Exhibit F
Correspondence

Omni Resources, LLC
PLN110077

Board of Supervisors
February 7, 2012
September 21, 2011

Mr. William R. Phelps
7 Corral De Tierra
Salinas, CA 93908
eric@cdtrealty.com

Dear Mr. Phelps:

UST: 1 CORRAL DE TIERRA ROAD, SALINAS, MONTEREY COUNTY, SOIL AND GROUNDWATER INVESTIGATION REPORT

At the request of the Monterey County Department of Health, Environmental Health Bureau, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff has reviewed your August 31, 2011 Soil and Groundwater Investigation Report, prepared by CapRock Geology, Inc. (CapRock). In the investigation, CapRock found the gasoline oxygenate methyl tertiary butyl ether (MTBE) present in soil boring B-3, at concentrations of 79.5 and 550 micrograms per kilogram (µg/kg) at depths of 16.5 and 21.5 feet below ground surface, respectively. The soil concentrations of MTBE exceed the cleanup goal of 50 µg/kg.

Monterey County is the lead agency for soil investigation and cleanup, and will provide you with further instructions for addressing the contaminants in soil. MTBE was also found in groundwater at boring B-3, at a concentration of 2550 micrograms per liter (µg/L). MTBE in groundwater exceeds the cleanup goal of 5 µg/L. The Central Coast Water Board is the lead agency for groundwater investigation and cleanup. The full extent of groundwater contamination must be delineated. Since the groundwater encountered at boring B-3 was at a depth of 17 feet, and contaminated soil was found as deep as 21.5 feet, the encountered groundwater may be a perched zone of limited extent. CapRock has recommended remediation of contaminated soils, and suggests excavation may be the timeliest method. If the soil is excavated, you may determine the extent of the groundwater contamination after soil removal. If in-situ remediation of soils is your preferred alternative, you must concurrently delineate the extent of contaminated soils and groundwater. In any event, you must submit a workplan for delineating the contaminants in groundwater to the Central Coast Water Board no later than November 20, 2011.

All technical reports and data associated with this case must be submitted in electronic format to the State Water Resource Control Board's (State Water Board) GeoTracker database. In order to facilitate our GeoTracker review of all future reports and data, all electronic submittals (i.e. Portable Data Format (PDF) reports, Electronic Deliverable Format (EDF) data for all analytical data, Geo well data, and any other electronic data) must be uploaded in their entirety on or before any required due date. In order to maintain eligibility for the Underground Storage Tank Cleanup Fund, all current documents must be entered into GeoTracker. You may refer to
Mr. William R. Phelps

the State Water Board’s Policy Statement-Electronic Reporting Requirements, at their web page:

http://www.waterboards.ca.gov/water_issues/programs/ust/

Failure to comply with these requirements will subject the responsible party to enforcement action by the Central Coast Water Board, including issuance of an order under Water Code Sections 13267 and/or 13304 and potential administrative civil liabilities.

If you have questions on this matter, please contact Mr. John Goni at (805) 542-4628, or Jgoni@waterboards.ca.gov.

Sincerely,

[Signature]

for
Roger W. Briggs
Executive Officer

cc:
Ms. Kay Fernandez
CapRock Geology, Inc.
KFERNANDEZ.CAPROCK@EARTHLINK.NET

Mr. Bruce Welden
Monterey County Health Dept.
weldenb@co.monterey.ca.us

Ms. Bronwyn Felkert
Monterey County Health Dept.
FelkertBK@co.monterey.ca.us
April 6, 2011

Monterey County Board of Supervisors
168 West Alisal Street
Salinas, California 93901

Re: Omni Resources – Corral de Tierra Shopping Village

Dear Supervisors:

I am a commercial real estate agent. For the past 18 years, the main focus of my practice has been placing retail and office tenants in commercial sites in Monterey County.

I am aware that the County staff is recommending that a condition be applied to the proposed Corral de Tierra Shopping Village that would limit water use to 9 acre feet per year, and would authorize the General Manager of the Water Resources Agency to hold certain spaces in the center vacant if that amount of water use is exceeded in any year. In my professional opinion, such a condition will make it difficult, if not impossible, to develop the center and to lease space future space in it. There are three fundamental reasons for my opinion:

1. Such a condition would likely make it impossible for the developer to secure any source for permanent financing for the project.

2. Tenants will not lease a space where a public official can require them to vacate their space on the basis of overall water use over which they have no control; in other words, where they can be required to vacate their space in the center based on overuse of water by other tenants in the center. Tenants invest a lot of time and money to ensure the success of their business and such a provision would put their entire business and livelihood at risk.

3. Tenants will not be able to obtain financing to construct their tenant improvements where their right to do business can be terminated based on overuse of water by other tenants in the center.

For these reasons, I believe that the proposed “water cap” condition will make it infeasible to develop the center and to do any future leasing.

If you have any questions, please do not hesitate to contact me at (831) 755-1639.

Best regards,

[Signature]

Greg Finkle
Partner
Cassidy Turley BT Commercial Real Estate
Barry S. Slatt Mortgage Co.

April 8, 2011

Monterey County Board of Supervisors
168 West Alisal Street
Salinas, California 93901

Re: Corral de Tierra Shopping Village proposed water usage restriction

Dear Supervisors:

I am a commercial mortgage banker with the Barry Slatt Mortgage Company. I have originated hundreds of commercial loans on all product types throughout the country. We also service over $2.2 Billion in commercial loans. Please see my resume attached for more information.

As it relates to the development of Corral De Tierra Neighborhood Retail Village I have reviewed the County's condition which will ultimately be applied to the CC&Rs that would limit water use to 9 acre feet per year, and would authorize the General Manager of the Water Resources Agency to hold certain spaces in the center vacant if that amount of water use is exceeded in any year. In my professional opinion, a limiting condition with the potential to artificially force vacancy will make it difficult, if not impossible, to finance the development of the center.

A commercial bank, life insurance company, or other commercial real estate financing source will not finance either a construction loan or permanent loan with the risk that the General Manager of the Water Resources Agency could force units to either remain vacant or remove current tenants.

While I am a very big supporter of environmentally friendly development this particular restriction will make it extremely difficult and most likely impossible to finance this project. Please feel free to contact me with any further questions.

Regards,

[Signature]

Jordan J. Angel
Executive Director

1350 Old Bayshore Hwy., Suite 450, Burlingame, CA 94010
Phone: 650-342-6755 • Fax: 650-342-3964 • Email: jangel@slatt.com • www.slatt.com
September 15, 2011

Attention: William R. Phelps
Omni Resources, LLC
7 Corral De Tierra Road
Salinas CA 93908

Re: Soil and Groundwater Investigation at the Former Exxon located at 1 Corral De Tierra Road, Salinas.

