

I-405 David C. Walker and Elsa L. Morris

Comment Letter I-405

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August 7, 2017

HAND DELIVERED

County of San Diego
Planning and Development Services
5510 Overland Avenue, Ste. 310
San Diego, CA 92123

Attn: Ashley Smith

Re: Newland Sierra, Log No. PDS 2015-ER-15-08-001; SCH No. 2015021036
Project Nos.: PDS 2015-GPA-15-001, PDS 2015-SP-15-001, PDS 2015- REZ-001,
PDS 2015-TM-5597, PDS XXXX-HLP-XXX

Dear Ms. Smith:

Please confirm receipt of this letter.

The comments set forth below are submitted with respect to the above-referenced matters. The Environmental Impact Report is hereafter referred to as the EIR. The California Environmental Quality Act is hereafter referred to as CEQA. The project applicant, Newland Sierra, LLC, is hereafter referred to as either Newland or the applicant.

The EIR identifies many significant environmental impacts that would result from implementation of the proposed project including many impacts that mitigation measures cannot eliminate. The EIR, however, fails to disclose and analyze additional significant information and environmental impacts that, pursuant to CEQA, are required to be included in an EIR in order to provide for informed decision making and for informed public participation in the environmental review process [*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376]. The following paragraphs address some of these omitted matters that should be disclosed and analyzed in a revised EIR and recirculated for public review and comment. [*Public Resources Code* §21092.1; *California Code of Regulations* §15088.5; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412]

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I. INTRODUCTION

The project proposes three access roads: Mesa Rock Road on the east, Sarver Lane on the south and the dirt trail known as Camino Mayor on the west. No access to the north is proposed.

Our main concerns relate to the applicant's proposed use of our properties on Camino Mayor as a public access road to its entire project area and the matters not adequately disclosed nor analyzed in the EIR relating to such use.

As husband and wife, we own the improved real property and personal residence, commonly known as 3751 Camino Mayor, San Marcos, California, described as Parcel 3 of Parcel Map 8306, bearing Assessor's Parcel No. 174-300-23, consisting of approximately 14 acres, including a recorded boundary adjustment on the south side. David Walker is the sole owner of the unimproved real property described as Parcel 2 of Parcel Map 8306, bearing Assessor's Parcel No. 174-300-22, consisting of 8 acres and which borders Parcel 3 along Camino Mayor.

Together, we own both sides of Camino Mayor where the two parcels meet and where the applicant proposes an access to its entire project area. Our sole source of water is our well on Camino Mayor on Parcel 3 of Parcel Map 8306 in an area immediately adjacent to the applicant's proposed access route.

Portions of our properties on Camino Mayor, including land and easements, are proposed to serve as an access route to the applicant's entire project from North Twin Oaks Valley Road on the west extending to Mesa Rock Road on the east, and further east to the I-15 Freeway at Deer Springs Road. The project proposes 2,135 dwelling units, 81,000 sq. ft. of commercial space, educational uses, open space and public parks. The closest public park to our properties is proposed as an equestrian staging area, among other uses, although no horse stables or maintenance of other livestock are proposed to be permitted in the project. Further, it is also noted in the EIR as well as in the applicant's website project description that the public will have access to 1209 acres of proposed OPEN SPACE. The proposed project access road closest to the 1209 acres is off-site private road Camino Mayor on our properties.

Many different descriptions/analyses are set out in the EIR, and the related documents, of Camino Mayor and its proposed uses, implied uses, the intent of its use, the traffic forecasts and capacities along with alternate Camino Mayors. As a result, it is impossible to be certain what exactly is being proposed for Camino Mayor and our properties. The scattered references are very difficult to reconcile and depending on which section or document is being read one gets a different impression of the proposed project as it relates to Camino Mayor. CEQA requirements as to the description of the project and its impacts have not been met. As the California Supreme Court reiterated this year in *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918 at 941, information in an EIR must be presented in a manner calculated to adequately inform the decision makers and the public, "information scattered here and there in

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EIR Appendices or a report buried in an appendix is not a substitute for a good faith reasoned analysis". (citing *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412 at 442). The EIR for the applicant's project, as to Camino Mayor, is a perfect example of what the California Supreme Court has held is not acceptable in an EIR.

Specifically, the proposed access route on Camino Mayor from North Twin Oaks Valley Road to the applicant's property boundary at Parcel Map 11792 is sometimes described as a *private off-site road* but depicted in all maps, plans and graphs as connecting to an *on-site public road* with access to the applicant's entire project, which would result in *public access* to, and over, our private properties on Camino Mayor, a proposed *private road*. In sections of the EIR, in appendices, memorandum, a fire protection plan, an evacuation plan and in other related project documents available for public review, Camino Mayor is variously referred to as an "access point" (whereas Mesa Rock Road and Sarver Lane are referred to as "roads"); as the "effectively off-site" access road from the on-site project area of Sierra Summit with 151 dwelling units to North Twin Oaks Valley Road; as an evacuation road for emergency use by entire project; as a secondary access road, as a project access road; as a road that will have limited traffic generated by the project with various different calculations thereof in various different places in the EIR documents; "as primarily intended for emergency ingress and egress"; and as a Hillside Residential Street 2,500 ft. long from the equestrian staging area to North Twin Oaks Valley Road; all of which descriptions are in addition to being described as a "proposed private road" or as a "private road". Further, in some sections of the EIR and the related documents, the project access on Camino Mayor is referred to several times as "Camino Mayor" and "Camino Mayor Alternative". There is also an analysis in a Memorandum, attached to the EIR as Appendix D, **not** discussed in the EIR Section on Project Alternatives, of two Camino Mayor Alternative Alignments, that also refers to the Camino Mayor route proposed for the project. This Memorandum states, in pertinent part in the first paragraph, as follows: "**As part of the project the existing Camino Mayor dirt road east of Twin Oaks Valley Road would be improved and connected to the Mesa Rock Road extension.**" On the Tentative Map/Preliminary Grading Plan for the proposed Camino Mayor, as well as on the map and plans for the two alternative alignments, the off-site Camino Mayor routes are not identified as "off-site" despite text references in various sections of the EIR and attached appendices and other documents on a list of "Additional Items" to "off-site" Camino Mayor and "on-site" Camino Mayor. Rather, on all maps and drawings, everywhere in the EIR and in the attached documents all three routes are depicted as directly connecting to, and as a part of, Camino Mayor on-site within the project's boundaries, continuing into all the project area, implying again that public access is available from North Twin Oaks Valley Road to the entire project via Camino Mayor. It is not clear as to whether the applicant is proposing that two or three alignments for Camino Mayor be approved as access roads into the project nor is it explained what significant impacts required the analysis of Alternative Alignments and why they were not described in the EIR text on project alternatives. The applicant claims to have an easement on the existing dirt trail, which may or may not actually be what is described as Alternative Alignment Two, which it does not propose to abandon if Alternative Alignment One is approved along with the proposed

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alignment. Or, does the applicant intend to abandon any claimed easement it may have on the existing Camino Mayor or on Alternative Alignment Two if Alternative Alignment One is approved? There is nothing clear nor complete in the analysis of proposed alternative alignments nor an explanation of what environmental impact they are intended to lessen or if the applicant is seeking approval of more than one alignment.

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The Wildland Fire Evacuation Plan provides additional differing references to Camino Mayor stating that any of the project areas may be directed to use Camino Mayor or the Camino Mayor alternative, without identifying which of the two alternative alignments is referenced, in an emergency evacuation, but that only 470 vehicles are forecasted to use Camino Mayor as an evacuation route. In a very small footnote, this evacuation plan states that *"The Camino Mayor alternative would provide ungated ingress/egress from the same point along North Twin Oaks Valley Road to the northern portion of the project. The alternative roadway is aligned to the north of Camino Mayor and would direct traffic around the existing Camino Mayo [sic] residential neighborhood..."* This tiny footnote is the only place located in the EIR and all the related documents available for public view that makes any reference, albeit indirect, to an impact on our Camino Mayor properties and the right to gate and lock, as the project proposes apparently, the off-site private road project access on Camino Mayor.

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The fire protection plan refers to the applicant paying a fire fee to the Deer Springs Fire District greatly exceeding what is required as apparent mitigation pursuant to a fire fee agreement. The fire fee agreement provides that Newland or its assignees can form a Community Facilities District, commonly known as a Mello-Roos Tax District, to pay all the fire fee, which exceeds four (4) million dollars. If this were to occur the applicant would not be paying all the fire fee as the property owners when they buy into the project would be paying it as an extra tax. It should be disclosed as to the potential for all properties within the Deer Springs Fire Protection District to potentially be annexed into such a Mello-Roos District as a result of the applicant's project, resulting in additional taxes to non-project properties. This would be an impact of the project on the environment as it could result in defaults, litigation, and other unintended results impacting the fire district's ability to meet fire protection needs of the applicant's project.

