

EXHIBIT L DISCUSSION

I. Responses to Comments Received at October 3, 2006 Hearing

A. Condition 191

At the October 3, 2006 hearing, a member of the public indicated that there were differences between the printed staff report and that staff report on the website. The only difference noted by staff was a change to traffic condition #191. The corrected condition is shown below in comparison to the older condition.

The old version:

No.	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
191.	CUMULATIVE IMPACTS – TRANSPORTATION AND CIRCULATION At the intersection of Highway 68/Laureles Road : Signal modification and widening of the intersection to utilize overlap phasing to have northbound right turn lanes on Laureles Grade Road go simultaneously with the westbound Highway 68 left-turns. Modify east bound Highway 68 approach to include one through lane and one shared though/ right-turn lane. (RMA – Public Works)	Provide plans to the Public Works Department showing the design of the improvements.	Owner/ Applicant	Prior to issuance of building permits.
Obtain encroachment permit.		Applicant	Prior to the issuance of occupancy permits	
Construct improvements.		Applicant		

The corrected condition shown on the website:

No.	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
191.	CUMULATIVE IMPACTS – TRANSPORTATION AND CIRCULATION The applicant shall pay a fair share contribution towards the improvements at the intersection of Highway 68/Laureles Grade Road. (RMA – Public Works)	Pay fair share fee to the Public Works Department	Owner/ Applicant	Prior to issuance of building permits.

B. Availability of Public Records

At the October 3, 2006 hearing, Mr. Stamp commented that the County had not provided all documents identified in his multiple Public Records Act requests, and asserted that without each individual document being provided to his satisfaction, it would be premature to consider certification of the Revised EIR. In response, it is noted that Mr. Stamp has been provided all responsive, non-privileged documents in the staff files. The County has responded fully to multiple Public Records Act requests by Mr. Stamp and his clients. The breadth of County's disclosure is illustrated by the many e-mails and other documents which Mr. Stamp submitted to the Board on October 3; many of these are documents the County provided in response to Mr. Stamp's Public Records Act requests.

CEQA does not require or contemplate that lead agencies resolve Public Records Act disputes prior to certification. An EIR is, by definition, the document that summarizes all relevant information for the public. If documents are incorporated by reference, CEQA specifically provides procedures for the lead agency to make those documents available to the public. For this project, all documents incorporated by reference into the September Ranch Revised EIR and more have been made available to the public. The County has opened its files to Mr. Stamp and others. CEQA simply does not require a lead agency to maintain each and every single document that may have some relevance to the project in its files in perfect chronological order, complete with cross references, spreadsheets, and internet files, prior to certification of the EIR. Such a requirement would essentially mandate a lead agency to compile a litigation-ready administrative record well in advance of knowing whether the EIR will actually be certified or the project approved. This requirement would be directly inconsistent with CEQA procedures for record compilation. These procedures allow specific time periods for such activity after legal challenge is initiated.

In an effort to maximize public information and input, the County has exceeded CEQA requirements in many aspects of the Revised EIR process. The County responded to all comments on the original Draft Revised EIR and performed numerous analyses in response to comments although such analysis was not legally required after recirculation. The public has been provided numerous opportunities to comment on the Revised EIR and the project in person at multiple committee, commission and supervisor hearings held between June and November 2006, as well the opportunity to comment in writing. All comments relevant to significant adverse impacts have been considered, evaluated and incorporated in the Revised EIR and the proposed findings where appropriate. The public has had multiple and extensive opportunities to assess the project and make an informed judgment as to the validity of the environmental conclusions. It is appropriate at this time for the Board to consider certification of the Revised EIR.

C. Other Comments at the October 3 Hearing

At the October 3, 2006 hearing, letters and documents were submitted by the public and by the applicant. All of these documents have been made available for public review on the Planning Department's website. Five of the letters were submitted in support of the project. The remaining letters, in opposition to the project, addressed such issues as lack of water supply, traffic, biological resources, tree removal, and historic resources. The issues raised in these letters have been addressed repeatedly in the Draft Revised EIR (REIR), the Draft Recirculated REIR, in the responses to comments in the Final REIR, on the record at the five previous public hearings, and in the modifications to Findings and Conditions in Part II below.

