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4291.&lawCode=PRC

1.20 Wildfire

A Wildfire event will create other impacts that are either incorrectly called out as “No Impact” in the Environmental Factors Potentially Affected section, or not addressed in the NOP as written.

CARMEL VALLEY REGION EVACUATION GUIDE



Zone Count	91 Zones	Zones	Zones D001-D091
Cities	-	Estimated Population	23,015 People
Unincorporated Communities	Carmel Valley Carmel Valley Village Rancho Tierra Grande Robles Del Rio Santa Lucia Preserve Cachagua Jamesburg/Tassajara	Address Count	6,974 Addresses
Law Enforcement	LPNF Monterey County Sheriff's Office BLM USFS-LPNF	Fire Protection Districts	Cachagua FPD Carmel Highlands FPD CALFIRE-Cypress FPD USFS-LPNF Monterey County Regional FPD

Evacuation Routes	Primary Evacuation Routes:	Secondary Evacuation Routes:
	<ul style="list-style-type: none"> • Carmel Valley Road • Hwy 1/Cabrillo Highway 	<ul style="list-style-type: none"> • Cachagua Road • Laureles Grade • Tehama Rd/Canada Wood Rd/Monterera Ranch Rd

XX. Wildfire

a) IMPACTED! A Wildfire event in Carmel Valley has an extremely high risk of substantially impairing an adopted emergency response plan and/or emergency evacuation plan.

Not counting visitors to our area, Monterey County’s Carmel Valley Region Evacuation Guide from 2021 (latest figures published) states that the estimated population for Carmel Valley is 23,015 with an address count of 6,974. **The Guide lists only two primary evacuation routes, and three secondary routes.** Of those five routes, ONLY Highway 1 is entirely two lanes in each direction, with Carmel Valley Road having two lanes in each direction for only 2.2 miles. The three secondary routes are single lane in each direction, and feature mainly narrow, winding roads as well as grades.

Picture such a wildfire occurring during one of our area’s highly attended multi-day events, e.g. Car Week in 2022, where event attendance was projected to be over 80,000. Or, during the AT&T which is known to top 100,000 spectators. That’s on top of the County’s 23,015 estimated population for Carmel Valley, plus crowds of visitors who would likely be out-of-area with no prior emergency evacuation practice, or much knowledge of local roads, the vast majority trying to get out via only two primary evacuation routes. How could the impact be anything other than catastrophic. (This is not such a far-fetched concern given that fire season has become a year-round visitor itself, first arriving in Monterey County on 1/21/2022 near the coast with the Colorado Fire. Since then, there have been four or five others – albeit small grass fires – in the Carmel Valley area, which were fortunately all put out very quickly by local fire departments before they became a threat.)

None of the three secondary routes were designed for this volume of traffic under good road conditions, much less in an emergency event with a fast-moving Wildfire. The two primary roads would also be critically over-burdened given their Level of Service ratings (LOS).

Monterey County’s Draft Environmental Impact Report 2008, in Table 4.6-24 titled, “County Roadway Segments Operating at LOS E or F under Buildout Cumulative plus Project Conditions,” lists Roadway Segments Operating at LOS “F” in Buildout Cumulative Conditions Scenario for County Road G16 (Carmel Valley Rd) for all segments listed in the report. And, they still have that rating currently, which is as follows:

	<u>LOS – (Level of Service)</u>
SR-1 to Carmel Rancho Blvd	F
Carmel Rancho Blvd to Rio Rd	F
Rio Rd to Rancho San Carlos Rd	F
Rancho San Carlos Rd to Valley Green Dr	F
Valley Greens Dr to Robinson Canyon Rd	F
Robinson Canyon Rd to Miramonte Rd	F
Miramonte Rd to Laureles Grade	F
Laureles Grade to Ford Rd	F
Ford Rd to Esquiline Rd	F
Holman Rd to Via Los Tulares	F

To complicate matters even more, between Highway 1 and the eastern boundary of Carmel Valley Village there are forty-nine separate streets servicing small neighborhoods that intersect with Carmel Valley Road. Of these intersecting streets, twenty-nine (60 % of them) rely on this single ingress/egress in and out of their neighborhood; many of them with narrow winding streets and narrow shoulders. In the event of a fast-moving wildfire, this will complicate both evacuations out of neighborhoods and onto overcrowded primary evacuation routes, as well as impede access for any emergency vehicles attempting to enter these neighborhoods.