Dear Mr. Phelps,

Monterey County Health Department, Environmental Health Bureau (EHB) reviewed a report entitled, “Soil and Groundwater Investigation Report for 7 (formerly 1) Corral De Tierra Road, Salinas California”, dated August 30th, 2011 submitted on your behalf by CapRock Geology Inc. Soil analytical samples revealed methyl tertiary-butyl ether (MTBE) concentrations over EHB clean up levels. MTBE was discovered in boring B3 at 16.5 feet below ground surface (bgs) at a concentration of 79.5 ug/kg and in the same boring at 21.5 feet bgs at a concentration of 550 ug/kg. EHB cleanup level goals in soil for MTBE are 50 ug/kg.

In addition, MTBE was discovered at a concentration of 2250 ug/L in a grab groundwater sample collected from B3. The Central Coast Regional Water Quality Control Board (RWQCB) is the regulatory agency for oversight of groundwater contamination and EHB has referred this case to them. Groundwater samples collected from three monitoring wells and a public drinking water well on the property revealed non-detect for all contaminants sampled. Groundwater was calculated to flow in the southerly direction. No groundwater wells or soil borings were located directly south of the MTBE contamination discovered in boring B3.

Based on this information EHB requires the following:

1. Assess the maximum vertical and horizontal extent of contamination
2. RemEDIATE the soil contamination

EHB recommends removal of all contaminated soil as the timeliest remediation option in order for the Omni project (PLN020344) with the proposed storm water recharge basin on the adjacent property (to the east) to move forward. The lateral and vertical extent of contamination would need to be confirmed, all contamination below and/or above EHB action levels removed, and collection of confirmation soil samples on the bottom and side walls of excavation. Also, you must comply with the directives of the RWQCB regarding delineation of any groundwater contamination. Upon review of your consultant's
report regarding the results of the confirmation sampling and RWQCB's analysis of your consultant's report regarding delineating groundwater contamination, EHB will provide a recommendation in regards to the Omni project.

However, if you wish to leave contamination in place below EHB cleanup levels then a Risk Assessment showing groundwater impacts from the contamination and the storm water recharge basin would need to be completed as well as following RWQCB's directive regarding groundwater contamination delineation. Additional remediation may also include injection and extraction clean up technologies.

A work plan, site safety plan, and soil boring permit application are required to be submitted along with associated fees. Work Plan review fee is $542 and soil boring application fee is $136. Please submit required application and fees within 30 days. A registered Professional Geologist or Civil Engineer shall certify all subsurface work.

If you have any questions please do not hesitate to contact Bronwyn Feikert at 831-796-1346.

Sincerely,

Bronwyn Feikert, R.E.H.S.
Environmental Health Specialist II

Cc: Bruce Welden, R.E.H.S., Supervising Hazardous Materials Specialist
Cory Welch, R.E.H.S., Senior Hazardous Materials Specialist
Cheryl Sandoval, R.E.H.S., Supervising Drinking Water Protection Services
John Goni, Central Coast Regional Water Quality Control Board
This memo is provided as information from Supervisor Potter related to the Omni (item S-3) and Merrill/Wayland items (item S-4) at the Board of Supervisors tomorrow.

Mike

-----Original Message-----
From: Lee, Kathleen M. 647-7755
Sent: Monday, January 09, 2012 1:32 PM
To: 112-Clerk of the Board Everyone; 100-BoS Everyone; McKee, Charles J; Bauman, Lew; Novo, Mike x5192
Subject: Memo from Sup. Potter re: continuation of Items S-3 and S-4

Please see the attached memo regarding the continuation of Items S-3 and S-4.

Kathleen Lee
Chief of Staff for
Supervisor Dave Potter
(831) 647-7755
Memorandum

To: Board of Supervisors  
From: Supervisor Dave Potter  
Re: Board Meeting of January 10, 2012: Items S-3 and S-4

I have been informed that Supervisor Calcagno will not be at the Board meeting of January 10, 2012, at which time the Board is scheduled to take up Item S-3, the proposed Omni/Phelps project, and Item S-4, the Merrill/Wayland minor subdivisions. The applicants' representative in all three matters has requested a continuance for that reason. While I do not support the Omni/Phelps project as proposed, I believe it appropriate that all Supervisors have the opportunity to participate in this controversial decision. In addition, I am informed by County Counsel that, in light of the previously adopted Resolution of Intent to Approve, if the matter were to result in a tie vote (2-2) it would have to come back in any event for final Board consideration unless the Resolution itself were rescinded or superseded. Therefore, as a matter legislative efficiency and courtesy I will support a continuance of that matter so that Supervisor Calcagno may participate in the debate and decision. While Item S-4, the Merrill/Wayland minor subdivisions, is not subject to a Resolution of Intent, the matter was previously continued to provide for further water quality testing in light of the prior recommendation for denial, and I believe it was contemplated that the full Board could consider those results. I will therefore support a continuance of that item for much the same reason.

cc: Lew Bauman, CAO  
Charles McKee, County Counsel  
Mike Novo, Planning Director  
Clerk of the Board
January 9, 2012

Monterey County Board of Supervisors  
168 West Alisal Street, First Floor  
Salinas, California 93901

Omni Resources, LLC (PLN110077)(Agenda Item S-3)

Dear Supervisors:

On behalf of the applicant, Omni Resources, LLC, I hereby respectfully request that this matter be continued to a date certain on which a full Board of Supervisors can be present to consider the application. Without waiving any rights under the Agreement Extending Tolling Period, the applicant waives the provisions of Section 21.80.090(E) regarding the time for rendering a decision on this appeal.

Respectfully submitted,

Brian Finegan  
Attorney for Applicant

cc:  Eric Phelps  
     Mike Novo  
     Les Girard
Novo, Mike x5192

From: Boyd, Arlene P. 759-6642
Sent: Monday, January 09, 2012 8:17 AM
To: 100-BoS Everyone
Cc: Bauman, Lew; McKee, Charles J; Reimann, Kathryn x5358; Girard, Leslie J.; Strimling, Wendy; Novo, Mike x5192; Rothamel, Linda M. x5240
Subject: FW: Phelps/Omni Project, 68 & CDT - BOS Agenda Item

Please correspondence below. Thank you.

Arlene Boyd
Senior Secretary
Clerk of the Board of Supervisors
County of Monterey
168 W. Alisal St., 1st Floor
Salinas, CA 93901
(831) 755-5066
FAX (831) 755-5888

From: Noel Thieleman [mailto:noelpt@yahoo.com]
Sent: Saturday, January 07, 2012 5:14 PM
To: 112-Clerk of the Board Everyone; Hancock, Denise 796-3077
Subject: Phelps/Omni Project, 68 & CDT - BOS Agenda Item

Please forward this letter to the entire Board of Supervisors. I should have done so when I sent it to Mike Novo.

To: The Board of Supervisors
From: Noel Thieleman

Please read the following letter I sent to Mike Novo regarding the Phelps project that is on the agenda for next Tuesday's Board meeting. Thank you for considering the facts as I have tried to explain, and my concerns about traffic that this project will greatly impact.