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Additionally, it is not made clear that potential users of the proposed equestrian staging area as well as residents of Sierra Summit, as well as of other areas of the project or the public, would not have legal access over our private properties on Camino Mayor. Many potential issues arise as to the location of the equestrian staging area, including, but not limited to, non-resident members of the public hauling horse trailers, or riding horses (leaving horse manure), throughout the project's residential and commercial areas to get to the proposed equestrian staging area from I-15, Mesa Rock Road and/or Sarver Lane. The impacts of such traffic are not discussed in the EIR nor is there a disclosure or analysis of how the public would access the equestrian staging area, Saddleback Park, or Sierra Summit. Rather, the EIR *implies* that such access would be available via Camino Mayor and it is further *implied* that the public would have

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access to the entire project, over our private properties on the off-site private road portion of Camino Mayor to the on-site public portion of Camino Mayor.

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In that regard, clarification is requested, as well, as to whether a right-of-way (ROW) will be sought on our lands or other properties for a Camino Mayor access, or for a fuel modification zone easement outside any existing easement. In the two ROW Exhibits listed as "Additional Items" to the EIR there is no depiction of any part of Camino Mayor being described as "required right-of-way". The only ROWs disclosed involve Deer Springs Road and Twin Oaks Valley Road near Deer Springs Road and further in the City of San Marcos. If ROWs are anticipated elsewhere for this project, including on our lands, then they should all have been disclosed and described rather than selectively disclosing some, but not all, in the ROW Exhibits circulated for public review with the EIR. It should be explained as well that the applicant may ask the County to use its powers of eminent domain to take private property for the applicant's project including with respect to any such "required right-of-way".

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Thus, contrary to CEQA requirements, the EIR and related documents, all as described above, set forth a very conflicted and confusing presentation of the description of Camino Mayor as well as to analysis of the impacts of its proposed intended private and public uses.

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Our private properties include a large portion of the off-site existing private trail with easements of record referring to it as a "proposed private road". A clear description of what the applicant is proposing has not been set forth which we, as property owners of the land in question are entitled to, and to which the decision makers and the public are also entitled to be informed of to participate in a meaningful review of the project. As is, the publication of the EIR is disparaging of the title to our properties in that it describes uses of our properties to which the applicant does not have a legal right. We request that corrections be clearly set forth in a revised and recirculated EIR to eliminate any further impacts of erroneous information being disseminated by the EIR, including, but not limited to, further disparagement of title to our lands. While there may be a privilege afforded to publication of erroneous information in an EIR the probability of prevailing as to disparagement of title to our properties is in our favor. The better policy, dictated by CEQA, is to put forth clear and truthful information.

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Even assuming that the applicant has or obtains legal access to its entire project over Camino Mayor, which we do not agree exists and deny it is attainable, the potential impacts of public traffic in and out of the entire project on the off-site private road Camino Mayor, including, but not limited to, users of Saddleback Park and its equestrian staging area as well users of the 1209 acres of OPEN SPACE, should be fully disclosed and analyzed, including impacts on Camino Mayor, on the intersection of Camino Mayor and North Twin Oaks Valley Road and on the road segment from Camino Mayor to Twin Oaks Crest Drive as discussed further hereinafter.

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Our concerns are amplified in the following comments:

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II. THE EIR FAILS TO DISCLOSE AND ANALYZE:

A. CAMINO MAYOR IS NOT AN ACCESS ROAD TO ENTIRE PROJECT FROM NORTH TWIN OAKS VALLEY ROAD; EIR DESCRIPTION IS INCORRECT AND MISLEADING

As set forth above, Camino Mayor, as one of three proposed access roads to the entire project was not accurately and fully described in the EIR as required by CEQA. As it exists today, it is a steep barely passable eroded dirt trail as it ascends a canyon to the applicant's property boundary at Parcel Map 11792. In sections, it is approximately at 25 % grade.

The EIR states that there is a 40-foot easement for a proposed private road on Camino Mayor and, in text, maps and plans, implies that the applicant has a right to use this 40-foot easement for access to its entire project. However, access to and use of the off-site proposed private road is limited to, and appurtenant to, the owners of Parcel 1-4 in Parcel Map 8306 and to owners of Parcels 1-4 of Parcel Map 11792, to which the easement is appurtenant. As noted we own two of the four parcels in Parcel Map 8306. The applicant owns three of the four parcels in Parcel Map 11792.

The applicant does not have the right to extend access to the 40-foot proposed private road easement to its entire project. The use of an easement cannot be increased by the owner of the easement. "A principle which underlies the use of all easements is that the owner of an easement cannot materially increase the burden of it upon the servient estate or impose a new and additional burden " [*Wall v. Rudolph* (1961) 198 Cal. App. 2nd 684, 686]. Regardless of how it was created, it has long been the law in California, that a roadway easement cannot be used to benefit additional persons and if the easement is appurtenant to one parcel of property at the time it is created, it cannot be used subsequently to benefit another parcel of property that was not part of the dominant tenement at the time the easement was created. [*California Civil Code* § 811(a); *Miller & Starr California Real Estate* 4th, May 2017 upgrade, 15:77 "Incompatible Acts by Easement Owner; *Lux v. Haggin* (1886) 69 Cal 255, 292; *Schmidt v. Bank of America* (2014) 223 Cal. App. 4th 1489]

The EIR fails to disclose that the applicant's easement rights over our properties are limited to: 1) 20 feet on the north side of Parcel 3 of Parcel Map 8306, granted by David Walker, to a predecessor in interest to the applicant over 35 years ago, for access only to the parcels in Parcel Map 11792, and 2) a possible 20 feet on the south side of Parcel 2 of Parcel Map 8306 granted by a predecessor in interest to the same grantee for the same purpose access to Parcels 1-4 in Parcel Map 11792 only. Such easements only extend from those portions of Parcel Map 8306 to the four parcels in Parcel Map 11792, three of which are currently owned by the applicant being Assessor's Parcel Nos. 174-190-41, 174-190-43 and 174-190-44 and such easements are limited and appurtenant to said Parcel Map 11792 and do not extend to the entire project area. On the applicant's Tentative Map and Preliminary Grading Plans there is a voluminous list of footnotes linked to recorded documents referencing various easements on the

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project site. However, as to the 40' private road noted on Camino Mayor on the map there is no reference to a recorded document evidencing the applicant's right to use said 40' proposed private road as access to its entire project. Furthermore, there appears to be no reference to documentation that the applicant has easement rights on Camino Mayor from North Twin Oaks Valley Road to where our property begins in Parcel 2 of Parcel Map 8306. The references to recorded easement documents are incorrectly set forth as having 6 numbers instead of 7 following the year of recording which interferes with attempts to access the documents through the County's online Grantor-Grantee Index, requiring additional effort, time and money, to allow for public review.

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Significantly, the applicant's Specific Plan for its three parcels in Parcel Map 11792, to which its easement is limited, is proposed as OPEN SPACE. This OPEN SPACE is also referenced on the Tentative Map with reference to another OPEN SPACE, described in an Open Space Easement recorded in 1981, prior to the applicant's ownership, as required by the County as a condition of approval of Parcel Map 11792. Thus, the applicant has not demonstrated a valid use, or right to use thereof, as to Camino Mayor, other than as a possible limited emergency exit route as nothing is proposed for the area which connects to its claimed easement rights on Camino Mayor and no easement rights exist to extend it past the three parcels in Parcel Map 11792 described as OPEN SPACE by the applicant. An explanation should be provided as to the intent of an access route to a limited area OPEN SPACE described in its Specific Plan but referring to it as an access road into and out of the project. Is the intent to use Camino Mayor as access in the event of a fire emergency only; for equestrian access; for project access in general; for general public access; for future development projects in North Twin Oaks Valley, or for some other unidentified use? If not for some such use or future use then there is no justification for its inclusion as a proposed "access point" in the project as the legal right to use it is limited, the projected traffic analyses in the EIR vary from the entire project to minimal or no use. In any event any of the applicant's project use of the off-site private road of Camino Mayor, which could only come from areas outside of parcel map 11792 given the easement limitations, will over burden the easement and it will result in extinguishment of it. Given the conflicting descriptions of Camino Mayor and the proposed uses thereof, the EIR creates confusion and demonstrates a lack of clear disclosure of the intents, purposes and impacts of the project as noted previously in this letter and thus the EIR is not in compliance with CEQA. It should be revised and recirculated for review otherwise it is not in compliance with CEQA.