Mitigation strategies should be considered and incorporated into planning and ordinances. For example:

Vacation rental caps should be much lower than 6% in Carmel Valley, particularly in neighborhoods with single ingress/egress access due to road capacities in an emergency and for safe evacuation.

The County should work with the Firesafe Council and Firewise neighborhoods (there are now over 40 neighborhoods that are either certified or in progress toward certification) to share neighborhood evacuation plans with property owners, to see that visitors receive appropriate educational materials, orientation on routes out of the Valley, and to encourage early evacuation when emergency warnings are given.

Property owners should be required to provide vacation renters with educational materials describing wildfire danger and fire safety practices, including a list of County contacts, emergency numbers, how to sign up for County emergency texts, and to have visitors sign that they have read and understand these materials.

b) IMPACTED! Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

In the current dry conditions of the surrounding habitat in Carmel Valley combined with regular onshore winds that often blow with strong gusts in Carmel Valley, danger from wildfire embers is increased, particularly where leaves and other detritus gather quickly around the base of buildings, and under structures such as decks creating hazardous conditions; in addition many vacation rentals advertising fire pits as a feature of the rental, creating additional risk from embers and other careless practices associated with this feature. Fire in addition to smoke and pollutants can quickly spread in this environment. Steep slopes on either side of the Valley floor further exacerbate risks, along with higher temperatures and stronger winds on ridge tops. Smoke and pollutant concentration can spread quickly and uncontrolled. Valley residents were exposed to just such a situation in 2016 during the Soberanes fire for months on end.

c) IMPACTED! Require the installation of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Neighborhoods with a single point of ingress/egress urgently need an additional emergency outlet. Fuel breaks are needed along ridgetops, due to excessive fuel loads and the poor condition of trees and vegetation from the current state of the drought. Excessive increases in the vacation rental inventory also enable higher levels of visitors to the region which put additional pressure on stressed water resources, as for example with the Carmel River that is bone dry in long stretches and historically has been an important water source in fire emergencies. In the long term, this will exacerbate replenishment of aquifers. Problems with power lines and utilities can further impact the ability to fight fires, pump water, and keep communication lines open and available in emergency conditions, impacting residents and visitors alike.

d) IMPACTED! Exposes people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

When wildfire decimates trees and the understory, root systems are also damaged, which during the increasingly heavy and erratic seasonal storms we have recently started experiencing, can cause hillsides to destabilize causing landslides and contributing to further slope instability after fires. This can dump huge volumes of soil, dead vegetation and trees into the Carmel River, which can both block the channel, and when pressure from this

backup is released, result in a flow that undercuts river banks, silts up the river, changes drainage, which further damages trees, plants, wildlife and structures, creates undesirable conditions and cycles of flooding and deterioration of river banks, worsening the health of the river and the riparian corridor, while exposing people and structures to significant risks.

REFERENCES:

Link to PRC 4291:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4291.&lawCode=PRC

Emergency Operations Plan – (April 2022)

County of Monterey

Operational Area

Annex | Evacuation and Transportation

<https://www.co.monterey.ca.us/home/showpublisheddocument/114301/637961624584000000>

Evacuation and Transportation Plan Draft (2021)

Monterey County Office of Emergency Services

<https://www.co.monterey.ca.us/government/departments-a-h/administrative-office/office-of-emergency-services/response/evacuation-guide/evacuation-plan>

Carmel Valley has been cited in two studies on Communities at High Risk in Fire Evacuations:

1) <https://www.nytimes.com/2021/09/29/us/fire-risk-california.html>

Across California, approximately 350,000 people live in fire zones that have no more evacuation routes per person than Paradise, according to the 2019 analysis. [The places](#) with relatively few exit routes:

- Highland Park, Eagle Rock, Pacific Palisades, Rancho Palos Verdes in Los Angeles County
- Newbury Park, Oak Park and Moorpark in Ventura County
- **Carmel Valley and Jamesburg in Monterey County**
- Jamul, Ramona and Scripps Ranch in San Diego County
- Big Bear, Minnelusa and Sugarloaf in San Bernardino County
- Jamul, Ramona and Scripps Ranch in San Diego County

2) AP News carried information on an analysis dated 4/27/19 in USA Today-California Network analysis of California Communities and evacuation routes. The analysis identified the Zip codes listed as being roughly within the worst 1% of the state when it comes to population-to-evacuation-route ratios:

Based on zip codes, the analysis identified 24 zip code areas in California falling within the worst 1%, only one on the list was identified as a zip code in Central California and it was follows:

CENTRAL CALIFORNIA:

93924: Carmel Valley and Jamesburg in Monterey County

Link to article and summary of process used for the analysis:

<https://apnews.com/article/california-wildfires-evacuations-redding-ca-state-wire-6f621c1c54734d0b95d374556c2cf5c0>

4. Complete Text of President Noel's Comments on NOP Analysis 1.1, 1.17, 1.10, 1.19

COMMENTS ON NOP_IS_20220906_by C.S. Noel, 9/21/2022

C.S. Noel, 26 Aliso Road, Carmel Valley, CA 93924 (925) 286-9771, cn0elr@yahoo.com

CARMEL VALLEY RIVER & RIPARIAN CORRIDOR

Carmel Valley was made and molded by long eons of traverse by its river, the Carmel River. Carmel Valley residents, and indeed, the entire Monterey Peninsula are deeply dependent upon her waters, which are heavily pre-empted for use by agriculture, residents, commercial interests and visitors.

Despite these extensive intrusions, our river has a quiet beauty that resonates a sense of place, influencing the flow of events in the Valley on many levels. Our Valley has very rare treasure. A rich riparian corridor with some original segments still intact and relatively undisturbed by agriculture or development. In the west, rivers like ours are few and far between, which is why riparian corridors should be accorded strong protection by the State and government entities.

Other Valley denizens, besides humans, live in dependency with this river that runs through the riparian corridor. Native plants thrive there, as well as animal populations from the wild, such as bobcats, mountain lions, deer, coyotes, frog (hopefully still some of the red-legged sort) and native steelhead.

The Carmel River Watershed Conservancy has provided the **link below** to a video showing an incredible encounter with Steelhead spawning in the Carmel River on **March 22, 2021**.

Even though early in the year at a time still once considered "the rainy season", the river is low. Drought had already set in by this date. But it is still enough, and something magical ensues.

Watch here: <https://youtu.be/CIB6tks-M6k>

Exactly 18 months after video, Carmel Valley River behind Dampierre Park, 37 Paso Hondo, CV

Carmel River Looking East – 9/22/2022



Footbridge over bone dry river bed

Carmel River Looking West – 9/22/2022



A River of Rocks as far as you can see

By comparison, the photographs of the Carmel River (above) were taken September 22, 2022 exactly 18 months to the day after the video. Now, vast stretches up and down Carmel River look like a rock quarry, bare and dry with not a hint of water, not even a damp patch. In rare places where there are small pockets, water can only be measured in inches not feet. The river strains against the forces of high temperatures, changing climate, pumping stations to meet the demands of agriculture, commercial businesses, residents, and large influxes of visitors forcing additional water demands onto her. Now the Carmel River is reduced to a river of rock. In places, it can hardly even summon that, and is little more than a dry and dusty arroyo.

The Monterey Peninsula Visitors Bureau estimated that for Car Week alone in 2022, there would be an influx of over 85,000 visitors to the area. Thirsty visitors, visitors that require water. When will the tipping point be reached?

The proposed Short Term Rental ordinance allows a 6% cap county-wide on commercial short term rentals. There is no cap imposed on the Limited category of Short Term rentals, which are bounded only by no more than a restriction of three instances of 14 day stays. This option is available for all 5,033 residences in Carmel Valley (per the County's statistics), which affords this category the opportunity collectively for 211,386 rental days a year. There is no question that this activity will require more water.

In fact, the only questions that remain are how much more, and when will our gracious river, and its lovely riparian corridor with its many dependent denizens – wild and human – through no fault of her own, fail us. It is essential that an expert and thorough EIR be completed.

The Carmel River reached an inflection point such as this once before in the 1970's, when the state's Department of Water Resources suggested increasing the draw from the river's aquifers. Over pumping coupled with drought, as conditions were then, would cause irreparable damage to the riparian corridor resulting in erosion to the river banks. And this is exactly what happened in 1976 – 1977.¹ And, now in 2022, the Monterey Peninsula and Carmel Valley region is experiencing an even more severe return of these same conditions, and the expected result can be easily predicted — the deterioration of the river, at a rate that will continue at an ever-increasing pace as climate conditions worsen and greater demands are placed on sources of water for our area. After decades of mismanagement, at the close of the 20th century, Carmel River achieved further notoriety when listed by the advocacy group, American Rivers, as one of the continent's ten most endangered rivers.²

One final question. Why would we be permitting this to happen again? This is not progress, it is making the same mistake twice. Do not "Permit" this.