From: Noel Thieleman <noelpt@yahoo.com>
To: Mike Novo <novom@co.monterey.ca.us>
Cc: Dave Potter <district5@co.monterey.ca.us>
Sent: Friday, January 6, 2012 3:15 PM
Subject: Phelps/Omni Project, 68 & CDT - BOS Agenda Item

Dear Mr. Mike Novo

Thank you for taking the time to discuss my concerns about this project. My family has resided in Corral de Tierra for 36 years, so I've had plenty of opportunity to watch the increasing growth of people & traffic along the Highway 68 corridor. This has greatly affected our quality of life, with oftentimes gridlock on the roads, and severe negative impact on the water supplies.

It seems from attending previous BOS meetings, this project is destined for approval, despite the efforts of many to show how wrong a development of this size is for this location. There are so many legitimate issues to address, yet it most likely will go through. Hopefully, in the end, some of these issues will be addressed.

My most immediate concern is what will happen to traffic during construction. I have about 40 years of construct engineering experience, mostly on site, doing traffic plans, soils work, project management, etc, both in the private and public sectors, and have looked long and hard at conditions, both current and in
the future.

Please consider the following:

Traveling west on 68 from San Benancio to Corral de Tierra, there is a curve to the right that obscures sight distance until one is almost in the left turn pocket south for The Villas entrance. At this point there is a center lane used for this pocket, as well a holding area for cars exiting The Villas westbound. Just west from there is the old entrance to Cypress Church, which now has traffic routed through the traffic signal at Corral de Tierra and 68. However, there remains a parallel driveway to a few private homes. This drive is still accessed from eastbound 68 into a long left turn pocket north, which served its purpose prior to the new drive to the west being constructed.

Finally, one arrives at the left turn pocket south to Corral de Tierra road at the traffic signal. This turn pocket is considerably shorter than the one to the old Cypress church approach, which is now only serving a few homes. This should've been addressed at the time Caltrans was doing all the paving and striping work on 68.

My point is that there is too much going on with traffic in too short a distance. The turn pockets can't be eliminated, but the turn pocket to CDT MUST be lengthened as much as possible. There is not enough capacity to handle vehicles turning during peak hours, with the result that cars are trying to squeeze left as far as possible, to avoid being stuck in the westbound through lane while waiting for the light. This is already a very dangerous situation.

Once construction starts, the majority of workers, as well as trucks hauling equipment, supplies, concrete, gravel, etc, are most likely going to come from the east, further choking the AM commute. Adding, these large heavy trucks can't accelerate quickly, so each left turn phase may only allow for one or two trucks at the most to get through the light. There is also a drainage swale across CDT, so vehicles routinely go very slowly over it, then accelerate south on CDT.

I foresee an absolute nightmare when construction gets under way. The conditions of approval call for work during the day (#29), with a Construction Management Plan to be submitted to Public Works (#43). Has anyone seriously looked at the current conditions, then thought ahead to construction traffic? There will be cars backed up farther than happens now, which is unacceptable at best. Personnel from BOS, RMA and Caltrans need to go to this area of 68 and really take a good look and imagine the consequences of not taking a responsible stand on at least alleviating the worst case scenario. Gridlock and an increase in rear end accidents, are very real possibilities.

The opposing left turn pockets need to be addressed, and the traffic signal be re-phased to allow for the huge increase in left turns from 68 onto CDT. RMA should work closely with Caltrans to get all changes in place and functional prior to any ground being broken on site. The developer should be responsible for all costs associated with this, and should be so noted in the conditions of approval.

Thanks you for your consideration. I'm sending a copy of this to Dave Potter. Although this is late in getting to you, please try to discuss this with staff prior to Tuesday's BOS meeting.

Regards, Noel Thieleman
GOOD MORNING,  
Please see correspondence below.

Arlene Boyd  
Senior Secretary  
Clerk of the Board of Supervisors  
County of Monterey  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901  
(831) 755-5066  
FAX (831) 755-5888  

-----Original Message-----  
From: William Schramm [mailto:w_schramm@comcast.net]  
Sent: Sunday, January 08, 2012 11:45 PM  
To: 112-Clerk of the Board Everyone  
Subject: Board of Supervisors 10 January Meeting  

Please forward this email to the Supervisors prior to their 10  
January meeting.  

Dear Members of the Board of Supervisors,  

I have two comments I would like to submit for your consideration  
with regard to the upcoming hearing on the Corral de Tierra Shopping  
Center.  

1. Last year the Corral de Tierra Marketplace opened adjacent to the  
gas station at the intersection of Highway 68 and Corral de Tierra  
Road. Less then a year later it closed due to a lack of business.  
Given this example it should be obvious that the idea that the  
residents of the area will support a large shopping center is  
unrealistic. What will happen if a shopping center is built is that  
it will become another eyesore in an area that is supposed to be  
noted for its scenic beauty. The former Exxon gas station that was  
developed by Mr. Phelps should be ample proof for the County of what  
happens when a developer walks away from a failed development.  
Please do not be misled with false claims that the community wants  
and will support this proposed shopping center.  

2. It appears that County staff is proposing fines if the shopping  
center exceeds a water use cap. This may sound good if the only  
consideration is getting money for the County's coffers. But, may I  
remind you that those of us who live in the area cannot drink fines.  
A lack of adequate water supply is a BIG problem for the residents of  
the area so I have a simple question for the members of the Board.  
Does the County have a plan to supply the residents with water when  
the natural supply runs out due to decisions made by the County? If  
ot only then the Board has a responsibility to the residents to do  
nothing to make the existing situation worse, which is exactly what  
this proposed shopping center will do. The claims by the developer  
with regard to water are in the same category as the claims about the  
eco-friendly need for a large shopping center at a location where even a  
single small store can't stay open.
Sincerely, William Schramm

17 Calera Canyon Road, Salinas CA 93908
Novo, Mike x5192

From: Gowin, Henry M.
Sent: Monday, January 09, 2012 9:07 AM
To: Novo, Mike x5192; 112-Clerk of the Board Everyone
Subject: FW: Corral de Tierra Shopping Center

For the Omni file:

From: Al Ferreira [mailto:mamanpapaf@sbcglobal.net]
Sent: Sunday, January 08, 2012 8:54 PM
To: 100-District 2 (831) 755-5022
Subject: Corral de Tierra Shopping Center
To: Monterey Board of Supervisors

From: Al Ferreira

Re: Corral de Tierra Shopping Center

I am writing this letter to urge a NO vote on the proposed Corral de Tierra Shopping Center. There are numerous reasons why this should not be built. However, I would like to center on the lack of water supply.

The Center proposed that they would have their own water supply by using a “catch” system that would catch runoff from rain, eliminate contaminates and recycle water for their use. There is no proof that this sort of system will work for sure. For the sake of argument, let's say that it might. What happens if there is no rain to catch and provide water for the Center? It would have to come from an already dangerously low supply that provides for the homes in the Corral de Tierra area. This Winter and the lack of rain is a good example of a real problem.