II. Responses to Comments Received after October 3, 2006 Hearing

At the October 3, 2006 hearing, the Board allowed submission of additional written comments until October 13, 2006. Seven letters and documents were received from the following sources: Nick Papadakis (AMBAG), Robert Hale, Margaret Bates, Steve Leonard (California-American Water Company), Gillian Taylor (Sierra Club), Pamela Silkwood (Horan, Lloyd et al), Michael Stamp (Law Office of Michael Stamp), and Tony Lombardo (Lombardo & Gilles). These documents are attached as **Exhibit N**. County staff and the County's consultants have reviewed all of the letters and documents received after the October 3 hearing. The AMBAG letter simply stated that they have no comment at this time on the project. The remaining letters addressed issues such as biological resources, aesthetics from Jack's Peak County Park, Cal-Am water service, Water Right Order 95-10, and water rights. To address some of the specific concerns in these letters and

documents, County staff is proposing the modifications to some conditions and findings, as described below.

A. Conditions 20, 23, 106 and 108

Letters submitted by Robert Hale and Margaret Bates focused on the issues of the lots located near Jack’s Peak County Park. On October 18, 2006, Planning Department staff and Parks Department staff conducted a site visit with the applicant’s attorney to ascertain the potential visual impacts of the project site from public viewing areas within Jack’s Peak Regional Park. Although no staking and flagging within the September Ranch project site was visible from Jack’s Peak County Park, Parks Department and Planning Department staff are recommending that modifications be made to the building envelopes, screening and locations of water tanks to ensure no visual impacts. The following modifications, shown as heavy underlined language, to conditions 20, 23, 106, and 108 are proposed:

<i>No.</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
20.	<p>PBDSP005 – SUBDIVISION BUILDING ENVELOPE APPROVAL (NON-STANDARD CONDITION)</p> <p>Prior to filing the final map, the applicant shall prepare a plan to be approved by the Director of Planning and any other applicable department heads or division chiefs. The plan shall: 1) show the building envelope, including the general location of each driveway, in 3-dimensions; 2) define the boundaries of the scenic easement (everything outside of the building and development envelope); 3) identify the lot number from the final map, lot size & building envelope size; 4) identify any slopes 30 % or greater (the building envelope should exclude all 30 percent slopes but there may be small areas with slope in the development envelope); 5) identify all the trees with biological significance, as identified in the EIR or biological reports, or that provide visual screening; 6) establish maximum building dimensions, height, and location to avoid ridgeline development; 7) identify natural vegetation that should be retained, <u>including trees on Lots 68, 69, 71 and 72 within the vicinity of Jack’s Peak County Park</u>; 8) identify landscape screening as appropriate, including minimizing views of the building site from Jacks Peak Park. <u>For Lots 68, 69, 71 and 72, building envelopes shall be reduced in size, if necessary, to ensure that structures will not be visible from the East Picnic Area and the Earl Moser Trail within Jack’s Peak County Park.</u> Any parcel where ridgeline development cannot be avoided shall be eliminated from the Final Map. With respect to trees and vegetation removal, the target disturbance goal is to limit disturbance to an average of 0.33 acres per lot. Notes should be included on each site plan indicating that discretionary permit approval and design approval is required for development of each lot prior to issuance of a building permit. A note shall be placed on an additional sheet of the final map stating that a site plan has been prepared for this subdivision and that the property may be subject to building and/or use restrictions. (RMA - Planning Department)</p>	<p>The Applicant shall prepare a plan that characterizes the building envelope for each of the lots with respect to environmental parameters, slopes and scenic easements. The driveway access shall be incorporated into the building envelope.</p> <p>The tree and vegetation removal disturbance goal shall be achieved through monitoring related to Conditions 3 and 21 and Mitigations Measures 4.9-1, and 4.9-4 through 4.9-11.</p> <p>Plan shall be reviewed and approved by the Director of Planning.</p> <p>The terms of this condition shall be included as a note on an additional sheet of the final map and in the CC&Rs.</p> <p>Submit CC&Rs to the Planning Department for review and approval.</p>	Owner/ Applicant	Prior to filing the final map