Do not let a greedy thirst for water created by the drunken demand of Short Term Rentals cause the beautiful Carmel River Riparian Corridor to become choked and only a watercourse of dust and rock, thence to run dry again leaving only the parched gullet of a once majestic river system. Instead, research and accept no more and no less than a natural balance that values a healthy river with rational levels of visitors to the area that will sustain our watershed and community both now and into the future.

~ ~ ~

"The Carmel River presents a remarkable test case for a messed-up river. Almost everything that can go wrong with a river system through human activity has happened. What we see in the Carmel River is an archetypical manifestation of what happens in western rivers."

~Quote by Dr. Robert Currey, geologist, 1981, excerpted from "River In Ruin",
by Ray A. March; pg xi.

~ ~ ~

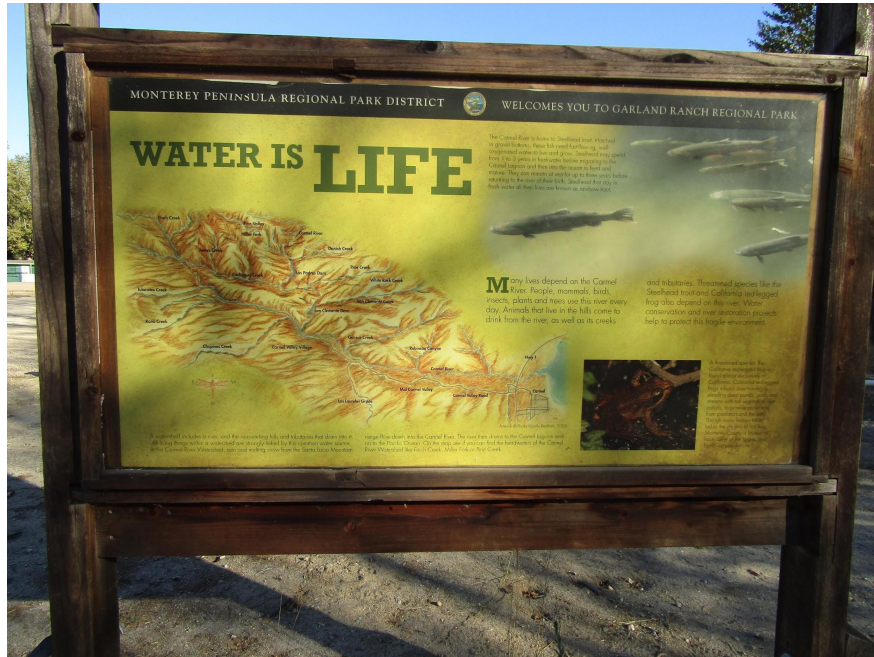
"A Watershed includes a river and the surrounding hills and tributaries that drain into it. All living things within a Watershed, rain and melting snow from the Santa Lucia Mountain range flow down into the Carmel River. The river then drains to the Carmel Lagoon and on to the Pacific Ocean. Many lives depend on the Carmel River. People, plants and trees use this river every day. Animals that live in the hills come to drink from the river, as well as its creeks and tributaries. Threatened species like the Steelhead trout and California red-legged frog also

¹ River in Ruin by Ray A. March, pg 109.

² Ibid

depend upon this river. Water conservation and restoration projects help protect this fragile environment.”
~ Local artist, Paola Berthoin

Monterey County Educational Sign posted at Dampierre Park, 37 Paso Hondo, CV



Carmel River was a river in distress in the 1970's and 1980's. By making sensible, sensitive decisions, and taking careful action she gradually healed. But she is still fragile. Let us not get to the point of testing whether our amazing river, set in a transcendent riparian corridor, can come back a second time. It is we, her caretakers, that now need to pass this difficult test.