There seems to be a not so honest plan by Cal Am to provide water for this project. Word is that they want to buy land from The Meadows of Corral de Tierra and build two large capacity water tanks. The dishonesty comes in by Cal Am claiming they need these bigger tanks to provide fire protection. I have lived in the Meadows for 19 years and have never once heard of this need. Either Cal Am is not telling the truth or they have put us in danger for all of these years. Either way they become liable.
Overall water usage is down and only a few more homes have been built that are serviced by these water tanks. The only difference is the proposed Shopping Center. It seem that Cal Am is trying to use a scare tactic to get bigger tanks that would provide for use by the Shopping Center. I live in the Meadows and know that before Cal Am can purchase the land to expand the tanks, there has to be a vote of the homeowners. This vote will not easily happen.

I urge you to not allow this Center to happen until this potential water crisis is fully investigated. Unless this project can prove that it will provide it’s own water source and not tap into the already over taxed aquifer as they have promised, it should not be allowed to proceed.

Thank you for your consideration in this matter.

Al Ferreira

24105 Mallard Court

Corral de Tierra
Hand Delivered
Jane Parker, Chair
and Members of the Board of Supervisors
County of Monterey
168 West Alisal Street, 1st Floor
Salinas, CA 93901

Subject: Corral de Tierra/Omni Resources Shopping Center (PLN020344) November 8, 2011 Board of Supervisors Agenda

Dear Chair Parker and Members of the Board of Supervisors:

This Office represents The Highway 68 Coalition, which urges you to deny the Omni Shopping Center project. The project and the alternatives should be denied, and the EIR should not be certified.

This letter reiterates objections made in the past by the Highway 68 Coalition and other members of the public, and makes objections to recently proposed aspects of the project, as well as to proposed County conditions that were newly revealed.

Proposed Lot Line Adjustment; Total Development of 120,000 s.f.

The Board majority has expressed concerns about the size of the project. The proposed lot line adjustment is an attempt at an end run around that Board concern.

The proposed lot line adjustment would create one large northerly lot (Parcel B) to be developed now, and a second rear southerly lot (Parcel A) to be developed later. The foreseeable eventual size of the shopping center is very large. The applicant is deferring development of some 20,000 square feet or more. Adding that 20,000 square feet to the nearly 100,000 square feet in the current project would mean development of the proposed site at 120,000 square feet or more. (Table 1.)

Table 1: Total Building Square Footage of Both Parcels

<table>
<thead>
<tr>
<th>Building</th>
<th>square footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel B (northerly 9.86 acres)</td>
<td>99,970 (proposed)</td>
</tr>
<tr>
<td>Parcel A (southerly 1.12 acres)</td>
<td>12,000 - 24,000 (foreseeable)</td>
</tr>
<tr>
<td>Total:</td>
<td>111,970 - 123,970 s.f.</td>
</tr>
</tbody>
</table>
According to the County project planner, the Zoning Ordinance allows up to 50% Building Coverage (§ 21.18.070) in the Light Commercial district. (November 1, 2011 email from John Ford.) For the proposed 1.12 acre lot, that would mean a one-story building of over 24,000 square feet, or an even larger two-story building. The County estimates that the proposed 1.12 acre-site would produce a building area of 11,710 square feet. That estimate of 11,710 s.f. uses a coverage estimate of 24% (which is less than half of the 50% coverage allowed), and addresses only construction of the structure, and does not include parking areas, landscaping, driveways, outdoor areas, and other areas not included in the County calculation of building area. (Ibid.) That is about the same size as the office building that the applicant proposed for that location when it was part of the subdivision project. It is reasonably foreseeable that the 1.12-acre lot would be developed in the future with a commercial structure of approximately 12,000 s.f. or greater. Whether the lot is owned in the future by this applicant or a future owner, the then-owner foreseeably will argue that he has an "investment-backed expectation" to develop the lot. The County should not allow the lot line adjustment to proceed in this way, without adequately analyzing the impacts of the foreseeable development of the 1.12-acre lot. The proposed lot line adjustment would mean taking a piecemeal approach to the project and to the environmental analysis.

Transportation and Traffic

The DEIR is garbled on the issue, but the FEIR makes clear that the shopping center project will have direct impacts on the Highway 68/Laureles Grade intersection that will be significant, unavoidable, and unmitigatable. The project will cause the intersection to drop from LOS C (acceptable) to LOS D (unacceptable). The Fire District has a fire station at that intersection that serves the Highway 68 corridor west of Toro Park, including the Omni shopping center site, to Olmsted Road on the west. The station also serves the Laguna Seca Recreation Area as well as the Laureles Grade area up to the summit. The areas that station serves are hilly areas in a semi-arid climate, with frequent hot, dry, and windy weather conditions. Much of the area of covered in dry brush and chaparral. Much of the area is served by small water systems with limited fire storage capacity for fire suppression.

The County proposes to make a statement of overriding considerations under CEQA. The statement would allow the significant unavoidable traffic impacts at that intersection to occur. However, there is no evidence that the Fire District is aware of this specific traffic issue, and the possible impacts on its fire station and its ability to respond to emergencies. There are no comments by the Fire Department on this issue, and no evidence that the Fire Department is aware that this project would cause increased congestion at a key intersection where a fire station is located. The increased congestion at the intersection would foreseeably affect response times by the emergency responders. The longer the emergency response time, the more harm can be caused by a fire, whether a wildfire or a structure fire. In that area, lost seconds or
minutes can count significantly in preventing harm. These are very serious life safety issues. The EIR failed to address these issues.

The significance of the problem was not clear in the Draft EIR, because the Draft EIR did not clearly or coherently state the impacts on the Highway 68/Laureles Grade intersection. Instead, the Draft EIR was internally inconsistent, and confusing. The public’s questions demonstrated the public’s confusion. The EIR’s response to comments finally clarified the issue and stated for the first time clearly that the project’s direct impacts to the Highway 68/Laureles Grade intersection were significant, unavoidable, and unmitigated. Prior to the Final EIR, that information had not been clearly presented. In response to comments, the Final EIR amended Table 1.B to show the impacts, as well (see Final EIR, the page following p. 448). Because that information was clearly stated for the first time in the Final EIR, the public did not have a chance to comment on it. The information was new, and should have been included in a recirculated EIR.

The corner gas station site has two access points onto Highway 68. Neither of those access points prohibit left turns for ingress or egress. The shopping center project envisions access through the corner site. The proposed shopping center site also proposes an additional access point onto Highway 68. That would be three access points in a very short distance from each other, including one immediately adjacent to the intersection. This presents a significant safety issue. The risk could be mitigated through limiting the total number of access points, to two or to one access onto Highway 68. This is a feasible mitigation but it was not considered or done.