<i>No.</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
23.	<p>PBDSP028 – WATER TANK APPROVAL (NON-STANDARD CONDITION)</p> <p>Prior to the issuance of building permits, the water tank location and design shall be subject to the approval of the Director of Planning. The water tank shall be painted a color to blend into the area and screen from view. Tanks shall be located such that they cannot be visible as ridgeline development and the visibility shall be minimized by location and landscaping (including land sculpturing and fencing, where appropriate), subject to the approval of the Director of Planning. <u>Using existing vegetation and topography, any tanks shall not be visible from the East Picnic Area and the Earl Moser Trail within Jack’s Peak County Park. The tanks may be buried or partially buried to achieve this standard.</u> (RMA – Planning Department)</p>	Submit proposed location and design to the Planning Department for review and approval. The locations and height of the water tanks shall be staked and flagged.	Applicant/ Owner	Prior to recordation of final map or approval of subdivision improvement plans for that phase, whichever occurs first.
		Submit proposed color of water tank and landscaping to the Planning Department for review and approval.	Applicant/ Owner	Prior to the issuance of grading and building permits
		Provide evidence to the Planning Department that the water tank is painted as approved and that landscaping was installed as approved by the Planning Department.	Applicant/ Owner	Prior to final inspection or occupancy.

<i>No.</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
106.	<p>PKS004 – RECREATIONAL TRAILS EASEMENT</p> <p>Prior to recordation of the first Final Map, the Applicant shall offer to dedicate a twenty (20) foot public recreational trail easement over the subdivided property, generally along the westerly boundary of the September Ranch Subdivision, for the purpose of providing public access from Carmel Valley Road to Jack’s Peak County Park. The trail easement shall be offered to the County through an Irrevocable Offer to Dedicate Agreement, which shall set forth the terms, conditions, restrictions and subsequent use and location of the public recreational trail. The specific trail alignment shall be located entirely within the trail easement as described and shown on the Applicant's Final Map. The Director of Parks and the Director of Planning shall approve the final alignment for the trail easement, <u>which will generally follow the alignment shown on the Vesting Tentative Map.</u> The trail easement shall not be opened to the public for trail access until such time as the County accepts the trail easement under the terms and conditions of the Irrevocable Offer to Dedicate, and thereafter assumes the responsibility for the public trail. (Parks and RMA - Planning Department)</p>	Contact and meet with the Parks Department and the Planning Department to formulate the public recreation trail easement after receipt of IDR comments. Planning and Parks will have copies of the IDR comments for review by the owner/applicant.	Owner/ Applicant	Upon receipt of Parks and the Planning Department IDR comments.
		Submit Irrevocable Offer to Dedicate, as described, to the County, and have it conform to the requirements of and approved by the Director of Parks.	Owner/ Applicant	Prior to recordation of the final map

<i>No.</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Action</i>	<i>Responsible Party</i>	<i>Timing</i>
108.	<p>PKSSP003 – RECREATION REQUIREMENTS/ LAND DEDICATION (NON-STANDARD CONDITION)</p> <p>Prior to recordation of the first Final Map, the Applicant shall comply with Section 19.12.010 - Recreation Requirements - of the County Subdivision Ordinance, Title 19, Monterey County Code, by dedicating land and recreation improvements in accordance with the provisions contained in Section 19.12.010 (D) for park and recreation purposes reasonably serving the residents of the inclusionary housing units. The Applicant shall also provide the Parks Department with a recreation plan and cost estimate for the improvements to be made on the dedicated parcel(s).</p> <p>a) A park and recreation plan shall be prepared by the Applicant for review and approval by the Director of Parks. The final approved park and recreation plan shall be recorded as part of the first Final Map. The plan shall delineate park and recreation structures, <u>tot lot location</u>, park improvements and landscaping components with a cost estimate for each park site. The recreation plan shall also indicate the phasing and construction schedule for each park site. The park and recreation structures, <u>tot lot</u>, park improvements and landscaping shall be installed prior to the first occupancy permit is issued for the inclusionary housing units.</p> <p>b) Prior to recordation of the first Final Map, the Applicant shall provide the County with adequate security in the form of a performance bond or other suitable security acceptable to the County of Monterey in the amount of one hundred percent (100%) of the costs for the park and recreation improvements shown on the recreation plan.</p> <p>c) Prior to recordation of the first Final Map, the Applicant shall provide the Director of Parks with a park and recreation facilities maintenance and operation plan. The purpose of this plan is to assure the County that the park and recreational facilities will be maintained and operated for the enjoyment, health and safety of the residents of the inclusionary housing units with an appropriate funding source and maintenance entity. (Parks Department)</p>	The applicant shall submit a recreation plan and cost estimate for the improvements to be made on the dedicated parcels(s) to Parks Department for review and approval.	Owner/ Applicant	Prior to the recordation of the first Final Map
		A park and recreation plan shall be prepared by the Applicant for review and approval by the Director of Parks.	Owner/ Applicant	Prior to the recordation of the first Final Map
		The Applicant shall provide the County with adequate security in the form of a performance bond or other suitable security acceptable to the County of Monterey in the amount of one hundred percent (100%) of the costs for the park and recreation improvements shown on the recreation plan.	Owner/ Applicant	Prior to the recordation of the first Final Map
		A park and recreation facilities maintenance and operation plan shall be prepared by the Applicant for review and approval by the Director of Parks.	Owner/ Applicant	Prior to the recordation of the first Final Map