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The applicant approached us approximately two years ago to discuss use of Camino Mayor for its project. We met with its representatives, in good faith, on several occasions. Subsequent proposals received from the applicant, up to and including October 2016, were not acceptable to us as they failed to contain any of the conditions we had discussed with them and did not address any of our concerns.

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Among other matters, we had indicated to the applicant that, if the project were to be approved, in the event of a fire that we would not stop people from exiting the applicant's project area on Camino Mayor or emergency equipment accessing the same, but that otherwise the road

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would be locked and gated at the applicant's property boundary on Camino Mayor and that we would reinstall our locked gate at the western end of our property on Camino Mayor. Further, as set forth in the previously recorded easement agreement with a prior owner of Parcel Map 11792 parcels, present and future owners of our property would not have any responsibility for the improvement or maintenance of Camino Mayor. We specifically voiced our position that access to the entire project would not be allowed and was not allowed pursuant to easements of record. We repeatedly requested that the applicant provide us with documentary evidence of its purported easement rights and were told such would be forthcoming. At a 2016 meeting with the applicant, we provided the applicant with proof of David Walker's easement over the applicant's property to access his 8-acre parcel (Parcel 2, Parcel Map 8306) but we received nothing from the applicant regarding its easement rights over our property to access its entire project. David Walker's easement is depicted on the Tentative Map and must be maintained as it is the access to the 8-acre parcel 2 of Parcel Map 8306. At the same 2016 meeting with the applicant, when discussing traffic impacts on Camino Mayor, the applicant gave us its map entitled "Camino Mayor Exist. Genl. Plan ADT Study" with the notation "Draft 5/4/16", which depicts the 4 parcels in Parcel Map 8306 and the 4 parcels in Parcel Map 11792 with a notation that a total of 18 dwelling units is allowed on these parcels under the existing General Plan and multiplying that by 12 ADT per dwelling unit equals 216 ADT vehicle trips, with 9 of the allowed units being on Newland's property which amounts to a total of 108 ADT generated by Newland under the existing general plan for its properties that can be accessed via the proposed private road easement on Camino Mayor. *This Map prepared by the applicant is supportive of the applicant's having acknowledged its easement is limited to access to its three parcels in Parcel Map 11792 but it ignores the existence of the recorded dedicated OPEN SPACE areas in Parcel Map 11792 and its own proposed Specific Plan with no dwelling units proposed for these parcels.* A copy of said map is attached hereto as Exhibit "A" and incorporated by reference herein. It is misleading to describe Camino Mayor as an access route to its entire project when its easements do not extent past Parcel Map 11792 and when the easements end in OPEN SPACE under the existing recorded easement referenced by the applicant, and under its proposed Specific Plan. The Tentative Map and the Preliminary Grading Plans are not consistent with the existing easement rights. The impacts of such Map and Plans are significant and should be clarified at the minimum as well as the intended use of Camino Mayor as contemplated by the applicant and/or the County.

Furthermore, there are various other conflicting statements in the EIR and supporting documents concerning the proposed use of Camino Mayor and the estimated number of vehicles that would use it that conflict with the applicant's easement rights over our properties and on Camino Mayor from our properties to North Twin Oaks Valley Road. Specifically, in the document entitled Wildland Fire Evacuation Plan Newland Sierra Community in the graph on page 19 entitled Newland Sierra Post Mitigation Estimated Roadway Capacity (Evacuation) Camino Mayor or Camino Mayor Alternative is described as a Rural Residential Collector Road with Estimated Conservative Capacity of 1,000 vehicles per hour. In the text on pages 19 and 20 it is calculated that up to 4,697 vehicles would be evacuating the project in a major incident but that based on Newland's planned roadway improvements that only 10% of the vehicles or 470

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vehicles would use Camino Mayor and that those 470 vehicles would be evacuated from the project within 30 minutes. There is no indication where in the project the 470 would be coming from other than an opinion that probably they would come from the proposed Summit and/or Knolls residential areas. Additionally, further conflicting information regarding the proposed use of Camino Mayor is set forth as Item 15 and Item 16 beginning on page 94 in a document entitled Design Exception Requests included in the "Additional Items" available for public review regarding the proposed project [but not apparently part of the EIR?], which state that the maximum ADT for Camino Mayor is 320. Further confusion exists in the EIR in that the traffic section graphs describe Camino Mayor as being signalized now, which it is not. Then, as proposed the next graph, describes it as not signalized. The confusion just keeps multiplying as one reads and reads the voluminous documents and finds conflict after conflict in the materials presented as to Camino Mayor.

Additionally, the proposed use of an easement over our properties to serve as an access road into and out of the entire proposed project area would overburden the easement as well as our underlying properties and serve as the basis for an action for extinguishment of the applicant's easement rights as well as for injunctive relief. [*Miller & Starr California Real Estate 4th, May 2017 upgrade, 15:77 "Incompatible Acts by Easement Owner; *Crimmins v. Gould* (1957) 149 Cal.App.2nd 383, 390]. Further, as it is now, as noted above, the publication of the EIR with the inaccurate, erroneous information concerning our properties and that of others, and lack of description of limitations on easement rights is potentially the basis for slander or disparagement of title actions due to its impact on the affected properties and those others with easements on Camino Mayor. [*Summerhill Homeowners Assn Inc. v. Rio Mesa Holdings, LLC* (2012) 205 Cal.App.4th 999] The probability of prevailing on such actions by the property owners is high given the facts. [*Computer Xpress Inc. v. Jackson* (2001) 93 Cal.App.4th 993,1010, as to probability of prevailing for purposes of defeating an anti-SLAPP motion under *California Code of Civil Procedure* §425.16] On February 21, 2017, we delivered a letter to the County Department of Planning and Development Services regarding the status of easements over our properties to access Parcel Map 11792 and the limitations thereof. In said letter we advised that we had not entered into any agreements with anyone regarding use of our properties and that the status of the use is as per existing recorded documents. A conformed copy of said letter is attached hereto as Exhibit "B" and incorporated by reference herein. An email response was received from Planning and Development Services stating that the letter was received and is a part of the public record. It is not included in the list of Additional Items as to this project's documents. What public record contains our letter?*

The EIR should be revised and recirculated to address the above-described issues and provide an analysis of the environmental impacts of the project on the same. Without such additional disclosures, including, but not limited to, a clear, concise, truthful description of the project as to Camino Mayor in one place in the EIR, and complete, non-conflicting analyses of the significant impacts of it on the environment, with reasonable feasible alternatives studied, the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

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**B. EXISTING LAND USES ON NORTH TWIN OAKS VALLEY ROAD
IN PROJECT VICINITY AND PROJECT IMPACTS THERETO**

The EIR should, but does not, include a meaningful description of the existing uses on the proposed project's west side nor an analysis of the project's impacts on them. There are existing agricultural and food production growers with extensive greenhouse operations; ornamental and other specialty plant growers; equestrian facilities, including Olympic training facilities, an equestrian veterinarian hospital, show horse ranches as well as boarding stables located on North Twin Oaks Valley Road from Twin Oaks Crest Drive southward to Deer Springs Road. There are also agricultural operations to the north of Twin Oaks Crest Drive to the end of the County maintained portion of North Twin Oaks Valley Road, and beyond to Gopher Canyon Road that also use North Twin Oaks Valley Road to and from Deer Springs Road, all in proximity to the proposed project. These agricultural operations produce much employee, resident, and truck traffic on North Twin Oaks Valley Road especially during early morning and late afternoon peak hours which was not fully described or analyzed in the EIR.

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Additionally, the existing water wells in this area were not described nor the impacts to them analyzed including our well located on the off-site private portion of Camino Mayor proposed as an access road to the entire project area from our property, which well serves as our sole source of water. We are particularly concerned about project construction and operational impacts to our water source. Project blasting activities, road construction and operational use together with elimination of natural ponding areas due to residential lot placement may destroy or damage wells; our well has served all our property water needs for approximately thirty (30) years. Our property at 3751 Camino Mayor is "off-the-grid" except for electrical service to our well pump. It is constructed of concrete, block and steel, including poured concrete roofs, hand-forged steel window frames, doors and fixtures, is solar and battery powered, and with a large pond available for fire suppression, all which limit impacts on the environment.