Confusing Documentation: Significant Recent Changes to Plans

The environmental documents have not adequately disclosed or investigated the current claims of the applicant, the potential impacts, the possible mitigations, the remaining unmitigated impacts, or a reasonable range of alternatives. The environmental analysis for this project under CEQA has been very confusing, and it is not clear what records are included in the analysis.

The artistic renderings of the proposed project are inadequate. The most recent drawings were dated August 2011 but just released last week to the public for the first time. Those drawings do not provide measurements, topography, layout, or other information necessary for the public and decisionmakers to understand the project or to ask critical questions, especially given the frequently changing aspects of the project, or to make informed decisions about the project.

In plans recently presented to Board, the applicant changed the project significantly. The applicant has moved the large grocery store from the rear (south) end of the project to the front (north) end of the project. The grocery store is now proposed
to be located at the front of the project, fronting Highway 68. That building is identified as Building 1 on the applicant's June 13, 2011 plans. The most southerly building is identified as Building 9 on the applicant's June 13, 2011 plans. Building 9 fronts on Corral de Tierra. That building is no longer shown as a grocery store, and the drawings for that building no longer show a loading dock for large delivery trucks, as had been shown in earlier versions. Instead, there is a large "loading yard" newly shown on the most northerly building (Building 1) fronting on Highway 68. That front building is now larger than it was in earlier versions. The change means that the scenic Highway 68 now would have a large grocery store within the scenic viewshed, with all the lighting, signage and other issues that accompany a large chain grocery store. These changes have not been adequately disclosed or described to the Board.

Fire Safety and Fire Suppression

The on-the-ground facts with regard to fire suppression were not adequately investigated or discussed, and the impacts have not been mitigated. The local fire department, Monterey County Regional Fire District, has informed Mike Weaver, of the Highway 68 Coalition, that the most current shopping center plans that have been provided to the fire department are dated from 2002. (Weaver conversation with MCRFD Asst. Fire Marshal Dorothy Priolo, November 2, 2011.) In a letter dated December 8, 2010, the fire district informed the applicant that a 40,073 s.f. commercial building (the grocery, assuming firewalls) pursuant to The Uniform Fire Code would require 1500 gpm at a minimum of 20 psi for 3 hours, which equals 270,000 gallons water storage. That is the most current information. This means that the applicant would need Cal-Am to provide 270,000 gallons water storage.

Cal-Am does not have that required capacity available. According to California American Water, the water provider, currently the water storage system is just barely able to manage the maximum day water demand for everyday use, and there is no reserve capacity for fire flow during most of the year, in particular during the dry summer season. The minimum requirements described by the fire department in August 2011 do not include the additional requirements that would be necessary for the proposed Omni shopping center. The August 28, 2008 letter addressed to Eric Phelps from Craig Anthony, general manager of Cal-Am's central coast division, states that Cal-Am's Ambler Water System has an approximate total capacity of water storage of 208,860 gallons total. This is the storage for all existing uses, and does not include any capacity for the proposed shopping center. The project's impacts have not been adequately analyzed in the EIR, and they have not been adequately mitigated.

Comment letter DDD on the DEIR raised fire safety concerns. The responses are inadequate. In response to a question about water storage capacity for fire suppression, the FEIR stated that the water system "is permitted by the PUC and is sized to meet the requirement established by that agency. This does include fire
protection." (FEIR, DDD-4, p. 299.) That response is not correct. The PUC does not establish storage capacity for water systems. Storage capacity is a safety issue that is regulated by the local fire departments (for fire protection) and by the appropriate local or state health agencies (for potable consumption purposes), and in some cases by land use jurisdictions. The FEIR further responded that "there is currently an application submitted by Cal Am to construct larger tanks off-San Benancio Road. The County believes that this will provide additional fire suppression capability." (Ibid.) The EIR provided no details about the "application" or the size of the requested storage. The response is inadequate. Apparently Cal-Am recently tried to make an application to the County for storage tanks at a location off of Paseo Privado, on property owned by the Meadows Community Association. However, when the application by Cal-Am was considered by the Toro Area Land Use Advisory Committee (LUAC) in late September 2011, Cal-Am did not show up for the LUAC hearing. Instead, the Meadows Community Association appeared and strongly objected to the proposed tanks, saying Cal-Am had no right to build tanks at that location and Cal-Am had not consulted the Meadows Community Association about its proposal to construct the tanks. After the hearing, the LUAC voted against the project. Therefore, Cal-Am’s right and ability to construct larger storage tanks is in doubt.

Separately, even if Cal-Am were able to construct the tanks, there is no evidence that the additional capacity in the proposed tanks would be adequate for the protection of the proposed Omni Shopping Center, because there is no breakdown of the needs for which the larger tanks are intended. They may be all for existing needs in the area, which are significant, according to Cal-Am. Cal-Am stated that the additional storage is needed to meet existing fire protection needs, as well as to provide emergency storage due to well failure, and to meet existing maximum day demands. Again, there is no evidence that the future tanks – if they are approved and built, which they are not – will include any capacity available for the proposed shopping center. The EIR failed to discuss this issue adequately, or to mitigate for the impacts of inadequate fire suppression capacity.

Existing Code Violations on the Property and on Adjacent Property Owned by Phelps

According to the County, the applicant for the Omni project owns the adjacent corner gas station parcel.1 According to County records, the County has recently

---

1 Various County records at time refer to the gas station or other site property as being owned by “Omni Enterprises” or “Omni Enterprises LLC” or “Omni Resources Limited.” In response to written queries from this Office earlier in 2011, the County project planner looked into the situation, and reported to us that, after speaking with the applicant, references to “Omni Enterprises” in various forms and “Omni Resources Limited” were incorrect, and that Omni Resources LLC was the owner of the corner gas station parcel and the two parcels that are the subject of the application. The project planner stated that the name “Omni Enterprises” shows up on a recorded grant deed but that such an entity does not exist, that the applicants
(summer 2011) discovered that the corner gas station parcel contains at least three wells that have no permits, no records of how they were built, no record of soils encountered, and no record of the depth of screens, all in violation of State and County codes and regulations. The corner parcel also has contamination that in 2002 the County ordered the applicant to clean up, but the cleanup has not yet been done.

These contamination issues have not been resolved and should be remediated before the County can consider new entitlement. (County Code, § 1.20.070.)

**Contaminated Water and Soil**

The adjacent corner parcel has soils and groundwater that are contaminated at dangerous levels of MTBE and benzene. The corner parcel is owned by Omni. The site is part of the larger shopping center site, and is intended as part of the eventual shopping center development. The applicant has been on notice of the contamination since 2002, but has not performed the required remediation that the County required in 2002.