B. Condition 37

Condition 37 applies a B-6 zoning overlay on the property to prohibit future subdivision of the property. Staff is recommending a change to the “Compliance or Monitoring Action” to ensure that the rezoning occurs prior to filing of the final map. The recommended modifications are shown as heavy underlined language and the old language is shown as strike-through:

No.	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Action	Responsible Party	Timing
37.	<p>PBDSP021 – “B-6” COMBINING DISTRICT (NON-STANDARD CONDITION)</p> <p>Prior to the filing of the final map, the applicant shall request in writing that the northerly 494 acres currently zoned "RDR/10-D-S-RAZ" be rezoned to "RDR/B-6-D-S-RAZ" and that the southerly 393 acres zoned LDR/2.5-D-S-RAZ be rezoned to LDR/B-6-D-S-RAZ. (RMA - Planning Department)</p>	<p>Applicant shall submit request in writing to the Director of Planning for review and approval.</p> <p>Rezoning to Board of Supervisors for consideration</p> <p><u>Applicant shall submit an application to the County of Monterey to rezone the property and receive approval from the Board of Supervisors for the rezoning.</u></p>	<p>Engineer/ Owner/ Applicant</p> <p>RMA</p>	<p>Prior to filing of Final Map(s)</p> <p>Within 120 days of map recordation</p>

C. Condition 40 and 41

The California-American Water Company (Cal-Am) submitted a letter, dated October 11, 2006, with regard to project conditions 40 and 41 which prohibit connection to Cal-Am for water service and require a de-annexation from the Cal-Am service area, respectively. Cal-Am is not willing to give up its right to provide water service at the project site in the future and objects to the de-annexation of the project from their service area. However, the project would not be consistent with Monterey County Code Section 18.46.040 (Ordinance 3310) if the project received water from Cal-Am. Further, the Revised EIR did not analyze the impacts of the project receiving their water supply from Cal-Am. Therefore, staff recommends deletion of condition 41 and retention of condition 40. The recommended modification is shown by strike-through on condition 41:

No.	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Action	Responsible Party	Timing
40.	<p>PBDSP025 – CONNECTION TO CAL-AM PROHIBITED NON-STANDARD CONDITION)</p> <p>The applicant shall be prohibited from hooking up to the California-American Water Company System. (RMA - Planning Department)</p>	<p>Applicant shall form a public water system to deliver potable water to the subdivision.</p>	<p>Owner/ Applicant</p>	<p>On-going</p>
41.	<p>PBDSP024 – DEANNEXATION FROM CAL-AM SERVICE AREA</p> <p>The applicant shall provide evidence from the Local Agency Formation Commission (LAFCO) that the property has been de-annexed from California American Water Company (Cal-Am) service area. (RMA – Planning Department)</p>	<p>Submit evidence from LAFCO and the California-American Water Company that the property has been de-annexed from the Cal-Am service area to the Director of Planning for review and approval.</p>	<p>Owner/ Applicant</p>	<p>Prior to filing the first final map</p>