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The project description and analysis is further lacking and misleading in that it described the former quarry site within the proposed project area as an "abandoned quarry" when the correct description that should be provided in the EIR text [not just in COS-10, Table DD-1, Appendix DD] is that the former quarry's County major use permit expired; the quarry reached the limits of permitted rock quarrying; and requests to expand the quarry were denied by the County. No disclosure or analysis is included in the EIR or any appendixes or other documents of the failure to enforce reclamation of the quarry area as required by SMARA (State Mining and Reclamation Act, *Public Resources Code* §§2710-2796) which should be disclosed and analyzed in the EIR as the former quarry site was left with a vertical mountain-high scarred face on the environment with no proposal by the applicant to reclaim it or protect the environment or the public from potential hazards related to its current condition and location on North Twin Oaks Valley Road. What is the applicant's proposed use of the former quarry site? Is it included in the 1209 acres of OPEN SPACE in its degraded state? Does the applicant have an obligation to reclaim the quarry under SMARA now that it owns it? If it presupposes to use the former quarry site to extract material for the project's construction and development that should be

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disclosed now and analyzed as part of the project's environmental review and all necessary permits for such use should be requested now. It should also be disclosed that while portions of the project area may be either classified and/or designated as containing significant mineral resources it should be noted that the rock is not unique; that it is widespread throughout the Peninsular Batholith extending from Riverside County to Baja California. (Dr. Richard Merriam, retired geologist and USC Professor Emeritus, now deceased, for whose family the Merriam Mountains were named, provided this information in testimony to the County with respect to previously proposed quarry projects, i.e. South Coast and Sycamore Ridge on properties now owned by the applicant)

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The project description and analysis is also lacking and misleading in that it fails to disclose that another quarry site, National Quarries, is a very active production quarry on North Twin Oaks Valley Road which produces diamond saw cut dimensional stone products (its historical use) as well as crushed rock raw materials produced by dynamite blasting and on-site rock crushing equipment. This quarry is located at the northwestern end of the County maintained portion of Twin Oaks Valley Road just north of the proposed project's boundaries. The quarry produces the most vehicular traffic on North Twin Oaks Valley Road from its location heading south up to and including a narrow hair pin curve and narrower intersection with Camino Mayor, which intersection is the applicant's proposed public "access point" from the west to the entire project area. (The quarry truck traffic thereafter mixes with all the other traffic heading south to Deer Springs Road.) More in-depth comments on the project's impacts on these dangerous conditions as well as the impacts of proposed alternatives are contained below in paragraphs **F.** and **G.** along with suggested safer feasible alternatives.

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The EIR should be revised to include the above-described existing uses in the immediate area of the project's westside and an analysis of the environmental impacts of the project on such uses, in particular, as to traffic and transportation as more particularly commented on below. We request that the matters that were not disclosed and analyzed in the EIR be addressed in a revised EIR and that the new material be circulated for public review as required by CEQA. [*Public Resources Code* §21092.1; *California Code of Regulations* §15088.5; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412]

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**C. IMPACTS TO WATER WELLS IN THE IMMEDIATE AREA,
INCLUDING OURS ON CAMINO MAYOR WHICH IS OUR SOLE
SOURCE OF WATER**

As mentioned above in paragraph **B** our water well is located on existing Camino Mayor and is on parcel 3 of Parcel Map 8306. This is not a new well. It has been in existence for almost 30 years. We recently completed expensive upgrades and equipment replacement which required access to the well site for several days with trucks backed in to pull up over 1100 feet of casing and pipes. It is a deep well. We had to leave some of this material on the ground pending re-installment. Ample access to the well head is a necessity as well as to the power pole and accessory equipment and surrounding ground area to pull up casings, pipes and store the same

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onsite with protection to our well and sufficient service area. Any proposed use by anyone of Camino Mayor has to take this into consideration.

There is no mention in the EIR of the potential impacts of the proposed project activities on our properties during construction or when in operation. In our meeting with the applicant, including three on Camino Mayor, we expressed concerns about protection of our water well on Camino Mayor which as mentioned is our only source of water to our property and residence at 3751 Camino Mayor. We were in the process of removing the old equipment and installing new equipment up and down the 1100 feet depth of our well during one of the meetings with the applicant's project manager and engineer as well as field surveyors. The applicant is fully aware of the location of our well and of the property conditions in that area of Camino Mayor. The impacts of dynamiting or blasting and other construction activities needs to be disclosed and the potential for damaging and destroying our well and others in the project area analyzed. Construction activities and operational use activities could cause shifting, ground movement, the loss of the aquifer, or diversion of the water away from our source, the deep rock could sheer and close off water to our well as well as to others in the area, among other things. If Camino Mayor is an access to the applicant's project then many mitigation measures would be required concerning the well and other matters relating to damage to the well and liability for use by the public on our properties. Mitigation for well damage and/or destruction should be mandatory including posting of financial assurances, bonds, and the provision of an alternative source of potable water to our property and residence with no expense to us or our successors in interest, in perpetuity.

Such required mitigation has been required by the courts in CEQA litigation. In particular, the court held in *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1117 that a project's potential to reduce water supply available to others is a "potentially significant problem that requires effective mitigation " including mitigating loss of well water with substantially similar quality water.

Further, if our well were to be damaged or destroyed by the project's uses during construction or when operational the applicant would need to provide an alternate permanent source of potable water immediately. We intentionally chose to have a well and not use any other water source thus the impact to our property to have it damaged or destroyed due to construction, operational use or inability to access it because of the applicant's project will be problematic for all concerned, but especially for us. Construction by the applicant of a new water well on the south side of our property and construction of an access route to it could be a feasible protective mitigation measure. In any event, financial assurances with respect to repair and replacement of the well and immediate provision of potable water to our residence as a mitigation measure is mandatory to protect our water source against the impacts of the proposed project

In preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project. [*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099]. The applicant's

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EIR should be revised to include the above-described water issues and an analysis of the environmental impacts of the project on the same and mitigation measures set forth. Without such additional disclosures and analyses the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

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D. THE NOISE IMPACTS OF USING CAMINO MAYOR AS A PROJECT ACCESS ROAD IN A QUIET RURAL AREA

The analysis in the EIR of the noise impacts of the proposed use of Camino Mayor as an access road to the entire project is inadequate as only one site was studied which was from near the level of North Twin Oaks Valley Road. The off-site portion of Camino Mayor is in a canyon and all noise on it comes up the hillsides directly to our residence and is clearly heard including trucks, motorcycles, motor bikes as well as SUVs and people's voices and gun fire, all on Camino Mayor. The impacts of possibly 24 hours of traffic on this rural road to our properties as well as to others in the area needs to be studied and disclosed to the public. It is noted that the one site studied showed the project's noise impact would cause the highest increase in decibels than any of the other sites studied, i.e. the decibels would increase by 6 whereas others along Deer Springs Road were shown to not increase at all with the project. This demonstrates and supports the existing quiet rural community of North Twin Oaks Valley and that the project's noise impacts on it, while within the County's permitted range, would be significant to those properties that now experience low decibel levels of noise. The EIR states that project noise impacts are significant and cannot be mitigated. The mentioned impacts on Camino Mayor should be added to the description of those project noise impacts that cannot be mitigated.

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We also hear noises from much further away in areas of the applicant's property including vehicles and voices on the abandoned airstrip and on the trails and boulders visible from our property. We have notified the applicant on many occasions of gun fire, automatic weapon fire, and trespassers on their property and the applicant has made many attempts to control such activities without success. We requested that the applicant install a locked gate at its property boundary and provide us with a key to access our easement over Newland property, which was done. Subsequently, the locking mechanism was destroyed by rapid fire gun which we heard, and witnessed, from our property. If Camino Mayor is approved as an access route to the project, it will serve as a direct paved route to the large area proposed to be dedicated as open space. There was no disclosure of the impacts of Camino Mayor, as an access route, on the OPEN SPACE area of the project. The EIR states that a preserve manager will visit the open space area semi-weekly to see that it is being preserved as contemplated. Such limited management of this large proposed OPEN SPACE area, easily accessed via a paved open to the public Camino Mayor is not reasonable and will allow for degradation of the OPEN SPACE and much unwarranted traffic day and night to it via our property on Camino Mayor and would be more overburdening of the easement. Fencing, signage and checking on those items every couple of weeks is inadequate protection for the environment and for nearby residents including potential project residents. The large OPEN SPACE area, with the existing trails, proposed to

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remain will invite continued misuse of the area that is to serve as OPEN SPACE mitigation for the project. The San Diego Sheriff's presentation at a Twin Oaks Community Sponsor Group meeting within the past two years made clear that due to funding shortages the San Diego Sheriff lacks the resources it needs to provide more law enforcement to the Twin Oaks Community including the project area. The Sheriff representative at the meeting explained that there were only two patrol vehicles assigned to an extremely large area in North San Diego County and that the Sheriff relied on the public to advise them of law enforcement issues in the area. The ability/inability of law enforcement to meet the needs of the project should be disclosed.