On October 31, 2011, the applicant finally submitted a workplan to the County Environmental Health. The workplan was dated October 15, 2011. The workplan envisions that excavation and remediation would not even begin until October 2012, a full year away. Until the excavation is done, the amount and extent of contamination is unknown. The contamination may extend much farther than currently identified, and may extend past property boundaries into the shopping center site. The contamination may affect the area of the proposed stormwater recharge “Stormtech” chambers or the area of the stormwater collection. Stormwater passing through contaminated soils or contaminated water can become contaminated and can act to move the contamination elsewhere in the soils or groundwater. The environmental documents under CEQA for this project have not included tests of the proposed recharge site that could reveal contamination of soil or groundwater at the project site. There is no discussion of the project’s potential impacts that could be caused by the contamination. This information should be required before any approvals are given for the proposed recharge scheme.

The very serious issues of poison in the soil and in the water — benzene and MTBE — have not been adequately considered in the environmental documentation, including in the project description. As part of its regulatory authority, the County, through its Environmental Health Department, is in charge of contaminated soils. The California Regional Water Quality Control Board (RWQCB), Central Coast division, is the regulatory agency in charge of contaminated water. The County Environmental Health Bureau is concerned about the impacts of the contaminated soils and

reported that an error was made in name on the deed, and steps were being taken to correct the deed.
groundwater on the proposed stormwater recharge system for the shopping center. 
(Telephone conversation with EHB Assistant Director Richard LeWarne, November 2, 2011, approx. 11:30 a.m.) As explained by the County, it is for that reason that the Environmental Health Bureau has urged the applicant, Omni Resources LLC, to remove all contaminated soil in order for the shopping center project to move forward. (E.g., Environmental Health Bureau letters to Omni Resources dated November 1, 2011 and September 15, 2011.)

The contaminated soils and water raises significant public health and safety concerns. Benzene and MTBE are highly dangerous poisons. The project drawings do not include the distances of the project or the stormwater recharge site or the contaminated soils and water, on the one hand, to nearby offsite wells, or to the onsite Hargis well, or the nearby Cal Am Ambler wells, on the other hand. The EIR did not provide this information. Potential risks to those water sources have not been adequately evaluated and disclosed, the impacts have not been identified and mitigated, where possible. There are multiple wells within less than a quarter-mile radius of the proposed 1/2-acre site of the recharge chambers. In addition to the Hargis well at the site, and the well at the former gas station site on the corner parcel, there are two wells on the parcels at the southwest corner of Highway 68 and Corral de Tierra. These wells are all well under 1,000 feet, according to Michael Weaver, adjacent resident and owner of one of the wells, who used publicly available online mapping tools to determine the distances. Some of the wells are less than 850 feet from the proposed site of the stormtech chambers. There are also the multiple Ambler wells operated by California American Water Company, the public utility that provides water to hundreds of area residents. Those wells are less than 1500 feet from the recharge site, according to Mr. Weaver's research.

Water Demand

The water demand projection and assumptions of the applicant are inaccurate, unverified, and unreliable. The issue is whether the EIR addresses reasonably foreseeable impacts of supplying water to the project. Those impacts must be clearly and coherently explained, using material properly stated in the EIR. (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal.4th 412.) The EIR in this case fails to comply with those mandates under CEQA.

The County has had numerous different versions of a water “balance” analyses presented in the applicant’s ongoing effort to try to build a water-consuming project in an overdrafted area with no available water. The Toro area is water-short and its aquifers are overdrafted. It makes no sense to approach an area-wide overdraft with a parcel-by-parcel approach, as proposed for this project. As the EIR admits, the operation of the shopping center project would involve the ongoing consumption of water. The rate of pumping in the Toro Area exceeds the rate of groundwater
replenishment. The project would further deplete groundwater supplies, and irreversibly add to the overdraft condition in the Toro area. The proposed "recharge scheme" is uncertain because of many reasons, as identified by groundwater hydrogeologist Tim Parker, and by this letter and by other comments from the public. The impacts to the Toro water supply would be significant and unavoidable. The impacts would not be adequately mitigated to a level of less than significant by the proposed mitigation that is the recharge scheme.

The applicant's proposed "credit" for reduction to water use based on water conservation are not reasonable. The majority of the applicant's current claims of water demand, water demand reductions and stormwater recharge were not in the Draft EIR but came later, in the Final EIR, specifically the FEIR's "Appendix K." The Draft EIR was dated May 2010. The FEIR and the FEIR's Appendix K were dated November 2010. All the information in Appendix K is dated after May 2010, with the exception of one document (item q) that was an enlarged, more readable version of a DEIR figure. Because the information was not in the Draft EIR, the new information in Appendix K should have been subjected to public comment in a recirculated EIR. The public was not given a public comment period on the numerous new documents in Appendix K. Appendix K was "too little and too late" under CEQA. (See California Oak Foundation v. City of Santa Clarita (2005) 133 Cal.App.4th 1219, 1239.)

The applicant's water demand chart and the applicant's conclusions about water demand rely heavily on assumptions and claims first made in the FEIR's Appendix K. As one example, the reductions described in Footnote 6 of several of the applicant's post-DEIR "water balance" analyses are based on a two-paragraph letter dated November 4, 2010 to the applicant's architect from Martin Dickson of Dickson & Associates, located in Shasta County. The two-page discussion is not site-specific to the Omni site. There is no statement of Mr. Dickson's qualifications. Mr. Dickson hypothesizes that "an 80% reduction of landscape water consumption is attainable." He gives no support for his conclusion. There are no attachments to his two-paragraph letter. His conclusion is unreliable, unsupported, and unreasonable. It is not reasonable or logical to reduce the amount of projected water demand for landscaping by 80% based solely on a letter from an out-of-area consultant with no local experience, no site-specific discussion, no project-specific discussion, and no reference to existing County ordinances that require water conservation, including drought-resistant planting. Because such drought-resistant planting is required under County condition already, then the projected water use already would be lower than it would be if the plants were not drought resistant. In other words, the original water demand projection is based on plants that do not use much water. It does not make sense to reduce that already-low amount by a further 80% based on a generic letter from the applicant's consultant. According to the applicant's footnote 6 in its June 21, 2011 memorandum, a one-page letter from Mr. Dickson is worth 2.18 acre feet of water (projected landscaping demand of 2.73 AF less an 80% "paper" reduction). That is paper water, and it is unreliable.
Water is too important for such cursory treatment. The applicant relies on this “80% reduction” claim for his subsequent water demand estimates, including the June 21, 2011 water analysis.

The applicant is not helped by the two-paragraph letter dated November 8, 2010 to Omni Resources from Mr. Garvin of Terrapin, of Washington DC and New York City. Mr. Garvin’s letter was another document that was released to the public for the first time in the FEIR’s Appendix K. The two-page discussion is not site-specific to the Omni site. There is no statement of Mr. Garvin’s qualifications. The “attachments” listed at the bottom of the page were not included in the FEIR’s Appendix K. There is no County requirement that the applicant achieve an 80% reduction – or any quantified reduction at all – in the project’s water demand for landscaping.