D. Condition 187 (Finding 26 v. and Mitigation Measure 4.13.5-1)

The proposed project would result in introduction of approximately 350 people into the project area, which in turn would result in increased demand for recreational facilities. According to Monterey County Code Section 19.12.010, residential development applicants are required to provide land dedication or pay in lieu fees to provide active park and recreation improvements that reasonably serve the residents of new subdivisions; under the applicable formula, the September Ranch project as proposed is required to dedicate 1 acre of land for active park and recreational uses. Because the project will be dedicating land for recreational purposes, the mitigation measure is being modified to specify the dedication of land only and not the payment of the in lieu fee. While either option is effective and available, the staff concludes that dedicating actual land is the most direct and timely method to meet the County requirements. The recommended modifications are shown as heavy underlined language and the old language is shown as strike-through:

No.	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Action	Responsible Party	Timing
187.	<p><u>PUBLIC SERVICES AND UTILITIES</u> The applicant shall either dedicate land for recreational uses or pay an in lieu fee, which will be calculated prior to recordation of the final map. (Parks Department)</p>	<p>The applicant shall coordinate with the Monterey County Parks Department on the dedication of land and/or the payment of in lieu fees and the location of trail easements and identify such easements on the final map.</p>	Applicant	Prior to recordation of the final map.

For consistency, the following modification, shown as heavy underlined language and the old language is shown as strike-through, is to be made in Finding 26v. on page 58 of Exhibit B of the October 3, 2006 staff report:

Mitigation Measure 4.13.5-1. The applicant shall ~~either dedicate land for recreational uses or pay an in lieu fee, which will be calculated~~ prior to recordation of the final map.

E. Changes to Finding 29b.

Kennedy/Jenks Consultants, the County’s hydrology consultant, has reviewed the technical information provided by Hubert Morel-Seytoux and Timothy Sanders. During that review, the consultant reviewed the calculations for a “worst-case” potential project impact to Carmel River flows to ensure accuracy. The recalculation revealed that the 0.275 cubic feet per second (cfs) cumulative impact originally identified is premised on limited connectivity between the SRA and CVA. Under 1:1 analysis, a “worst case” cumulative impact on a 1:1 basis would be 0.364 cfs. Although the number increased, the difference between 0.275 and 0.364 cfs does not change the less-than-significant conclusion of the Revised EIR. The reasons are described in the revised finding below. The calculation results are shown in a revision to Tables 1, 2 and 3 from Technical Memo No. 6, Revision No. 3 in the Final EIR. The original memo is attached as **Exhibit O** and the revised tables are attached as **Exhibit P**. The following underlined language is to be inserted into Finding 29b. on page 66 of Exhibit B of the October 3, 2006 staff report:

“...The same conclusion applies to maximum potential impact during an extended drought period. The calculations for a “worst-case” (albeit unlikely) potential project impact to Carmel River flows of 0.034 cfs (winter migration period) to 0.14 cfs (dry period/no steelhead value) were presented in the Revised EIR. Subsequently, the calculations were reviewed to ensure accuracy, at which time the project impact analysis was confirmed and the following clarification provided; specifically, it is clarified for the record that the **0.275 cfs** cumulative impact (Recirculated Draft Revised EIR, Chapter 5.0 and Final Revised EIR, Tech. Memo 6, Rev. 3.) is premised on limited connectivity between the SRA and CVA. As identified in Exhibit P in the November 14, 2006 staff report, under 1:1 analysis, a “worst case” cumulative impact on a 1:1 basis would be **0.364 cfs**, which would occur only in a month similar to October 2000 (dry period/no steelhead value). The difference between 0.275 and 0.364 cfs does not change the less-than-significant conclusion of the Revised EIR for several reasons. As described in the Revised EIR, if river flow is affected at all it would only be downstream of RM 3.6, an area in which the primary value for steelhead is for passage during the winter months of November through May; the cumulative impact during that period remains as identified in the Revised EIR. Second, according to the historical record the river is dry in a month similar to October 2000, except for a single day during which average daily river flows were higher (approx. 4.4 cfs); during those dry months the “worst case” cumulative effect would be approximately .5 inch in the water table which, given corresponding depths to groundwater (e.g., approximately 17 feet in October 2000), would not significantly affect underground water supplies, riparian vegetation or other environmental resources. Consequently, the supplemental calculations simply confirm and clarify the analysis and conclusions contained in the circulated Revised EIR, and do not constitute significant new information affecting the severity of existing significant impacts, or implicating new significant impacts, nor do the supplemental calculations result in new mitigation measures for significant impacts, or otherwise meet the standards for recirculation under CEQA.”