The Information contained on pages 1-3 of this document demonstrate risks and impacts from the project due to misuse and mismanagement of water resources, insufficient ability to control visitor influx impacting water resources, forest, river and riparian health, degradation of the riparian corridor resulting in soil instability significantly increasing the risk of flooding after a wildfire event, or in the event of increasingly unpredictable storm and weather patterns caused by climate change which may increase flooding events, and impact on these same natural resources from greenhouse gasses emitted by increasing traffic loads on local byways. These conditions will result in degradation of the community and surrounding environment creating Significant Impact as related to the following sections of the NOP, making the NOP assessment of "No Impact" as marked in these sections inaccurate and incorrect:

The heavy load of additional visitors to the area will put significantly increased pressure on water consumption impacting water table level, water levels and flow volumes in the Carmel Valley River. This will impact the health of bank-stabilizing plants, resulting in potential degradation of soil condition in the banks, making banks vulnerable to erosion in the event of heavy and erratic winter storms, landslides on steep hillsides, promoting undesirable silt and solid build up in the water channel from storms following a wildfire event. Additionally, impacts

on water levels due to additional consumption will affect wildlife dependent upon water in the river, along with all those – including humans – dependent on a daily basis on the health of the entire watershed area, river, tributaries and riparian corridor. The new ordinances being developed to support this project should be directed at reducing these risks instead of enabling them to occur.

- 1.1.1 Aesthetics – Aesthetics 1.a, b, c
- 1.1.1 Discussion – a, b, c
- 1.2 Agriculture and Forest Resources – II. Agriculture and Forest Resources d, e
- 1.2.1 Discussion – d, e
- 1.3 Air Quality – III. Air Quality c, d
- 1.3.1 – c
- 1.4 Biological Resources – IV. Biological Resources – a, b, c, d, e, f
- 1.4.1 Discussion – a, b, c, d, e, f
- 1.7 Geology and Soils – VII. Geology & Soils – b, c, d, e
- 1.7.1 Discussion – a)iv – b, c, d, e
- 1.8 Greenhouse Gas Emissions – VIII. Greenhouse Gas Emissions a, b
- 1.8.1 Discussion – a, b
- 1.10 Hydrology and Water Quality – X. Hydrology and Water Quality a, b, ci, cii, ciii, civ, e
- 1.10.1 Discussion – a, b, ci, I, ii, iii, iv, e
- 1.19 Utilities and Service Systems – XIX. Utilities and Service Systems – a, b, c
- 1.19.1 Discussion – a, b, c
- 1.20 Wildfire – c,d
- 1.20.1 Discussion – c, d
- 1.21 Mandatory Findings of Significance – XX. Mandatory Findings of Significance – a, b, c
- 1.21.1 Discussion – a, b,c

Legislation and programs regarding Riparian Corridors, wetlands and streams³

The California Coastal Act of 1976, see especially PRC Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes . . . shall be maintained and where feasible, enhanced through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The California Energy Commission PRC Section 25527

³ Legislative and Policy information as summarized in “California Riparian Systems”, University of California Press, UC E-Books Collection, 1982-2004; University of California, CDL California Digital Library.

PRC Section 2552 provides protections (against the siting of energy facilities) for parks, reserves, "areas for wildlife protection, recreation, historic preservation, or natural preservation," and undeveloped estuaries. In addition, the commission "shall give the greatest consideration to the need for protecting areas of critical environmental concern."

California Department of Fish & Game Sections 1601-1606 of the California Fish & Game Code
DFG authority in Sections 1601–1606 of the California Fish and Game Code to execute Streambed Alteration Agreements for any activity that will divert, obstruct, or change the natural flow or bed of a river, stream, or lake.

California Department of Water Resources

The California Department of Water Resources (DWR) has in recent years increased its documentation and policy support for preservation of riparian vegetation and instream retention of water.

State Water Resources Control Board

The State Water Resources Control Board (SWRCB) is involved in many areas of present interest, but two are especially worthy of comment. The "208" area-wide "nonpoint pollutant" control planning process (from Section 208 of the Clean Water Act) has given some attention to the vital importance of vegetated streambanks for erosion control and filtration of sediment-carrying runoff, plus the value of wetlands for sediment and pollution filtration; and also the new program of the SWRCB for retaining instream water flow as part of its water rights program. The regulations are now in place and can be vitally important in protecting the overall health of our streams and many wetlands.

The Rivers and Harbors Act, Section 404, and Riparian System Conservation

Federal Wetlands Protection under the Rivers and Harbors Act of 1899

This NOP EIR Scoping and Initial Analysis Comment Letter is the position statement of the Carmel Valley Association. It was prepared by Members of the Carmel Valley Association Board of Directors, and collated and edited by:

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