The applicant’s June 21, 2011 claims came long after the final environmental impact report was released, and have not been subject to public comment under CEQA. The applicant’s water claims rely on the EIR for the Seaside Main Gate project. However, the Seaside Main Gate project EIR was prepared by the City of Seaside. The County should not rely on the water factors used in an EIR prepared by another lead agency, and there is no evidence that the County has done so before. Further, the Seaside Main Gate project has not been built. There is no assurance of accuracy of any assumptions or water use factors used in that EIR for that project, and there has not been any testing or verifying of those assumptions that project because the project has not been constructed. The County should use water use factors that have been tested, based on actual water usage. The County should not rely on an assumption in another land use jurisdiction’s EIR for unbuilt project, where neither agency more public has any ability to test the accuracy or validity or the assumptions.

The applicant’s estimates did not take into account the existing requirement for water conservation measures required by the County. Where water conservation measures are mandatory, it is not appropriate to take further reductions based on those same water conservation measures. The EIR’s mitigation measures with regard to water conservation are ineffective, inadequate under CEQA, and will not reduce impacts to less than significant. As one example, mitigation measure 35 (MM35) is ineffective because there are no metrics or minimum performance standards required. The applicant could propose a single water conservation feature and submit the plans in accordance with the mitigation measure. The County would have no condition or mitigation in place that would allow the County to deny the submitted plan, because the condition lacks a performance standard. There is no evidence that supports that the applicant’s proposed 30% reduction in water demand on all uses is reasonable, and no evidence that the applicant’s claims have been submitted to independent review.

The applicant has asserted various water demand estimates in documents the applicant calls “water balances.” Those estimates are unreasonable and unrealistic.
As one example, the applicant assumed the lowest possible estimates for the “general retail” uses in the proposed shopping center. The applicant did not use the commercial water use factors that the Monterey Peninsula Water Management District (MPWMD) uses for restaurants, convenience stores, spas, laundromats, beauty salons, or dog grooming uses. The MPWMD use for “restaurants” include general restaurants, bars, 24-hour restaurants, and fast food uses. All of these uses would take more water than considered by applicant’s water demand estimates (e.g., June 21, 2011 “Water Balance” applicant submittal) on which the County is apparently relying. None of these higher-demand uses are prohibited from being located in the shopping center. Under the circumstances, it is reasonably foreseeable that one or more higher-demand uses would open at the center.

Another flaw with the applicant’s water demand estimates is the failure to use the proper factor for the proposed grocery use. The applicant chose to use the MPWMD’s “family grocery” factor which is not accurate. The “family grocery” use is for small local grocery stores such as Bruno’s Market, Nielsen’s Market and the former Mediterranean Market in Carmel. These uses are all downtown businesses, within easy walking distance by residents, and with heavy foot and vehicle traffic on the adjacent streets. These uses average less than 5,000 square feet. The “family grocery” use is not appropriate for the Omni project. The applicant’s proposed store has ranged in size from over 40,000 square feet to the current iteration which is 29,000 square feet not including the loading dock area of over 4,900 square feet and the separate maintenance building.

The proper factor that the applicant should use is the “supermarket” factor which applies to larger stores of over 10,000 square feet, stores like the smaller, older Safeway, Monte Mart and Lucky stores on the Monterey Peninsula. The applicant improperly applied the “family grocery” use factor to only the part of the use that is open to the public. The applicant did not include the grocery use’s office square footage or storage (warehouse) square footage in the grocery use factor. Instead, the applicant applied to that square footage the lower “office” or “warehouse” use. As a result, the applicant’s total water use is significantly below the likely actual use. The MPWMD has stated that where a grocery or supermarket includes office or warehouse space, that square footage is properly counted under the water use factor for the grocery or supermarket. (October 20, 2011 email from MPWMD.)

Another flaw with the applicant’s water demand estimates is the failure to account for a convenience store use. A convenience store use is foreseeable under the circumstances, given the rural location, the long hours of convenience stores, the

---

2 In the MPWMD data, Nielsen’s is reported as larger than the other two, but its size is attributable to the unique nature of the Nielsen’s building in downtown Carmel: a two-story structure in which the lower floor is primarily parking for the grocery market on the upper floor.
heavy traffic on Highway 68, and the existence of other convenience stores as the surviving tenants of the closest nearby strip malls on Highway 68 (such as the Stone Creek Shopping Center to the west, which is anchored by a 7-11, and another 7-11 at Toro Park on Portola off Highway 68 to the east). Convenience store uses have a higher water use factor than general retail/office uses. If a convenience store is added to the shopping center, it is likely that the actual water demand would be significantly higher than 15 acre feet.

The MPWMD is the local water agency with the most experience and expertise in studying and determining water demand. No other agency has done as much, and for so long, research into and enforcement of water demand and water use. The Monterey County Water Resources Agency has often relied on MPWMD water use factors and determinations. On numerous occasions, the MPWMD has pointed out to the County that the County’s water demand estimates are too low. Some of the projects that were the subject of these MPWMD comments are located on the Highway 68 Corridor. This Office is not aware of any occasions in which the MPWMD commented that the County was using water use factors that were too high.

The issue of which factor to use, and whether a water credit is appropriate, is a legal determination, not a factual determination. The County does not have the discretion to select inapplicable water factors or inapplicable water credit reductions in order to get a specific result. It is as if the County selected fictional factors or fictional credits.

Another flaw with the applicant’s water demand estimates is the failure to include public restrooms in the calculations. A shopping center of this size must have restrooms. Past versions of the applicant’s plans included restrooms. However, no restrooms are identified on the applicant’s August 2011 plans. A reasonable assumption would be that the center would include at least one restroom facility for men and one for women. Reasonable assumptions would be four toilets for women, and two toilets and two urinals for men.

When the proper water use factors are applied to the applicant’s projected uses and the restrooms are included, the actual projected water demand is over 15 acre feet. (Table 2.) 15 acre feet is far more than the amount estimated by the applicant, and far more than the “cap” of 9 acre feet, and far more than the theoretical “recharge.” When the foreseeable future development of Parcel A are included, the future water use of the site would be much larger than 15 acre feet.
Table 2: Applicant’s Proposed Uses with MPWMD Factors plus Restrooms

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Area (s.f.)</th>
<th>Use Factor (AFY)</th>
<th>Demand (AFY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Retail</td>
<td>53,147</td>
<td>0.00005</td>
<td>2.66</td>
</tr>
<tr>
<td>Grocery Store</td>
<td>29,800</td>
<td>0.00020</td>
<td>5.96</td>
</tr>
<tr>
<td>Deli/Pizza/Bakery/Coffee</td>
<td>17,023</td>
<td>0.00020</td>
<td>3.40</td>
</tr>
<tr>
<td>Landscaping</td>
<td></td>
<td></td>
<td>2.73</td>
</tr>
<tr>
<td><strong>Total Water Use:</strong></td>
<td><strong>99,970</strong></td>
<td></td>
<td><strong>14.75</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Area</th>
<th>Use Factor</th>
<th>Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Toilets</td>
<td>6</td>
<td>0.058</td>
<td>0.348</td>
</tr>
<tr>
<td>Public Urinals</td>
<td>2</td>
<td>0.036</td>
<td>0.072</td>
</tr>
<tr>
<td><strong>Total Water Use with Public Restrooms:</strong></td>
<td><strong>15.17</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The applicant’s projected specific onsite uses (its mix of tenants assumed for purposes of water demand) are artificially limited, and therefore not reliable as a basis for a water use calculation. The actual uses of future tenants in the center could be very different. If the actual uses at the shopping center include any or several of the higher water use factors – such as convenience store, restaurants, or beauty salons – the water use would likely be even higher than 15 acre feet. These higher-factor uses would be allowed under the County’s proposed conditions of approval.