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The EIR should be revised to include the above-described issues and an analysis of the environmental impacts of the project on the same. Without such additional disclosures and analyses the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

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E. THE AESTHETIC IMPACTS OF INTRODUCING AN URBAN DESIGN ACCESS ROAD TO RURAL CAMINO MAYOR AND TO THE SURROUNDING AREA.

The EIR at Key View 10 presents a proposed sanitized, urban-style, master-planned development project access road entrance at Camino Mayor versus the Key View photo which depicts the existing, rural private entrance to Camino Mayor at North Twin Oaks Valley Road. The text describes the project's proposed view here to passing motorists as one that would replace a "jumbled view that suffers from chaotic elements". The existing Key View 10 shows the protected southern willow scrub and natural drainage habitat that would be eliminated by the project, the Private Road No Trespassing Sign that would be eliminated, and the rural road surface that would be widened and replaced. The descriptive narrative of proposed versus existing is subjective and not reflective of disclosure and analysis of the impact of changing the aesthetics of a rural road in a rural community to serve the needs and aesthetics of an urban scale development project. The impacts of changing the entrance views to the private road we use to access our properties were not disclosed nor the impacts on the surrounding area where no such sanitized urban style road entrances off North Twin Oaks Valley Road exist. The preferred view from a rural community is a rural road view, no street signage other than no trespassing, private road signs, as evidenced by the existing road entrances off North Twin Oaks Valley Road, i.e. Solar Lane, Lady Bug Lane, Quarry Road, Camino Calafia, Calle de Cristo, Twin Oaks Crest Drive, Satin Doll Lane, and Huckleberry Lane.

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No Key Views were included as to the existing and proposed Camino Mayor as it ascends the canyon up to the applicant's property boundary. Nor were any Key Views included in Appendix D with respect to the two alternative alignments of Camino Mayor presented. In particular, a Key View of the existing easements with the proposed retaining walls of Alternative Alignment Two on our property should be included for public review.

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The removal of protected southern willow scrub on Camino Mayor should be avoided as well as the removal of the oak tree and pine trees by our gate location and the large boulder by our well site. The description of this area as "jumbled and chaotic" in the EIR is not only subjective but offensive as well especially when the proposed entrance is urban in design and void of any of the rural natural habitat. There is no reason to remove the southern willow scrub habitat as it is not a fire hazard and it is growing in the natural water drainage where it is located at the entrance to Camino Mayor. Fuel modification on Camino Mayor is not justified by the EIR and further, the applicant has not identified a Fuel Modification Zone Easement on either side of the proposed Camino Mayor. To remove all the native plants 250 ft. on both sides as a fire protection measure when few, if any, vehicles, as the EIR and related traffic and fire evacuation documents describe and calculate, are anticipated on this road is an overkill. The Design Exception Requests state the maximum usage at "320 ADT maximum" which is even less than the traffic and fire studies estimate. There is no justification for extensive fuel modification for a road anticipated to have little use and especially when the impacts on our properties of such "fuel modification" would be a taking of our native natural landscape and impact the rural aesthetics in still very rural North Twin Oaks Valley. We chose to live on a "jumbled and chaotic" rural dirt trail leading to the low density rural zoned Merriam Mountains rather than on a sanitized entrance road to a master-planned urban scale development

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F. IMPACTS ON EXISTING DANGEROUS TRAFFIC AND ROAD CONDITIONS OF PROPOSED USE OF CAMINO MAYOR AS A PROJECT ACCESS ROAD AND EVACUATION ROUTE AT NORTH TWIN OAKS VALLEY ROAD

The EIR in its Traffic and Transportation section lists roadway segments and roadway intersections included in the traffic study and further lists those roadway segments and intersections that were determined to be significant and analyzed. There is no mention, disclosure, or analysis of the existing conditions on the roadway segment of North Twin Oaks Valley Road from Camino Mayor south to Twin Oaks Crest Drive nor is there a complete, truthful description of the existing conditions at the intersection of Camino Mayor and North Twin Oaks Valley Road. Therefore, the roadway segment and intersection involving one of the three identified access roads in and out of the project, including use as an evacuation road in the event of an emergency for use by emergency vehicles, residents and the public were not considered significant and were not studied.

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The roadway segment of North Twin Oaks Valley Road from Camino Mayor south to Twin Oaks Crest Drive is one of the two most dangerous segments of North Twin Oaks Valley Road on the County maintained portion thereof due to its narrowness and curves as it winds through, and divides, the horse ranch property located on this segment of roadway, being parcel 4 of Parcel Map 8306. The other such dangerous roadway segment is from Camino Mayor north passing through a narrow hairpin turn before it arrives at the applicant's property boundaries where the project area crosses from East to West over North Twin Oaks Valley Road. The hair pin curve at this location makes for very dangerous conditions for passenger vehicles let alone

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the big rig quarry trucks. Thus, the EIR fails to disclose and analyze the project's potential significant impacts on existing dangerous road conditions.

The EIR does not mention the narrowness of North Twin Oaks Valley Road at its intersection of Camino Mayor as well as from Camino Mayor south to Twin Oaks Crest Drive, that prevents the quarry big rig trucks, previously mentioned, or other large trucks, from passing each other. This existing dangerous road condition results in northern bound quarry trucks waiting just north of Twin Oaks Crest Drive while in radio contact with the quarry trucks coming up from the quarry heading south. The north bound big rigs wait for the south bound big rigs to pass them, after they pass through the horse ranch property, before proceeding north. The foregoing information is provided from our personal experience over the past 30 years from viewing the intersection, road segment and road traffic from our property and while trying to enter North Twin Oaks Valley Road from our property on Camino Mayor.

A traffic safety study was ordered by the San Diego County Planning Commission as included in its June 3, 2005 decision with respect to North Twin Oaks Valley Road from the National Quarries location south, to include evaluation of the use of double haul trucks. This portion of the Planning Commission's decision was not included in the appeal by the then quarry owner who joined others with requests for the study and improvements to North Twin Oaks Valley Road, including then Planning Commissioner John Reiss who stated at the hearing "I believe there is a potential safety problem here". Commissioner Reiss also suggested the possible formation of an assessment district to improve the road which would be done via the Department of Public Works. The Department of Planning and Land Use Director at the meeting stated, "We will work with DPW." Ultimately the quarry owner prevailed in litigation with the county resulting in the quarry being granted grandfather status with no permits or limits on truck traffic required for the rest of its existence, which was estimated at 75 years in 2008. Please confirm that there are no limits on its truck traffic. This quarry appears to have recently expanded its boundaries up the east side of the San Marcos Mountains in the PAMA and North County Multiple Species Conservation draft plan areas, as seen from our properties, which if that is true would appear to be an act that would cancel its grandfather status and require permits to operate, including conditions relating to truck traffic and road improvements on North Twin Oaks Valley Road and would change the applicant's project description of its OPEN SPACE connecting to sensitive areas protected by the Resource Protection Ordinance in the San Marcos Mountains.

What is the status of the traffic safety study of North Twin Oaks Valley Road ordered by the San Diego County Planning Commission at the June 3, 2005 meeting? Whether the study was conducted, or not, the County has been aware of the traffic issues relating to North Twin Oaks Valley Road south to Deer Springs Road for decades. Most of those issues have related to quarry trucks and the dangerous road conditions that prevent safe travel on the two road segments and the intersection mentioned above. In the 1980's, the San Diego County Board of Supervisors denied a request to expand the quarry on property now owned by Newland, with a major basis for denial being the dangerous road conditions and traffic on North Twin Oaks

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Valley Road. The quarry sued and the County prevailed. The trial court decision was affirmed by the appellate court and the California Supreme Court declined to review the case further.

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Given the County's involvement in litigation regarding two quarry operations, concerning the dangerous road conditions mentioned, as well as the Planning Commission's 2005 decision there is no excuse for the EIR's failure to disclose and study the impacts of the applicant's project on known existing dangerous road conditions in the area of Camino Mayor and to consider a reasonable and feasible alternative that would address such impacts. Not to have disclosed or analyzed the impacts constitutes a major oversight of the EIR and a failure to comply with CEQA required disclosure and analysis to allow for informed decision making and informed public participation in the process. [Public Resources Code §§ 21000-21004] It is a harrowing experience to be traveling south on North Twin Oaks Valley Road at the hair pin turn as well as at Camino Mayor and south to Twin Oaks Crest Drive to encounter a big rig over the center line heading at you. The trucks have a hard time staying in their lanes, primarily because of the too narrow road, the size of the trucks, and their loads. While it cannot be found that the applicant's project will have created the foregoing described dangerous conditions CEQA requires that the project's potential impacts on these conditions be analyzed, specifically impacts of traffic entering the project and leaving it from Camino Mayor at Twin Oaks Valley Road and the roadway south from the intersection must be studied.

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In that regard, California's Supreme Court held in 2015 that:

"In light of CEQA's text, statutory structure, and purpose, we conclude that agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. *But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users.* In those specific instances, it is the project's impact on the environment—and not the environment's impact on the project—that compels an evaluation of how future residents or users could be affected by exacerbated conditions." (emphasis added) [*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal. 4th 369].

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The EIR as previously mentioned contains conflicting descriptions of Camino Mayor and the anticipated or forecasted traffic that it would engender. From being an access to the entire project available to the public at large with estimated total vehicles to be evacuated from the entire project at over 4,000 in an emergency to being recommended for emergency vehicle and civilian evacuation purposes only the traffic volumes could vary significantly. However, regardless of whether Camino Mayor is open to the public or locked and gated for emergency use only, the issue of the project adding traffic to existing dangerous conditions cannot be dismissed as insignificant and has to be disclosed [CEQA Guidelines §15125(a)- An EIR must include a description of the physical impacts on physical conditions; *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281] This is not a cumulative traffic impact issue but rather the impact of the project on an existing dangerous

condition that needs to be disclosed and studied. The intersection of Camino Mayor is not safe now. The roadway segments immediately south and north of Camino Mayor are not safe now. This area of the road and intersection may not be part of the county road system and may still be on private properties. However, the County paved it after conducting a secret ballot polling of property owners in the area as to whether paving was wanted or not. The County maintains the road now. Potential liability to the County should be considered if the proposed Camino Mayor is approved as well as either Alternative Alignment One or Two. The impacts of adding project traffic, potentially at over 4,000 vehicles, public traffic from I-15 over and through the Merriam Mountains, equestrian traffic, OPEN SPACE traffic, and emergency vehicle traffic, onto the hazardous road and intersection at this "access point" would be significant and the EIR "must analyze the potential impact of such hazards on future residents or users" [California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal. 4th 369].

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The information set forth in the Design Exception Requests contained in the list of Additional Items as to this project includes two pertinent Design Exception Requests. Specifically, we are concerned with Design Exception Requests Nos. 15 and 16 set forth on pages 94-110 of this document which relate to the proposed Camino Mayor alignment as well as to proposed Alternative Alignment Two for Camino Mayor. Both requests seek to down size Camino Mayor from that required by County road standards, contrary to text in the EIR that the roads would be constructed to county road standards. They also downplay the significance of the inadequacy of Camino Mayor's intersection with North Twin Oaks Valley Road. The applicant's engineer's letter to the Director of Public Works in support of the requests acknowledges that "Current alignment of North Twin Oaks Valley Road is not consistent with published road classification geometry and has physical constraints in this vicinity which restrict travel speeds to less than those attainable with the future ultimate "Light Collector with Intermittent turn lane (2.2C)" classification of this road" and recommends 25 MPH for sight calculations with a 250 feet of sight distance requirement. The engineer also states that "There are IODS for a future alignment of North Twin Oaks Valley Road which have geometry adequate for the Light Collector at 40 MPH and adequate unobstructed sight distance with the ultimate realignment." The requests both state that the maximum ADT would be 320. With these requests, the applicant is thus proposing that Camino Mayor at North Twin Oaks Valley Road not be subject to existing County road standards and that limiting the speed to 25 MPH and making a sight distance improvement at this intersection is all that is needed to make this a safe intersection until a future realignment of North Twin Oaks Valley Road within the existing IODs takes place to eliminate the problems. There is no description of how these measures would lessen the impacts of the narrow roads nor how the sight distance improvement would be accomplished, nor is such improvement described specifically anywhere else in the documents available for public review for this project. Will the proposed sight distance improvement require the removal of the southern willow scrub habitat which is located at the northeast corner of the intersection?

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The information in the Design Exception Requests 15 and 16 is misleading and not a truthful complete disclosure, practically hidden in an ancillary document to the EIR, as to the severe existing limitations of this intersection which the project in the EIR text does not propose

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to correct other than with a sign limiting speeds to 25 mph and line of sight improvements. The facts are that the intersection of these narrow roads is itself too narrow for safe travel by anyone now, or as proposed, with potential for use by the entire project for normal travel let alone in an emergency as a planned evacuation route. The true existing conditions must be disclosed and the impacts of not correcting the dangerous conditions disclosed and an explanation given as to why the applicant does not propose to realign the road to reduce the impacts of its project on them.

The Design Request Exceptions Nos. 15 and 16 make it additionally clear that the EIR should have studied the road segments of North Twin Oaks Valley Road from Camino Mayor south to Twin Oaks Crest Drive as well as north from Camino Mayor through the hair pin curve and the intersection of Camino Mayor and North Twin Oaks Valley Road.

Please confirm that this segment of North Twin Oaks Valley Road, while initially paved by the County and now maintained by the County, is not constructed to County Road standards and that there is an accepted Irrevocable Offer to Dedicate land for realignment of North Twin Oaks Valley Road at or near the intersection with Camino Mayor that would comply with County road standards.

The EIR should be revised to include the above-described issues and an analysis of the environmental impacts of the project on the same. Without such additional disclosures and analyses the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

G. FEASIBLE AND REASONABLE ALTERNATIVES TO ACCESS FROM THE WEST NEED FURTHER ANALYSIS

The purpose of an EIR is to identify significant effects of a project on the environment, to identify alternatives to the project, and to indicate the way in which those significant effects can be mitigated or avoided. [Public Resources Code, §21002.1 (a)]. Alternatives to a project must be both feasible and reasonable. The California Supreme Court reaffirmed in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, that an EIR "must consider a reasonable range of alternatives to the project, or to the location of the project which: (1) offer substantial environmental advantages over the project proposal (Public Resources Code, §21002); and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved. (Public Resources Code, §21061.1; Guidelines, Section 15364; *Goleta I*, 197 Cal.App3d 1167 (1988))." Under the rule of reason an EIR's discussion of alternatives is adequate if it provides sufficient information to compare the project with a reasonable choice of alternatives. [Save Round Valley Alliance v. County of Inyo (2007) 157 Cal. App. 4th 1437]

The EIR at Section 4 is entitled Project Alternatives. No Alternatives are described in this section as to the access to the project from the west via Camino Mayor. Nor is there, as required by CEQA, an identification of the significant environmental impacts of the proposed

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Camino Mayor access for which alternatives should be considered. However, Appendix D to the EIR, not readily referenced, if at all, in the EIR text, is a Memorandum entitled Camino Mayor Alternative Alignments-Environmental Analysis. This Memorandum describes Camino Mayor from on-site Saddleback Park to the off-site intersection with Twin Oaks Valley Road to "be designed to accommodate only vehicles and *would be primarily intended for emergency ingress and egress and no significant project traffic is forecasted to use the road to enter or exit the project.*" but also in the first paragraph of this Memorandum, as commented on hereinabove describes Camino Mayor as: *"As part of the project the existing Camino Mayor dirt road east of Twin Oaks Valley Road would be improved and connected to the Mesa Rock Road extension."*

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Given the expressed intent of the project as to forecasted limited use of off-site Camino Mayor then a feasible and reasonable alternative to the proposed Camino Mayor would be a gated and locked emergency access private road only, with gated and lock access at the applicant's project boundary on Camino Mayor as well as gated and locked access just north of the paved driveways mentioned or at North Twin Oaks Valley Road. This alternative would avoid some of the impacts of the proposed route and some of those of the two alternative alignments analyzed in the Memorandum. This alternative should be analyzed. However, given the conflicting descriptions within the same ancillary document it is unknown which description is accurate as to the actual use of Camino Mayor. Again, as stated, any project use will constitute an overburdening of the existing easement and be cause for its extinguishment.

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Additionally, given the expressed limited intent of the uses of Camino Mayor as a project access, a *No West Side Access at Camino Mayor Alternative* should be studied as well since there is no apparent need for it as the limited traffic that might use it can exit the project the way they enter it via Sarver Lane or Mesa Rock Road.

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There can be little or no justification to improve a private road over private properties, including eradicating a protected habitat of southern willow scrub, and eradicating other native vegetation up the canyon to the applicant's property, when the road is not needed or intended for general use by the project or the public.

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Is there a state law or local regulation that requires this project to have an access road on the west side of its project? If so, please identify it and explain how it applies to this project and how Camino Mayor complies with such requirements.

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If the intent of the project as to the use of off-site Camino Mayor is other than expressed in Appendix D, such as is proposed in various other sections of the EIR as discussed in the Introduction and Paragraph I.A of this letter then probably Alternative Alignment Two is preferable as it is limited to the easement right of the applicant and may avoid many of the impacts to the proposed private road on our properties. However, the impacts to the southern willow scrub may remain if the applicant intends to seek a further fuel modification area through a ROW fuel modification easement. Alternative Alignment One creates significant impacts as it does not follow the natural curvature of the land, rather it entails, as depicted, a radical uphill

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cut, which would be visible from our residence. It does not seem to have been well designed or thought out. Alternative Alignment Two if approved would be subject to the same issues discussed herein as to the limitations on the applicant's easement and lack of a legal right to use off-site Camino Mayor as an access to its on-site Camino Mayor with traffic coming and going east to west, west to east and into all parts of the project on and over our properties.

If the project is required to have an access on the west, a clear description of the requirement should be provided. If Camino Mayor remains the preferred place to have such an access, and the applicant intends to pursue this location, then with respect to the proposed road and its alternatives, the project's impacts on the dangerous conditions of the road and the road segment discussed heretofore must be addressed in a reasonable and feasible alternative. There is an existing accepted Irrevocable Offer to Dedicate land for the realignment of North Twin Oaks Valley in the precise area of existing North Twin Oaks Valley Road from Twin Oaks Crest Drive extending north past the intersection with Camino Mayor as depicted on the applicant's maps and drawings. This is identified in the Design Exception Requests Nos. 15 and 16 discussed above. The realignment is the best possible reasonable and feasible alternative to eliminate the problem of the existing narrow road widths and twisting curvy dangerous road conditions at the existing intersection. It would also make for a safer more sensible access for evacuation from the project in conjunction with opening a gated and locked emergency access road on Camino Mayor as discussed above. The project should not be allowed to go forward without an analysis of the project's impacts on the existing intersection of Camino Mayor and North Twin Oaks Valley Road as well as an analysis of an alternative that would seek to reduce the impacts of the narrow roads over and above just improving the line of sight distance which does not address the road widths. An environmental review of the construction of the realignment of North Twin Oaks Valley Road should be included in the EIR for this project now as it is a safer, reasonable and feasible alternative for connecting Camino Mayor or any other road in the area for access to the project from the west. [*Tuolumne County Citizens for Responsible Growth, Inc., v. City of Sonora* [2007] 155 Cal. App 4th 1214]

Additionally, further reasonable and feasible alternatives exist for a west or north access to the project which should also be analyzed including a west access directly from the applicant's own property where it crosses North Twin Oaks Valley Road or from the north where the project borders with El Farra Road.

The alternatives analyzed appear to have been presented, haphazardly and as an after-thought without an explanation as to why they were studied. However, given that they were studied, the reasonable inference to be made is that the significant environmental impacts on our properties were the basis for considering alternatives as the alternatives do not also address the hazardous road and intersection project impacts. In any event, any use by the project whether the road is locked and gated, the proposed use and/or an alternative will amount to an overburdening of the easement and lead to extinguishment thereof or other legal actions to protect property rights and titles of those affected by the overburdening.

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All references and descriptions of the off-site private road Camino Mayor as an access to the project should be removed from the EIR unless the applicant is able to describe, disclose and plot a clear legal right to use an easement over our properties to access its entire project. The easement, as stated before, and acknowledged by the applicant per Exhibit A, is limited to the three parcels in Parcel Map 11792.

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The EIR should be revised and recirculated to include reasonable and feasible alternatives to the proposed Camino Mayor as suggested herein given the above-described environmental impacts of the project on the existing dangerous road segment and intersection. Without such additional disclosures and analyses the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

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H. GROWTH INDUCING IMPACTS TO NORTH TWIN OAKS VALLEY OF INTRODUCTION OF A WEST-EAST ROUTE THROUGH THE MERRIAM MOUNTAINS

The Memorandum contained in Appendix D states that the proposed access road Camino Mayor as well as Alternative Alignments One and Two all will lead to growth inducing impacts of the project which remain significant with no feasible mitigation. However, if the road is not intended to be used except for emergencies then the growth inducing impacts could be mitigated by a locked and gated Camino Mayor. Without that mitigation, the impacts to North Twin Oaks Valley could be more significant than that disclosed in the EIR by the introduction of a new road through the Merriam Mountains that would allow for public traffic in an area that does not experience such access now and which is not called for in the General Plan. This would lead to future degradation of the General Plan which seeks to preserve the rural areas in North Twin Oaks Valley and could lead to future demands to open North Twin Oaks Valley Road, designated as a scenic road in the General Plan, to through traffic north to Gopher Canyon Road.

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The limitations on the use of North Twin Oaks Valley past the end of the County maintained portion were not mentioned other than with respect to the fire evacuation plans which indicate that maybe the road, which is maintained as private and gated, could be forced open by law enforcement in the event of a fire emergency could become an aspect of growth inducing impacts of this project. Many attempts are made to use this road to access Gopher Canyon Road now resulting in confrontations between trespassers and the property owners along North Twin Oaks Valley Road. For it to be proposed as an access route for emergency purposes, even though it is gated and locked can be seen as growth inducing. The fact that it is suggested that it could be used in an emergency and that law enforcement could open it for that purpose is evidence of the fact that the same could be done for our private properties and the existing off-site private Camino Mayor Road.

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Additional impacts would also be further degradation of the areas identified in the draft North County Multiple Species Conservation Plan area due to growth inducement.

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The growth inducing impacts of a new road West-East through the mountains that would connect 1-15 to North Twin Oaks Valley Road should be added to the project's list of growth inducing impacts that cannot be mitigated and described therein. Without such additional disclosures and analyses the CEQA requirements of providing sufficient information for informed decision making and informed public participation will not have been met.

I-405-75

I. BIOLOGICAL IMPACTS

At our on-site meetings with the applicants, its engineer and surveyors, we made known to the applicants of the depths of the canyons on our properties to the right and to the left of Camino Mayor and of the two large deteriorated drainage pipes which they noted during site visits. There is no mention in the EIR of the impacts of the project on the canyons on either side of Camino Mayor nor of the biological resources therein that would be affected by the improvement of and use of Camino Mayor as an access route to the entire project. They serve as natural drainage courses and if filling them in or otherwise altering them is proposed then such activities should be discussed as the public have a right to be informed of such impacts to natural biological resources on these properties.

I-405-76

A feasible and reasonable alternative should be explored instead of complete removal of the natural drainage and southern willow scrub as proposed along the 400 feet from North Twin Oaks Valley Road up along existing Camino Mayor as well as preservation of the California native oak tree by our gate site and the Italian stone pine trees by the paved driveway leading to the two existing residences on Camino Mayor. The southern willow scrub area serves as habitat for many birds and small animals whose presence is often seen and enjoyed by the public. Also the impacts of removal of granitic southern mixed chaparral off-site on Camino Mayor should be avoided and its location more specifically identified as it may be our natural landscaping proposed to be taken from us. Exactly where are the areas impacted by such removal?

I-405-77

The annual Christmas bird count in San Diego County includes counts on and from our property by a California field biologist. This past year included various species identified on our properties. We personally see and hear on or near our property on Camino Mayor many birds and animals, including, but not limited to: Great Horned Owls, Screen Owls, California Thrasher, Sapsuckers, Canyon Wrens, California Gnatcatchers, Phoebe, Nesting Red Tailed Hawks, Northern Flickers, Quail, Towhees, Great Blue Heron, Osprey, Cooper's Hawk, Mourning Doves, Rock Doves, Orioles, Yellow Crowned Kinglets, Bush Tits, Grosbeaks, Sparrows, Road Runners, and see many granite lizards and other reptiles including snakes, lizards, toads as well as mammals including many bats, rabbits, chipmunks and squirrels, coyotes and bobcats, together with many interesting insects. Ceanothus in all shades of blue, some white, appear all over our properties every spring, and are California natives as are all the natural flora on our properties. We have other flora as well including tropical plantings. All these closest "neighbors" of ours will be impacted by the proposed Camino Mayor access road.

I-405-78

J. IMPACTS TO COMMUNITY CHARACTER / LAND USE/ GENERAL PLAN INCONSISTENCY

The project proposes a new community with more people and houses than in all the unincorporated area of rural Twin Oaks Valley. The project if implemented will effectively end the lifestyle of this community which is everything other than a "master-planned" urban scale community. The impacts on the community character were not fully disclosed but they are significant and mitigation is not feasible.

I-405-79

The County's General Plan's land use goals and policies require, in pertinent part, as follows:

Land Use.

1. Increase City and County Planning Cooperation.

The County will cooperate in the planning and regulation of growth in the unincorporated territory within each city's Sphere of Influence. "Future County decisions on proposed projects in the Sphere areas will take each City's planning objectives into consideration."

I-405-80

A large part of the applicant's project area is in the City of San Marcos's Sphere of Influence which has pre-zoned the property as rural and agricultural with very low density and large parcels. The Twin Oaks Valley Community Plan portion of the City's General Plan does not allow for lots less than one acre in size north of La Cienaga Road and Twin Oaks Valley Road and it promotes and protects the rural character and agricultural uses of the Valley. The proposed project is north of La Cienaga Road and is an urban scale master planned community whose largest lots are all less than one acre at 7,500 sq. ft.

I-405-81

The EIR fails to demonstrate how the project is consistent with the County's General Plan as to this land use policy and goal with respect to the existing Twin Oaks Valley Community Plan adopted by the City of San Marcos which is part of its General Plan Land Use element. The EIR does not take into consideration the existing and planned for land uses by the City of San Marcos, an adjoining City within Twin Oaks Valley abutting the project and within in its Sphere of Influence. Thus, the project would be inconsistent with the County General plan.

I-405-82

In this regard it should be noted in the EIR description of the existing community setting that Twin Oaks Valley is one community regardless of the political boundaries between the County and the City and that its existence predates the formation of either the County or City's boundaries.

I-405-83

The project is further inconsistent with the County General Plan as to the following pursuant to the comments set forth hereinabove relating to the traffic and road conditions on North Twin Oaks Valley Road and Camino Mayor as well as aesthetics:

I-405-84

Safety Element Policy S-3.5 which requires development to provide additional access when necessary to provide for safe access of emergency equipment and civilian evacuation concurrently. This policy cannot be met with the proposed improvement of Camino Mayor nor with Alternative Alignments One and Two

I-405-84
Cont.

Mobility Element Policy M-4.3-Rural roads are to be designed and constructed to be compatible with rural character, including no curbs or gutters. This policy cannot be met with the proposed design for Camino Mayor nor with Alternative Alignments One and Two.

I-405-85

Mobility Element Policy M-4.6- Roads are to be designed to be compatible with uses, scale and pattern of development in area. This policy cannot be met.

I-405-86

Land Use Policy LU-6.10: Protection From Hazards: Require that development be located and designed to protect property and residents from the risks of natural and human induced hazards. This policy cannot be met based on the proposed Camino Mayor improvements nor as to Alternative Alignments One or Two.

I-405-87

The EIR states that the off-site roadway at Camino Mayor will be improved to ensure safe and efficient means of travel for project residents, emergency vehicles and nearby land uses and therefore will be consistent with the County General Plan. Given the impacts commented on in this letter General Plan consistency as to Camino Mayor has not been demonstrated. The 18 references in Appendix DD-Consistency Analysis to Camino Mayor all fail to note the dangerous existing intersection and road conditions that will not be eliminated with the proposed project improvements. Camino Mayor will not meet public or private county road standards as revealed by the applicant's own engineer in Design Exception Requests Nos. 15 & 16.

I-405-88

III. CONCLUSION

Based on the foregoing, the EIR needs to be revised and recirculated. This letter represents some of our concerns. We reserve the right to submit additional comments as we continue to review the proposed project's documents. Thank you for your anticipated courtesy in providing answers to our questions and responses to our comments.

I-405-89

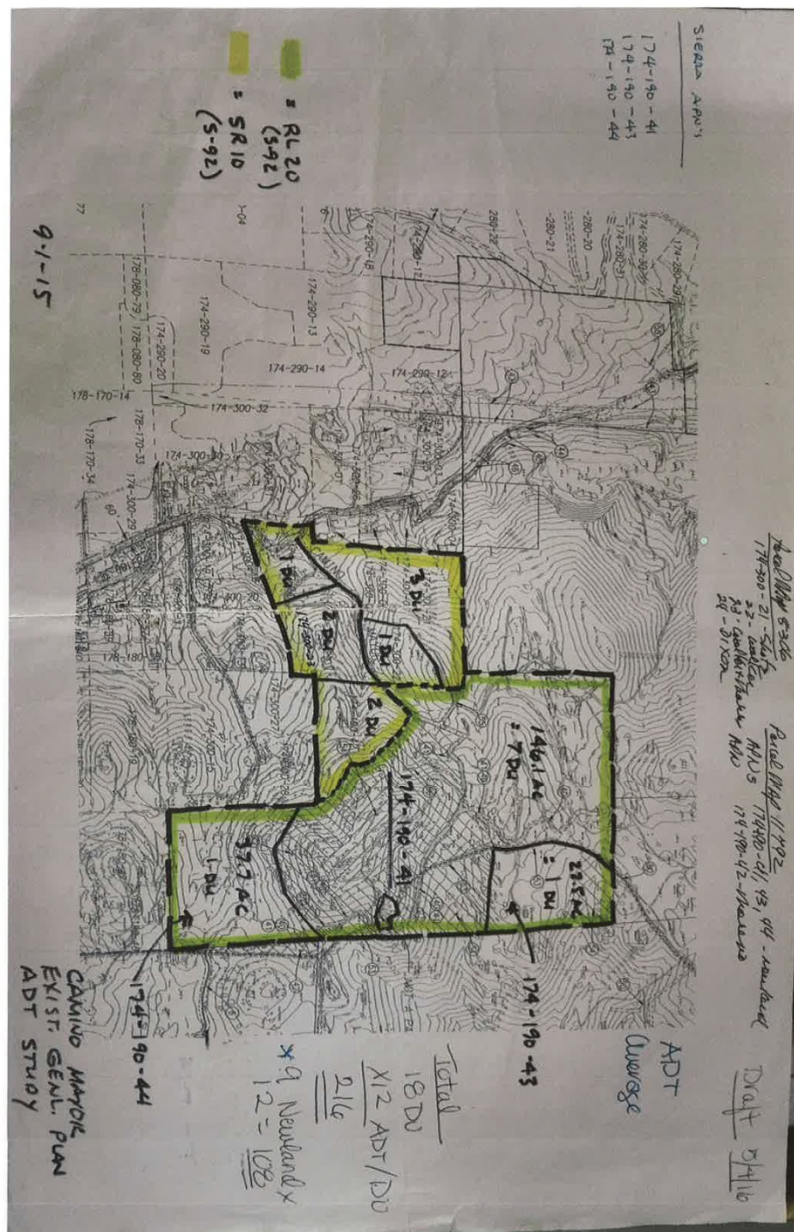
Very truly yours,

David C. Walker, Lyx Sutchin-Troschier, Agent
DAVID C. WALKER, Past Member, Twin Oaks Community Sponsor Group

Elsa L. Morris, Lyx Sutchin-Troschier, Agent
ELSA L. MORRIS, Past President Twin Oaks Valley
Property Owners Association, 1988-2001;
Attorney at Law, California State Bar No. 72015

EXHIBIT "A"

[Newland ADT Study Map for Parcel Maps Nos. 11792 & 8306, Dated 5/4/16]



1-405-90

EXHIBIT "B"
[Letter Dated February 21, 2017]

Comment Letters

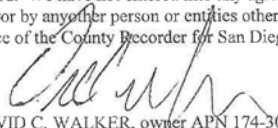
WALKER/MORRIS
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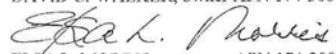
February 21, 2017

To Whom It May Concern:

We own Assessor Parcel Nos. 174-300-22 and 174-300-23 which are parcels 2 and 3 of Parcel Map 8306. The properties are in the Merriam Mountains and accessed from North Twin Oaks Valley Road and Camino Mayor, a proposed private road. The parcels in Parcel Map 11792 have a 20 ft easement over the north side of APN 174-300-23 to access those parcels only. The consideration for that easement was that we would have no responsibility for improvement or maintenance of Camino Mayor. The owners of parcels in Parcel Map 11792 do not have the right to grant an easement over our properties to anyone else and there is no access from our properties to any other properties other than an easement owned by us from APN 174-300-22 over property currently owned by Newland Communities LLC to access our parcel.

This information is provided to explain that nothing has changed in terms of the ownership of our parcels and the right to use them and all such ownership rights and easements are currently of record. We have not entered into any agreements as to the use of our properties on Camino Mayor by any other person or entities other than that as evidenced by the public record in the office of the County Recorder for San Diego County.


DAVID C. WALKER, owner APN 174-300-22 and co owner of APN 174-300-23


ELSA L. MORRIS, co-owner APN 174-300-23

I-405-91



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