Of the many calculations presented over time in the County’s review of this project, some assumptions as to water demand assume no water use by commercial retail and office uses. That assumption is not realistic and all calculations that rely on that assumption should be discarded as suspect and unreliable.

The County has a history of very poor enforcement of mitigations and conditions. The County has been sued twice with regard to the County’s failure to enforce mitigations, and the County’s code enforcement staff has been reduced almost to zero. The County has admitted that for some time it is enforcing only life health and safety risks. The County simply has not supplied – and does not supply – adequate resources for code compliance and mitigation monitoring of approved projects. The County’s failure to follow through on its 2002 cleanup order on the corner parcel is another example. Further, where conditions are signed off, such signoffs are often done by inadequately trained or unqualified staff. There is no requirement that the County staff who review the submitted plan have any expertise in water conservation. There is no condition or requirement that ultra-low flow fixtures be used (such as waterless urinals), or that the landscaping be xeriscape, or any other minimum requirements.
The proposed mitigation that required LEED certification is inadequate to mitigate the impacts identified in the EIR, including the water impacts. LEED certification has been called "greenwashing" because it has superficial appeal but in reality does not ensure that a project is environmentally sound or sustainable. LEED certification has come under increasing challenge due to its systemic gaps and failure to ensure a truly green building. There are no project requirements as to any level of LEED certification, which means the applicant can meet the lowest level of certification. There is no requirement to be platinum, gold or silver LEED certified, which have higher standards. The applicant’s use of the “LEED” term is misleading, and the County’s reliance on and deference to the applicant’s claims is troubling. The County failed to adequately investigate the claims and the effectiveness of the LEED-related mitigations.

LEED certification can be met in a myriad of ways that have nothing to do with water use or site sustainability. For example, according to the current LEED system, the minimum number of points for LEED certification is 40 points. A project can easily get 40 points through aspects of the project that deal with energy efficiency, materials used, and indoor environmental quality, which offer a total of 64 available points. In other words, a project can be certified as LEED even if it gets zero (0) points in the categories of "water efficiency" and "sustainable sites."

The environmental analysis is inadequate because the EIR preparer did not adequately find out all that it could about current water demand and current population or dwelling units. No current updates on population or dwelling units were available for the study conducted by Geosyntec in 2007 so the most recent estimates of water demand are from the Fugro West, Inc. report prepared in 1996. That report is woefully out of date. It would have been relatively simple for the EIR preparer or Geosyntec to use the census information, and water suppliers’ connections and pumping totals, and the publicly available voter registration data in this area, in order to get more reliable and current information. The EIR preparer did not seek out that information.

The current water use of the corner parcel (the former service station) was not included in water balance analysis. This use should have been included in the existing pre-project water use.

The responses to comments under CEQA are inadequate, both in general and with regard to water issues. As County records show, and as personally confirmed to me by County staff, when the County sought to have the applicant fund the responses to comments, the applicant refused to pay for expert water consultants to respond to comments, and for that reason the responses with regard to water (and apparently some other topics) were prepared by County planning staff on top of all their other general planning duties. These staff members do not have any particular expertise in water issues, and especially not in complex water analysis like the many problems
posed by the Omni project. Subsequent to Omni's federal lawsuit against the County, the County's actions appear to have been affected in large part by the lawsuit, because there was fear by County officials that the applicant would sue the County again.

Recharge Scheme

The County should not approve the deeply flawed and uncertain recharge scheme. The applicant has tried to confuse the issue by arguing that stormwater recharge is widely used, but the applicant misses the point. The issue is that stormwater recharge does not substitute for a sustainable long term water supply, especially in the drought-susceptible and overdrafted Toro area.

The project does not have a sustainable long term water supply, as required by the County General Plan. A parcel-specific recharge scheme is not a substitute for a sustainable long-term water supply. In this case, the applicant is proposing to develop an undeveloped site in its natural state (a "greenfield") with no impervious surfaces. The applicant proposes to cover the site almost entirely with impervious surfaces, and to claim that the project is environmentally beneficial because it will – on paper only – provide a positive water balance. This recharge approach is perhaps at most a paper mitigation for the water supply impacts of the project, but an uncertain and unverified mitigation at best that is inadequate to mitigate the project impacts to less than significant.

In support of the applicant's proposed recharge scheme, the applicant has claimed that capturing stormwater is widely used and agencies support it. While it is true that stormwater capture is widely used and agencies support it, and in some cases require it, the intent behind those actions is very different from the intent the applicant has here. In general, agencies promote groundwater recharge due to water quality concerns and sustainability concerns. That is not the applicant's intent here. The applicant's intent is to use the recharge scheme to provide a paper "balance" for the water demand of the project. The applicant's goal is to propose a scheme that will get around the undisputed lack of available water supplies in the Toro Area. The applicant's intent is not about water quality or sustainability, as demonstrated by the absence of low impact development features in the proposed project.

The Regional Water Quality Control Boards (RWQCBs) have adopted stormwater policies that encourage Low Impact Development (LID), a sustainable practice that benefits water supply and contributes to water quality protection. Unlike traditional storm water management, which collects and conveys storm water runoff through storm drains, pipes, or other conveyances to a centralized storm water facility, LID takes a different approach by using site design and storm water management to maintain the site’s pre-development runoff rates and volumes. LID provides economical as well as environmental benefits. LID practices result in less disturbance
of the development area and conservation of natural features. LID practices are less expensive than traditional storm water controls. The cost savings apply not only to construction costs, but also to long-term maintenance and life cycle cost. LID provides multiple opportunities to retrofit existing highly urbanized areas and can be applied to a range of lot sizes. LID includes specific techniques, tools, and materials to control the amount of impervious surface, increase infiltration, improve water quality by reducing runoff from developed sites, and reduce costly infrastructure. LID methods include the use of bioinfiltration swales to help improve water quality. LID practices include bioretention and rain gardens, sidewalk storage, vegetated swales, buffers and strips, roof leader disconnection, rain barrels and cisterns, permeable pavers, soil amendments, impervious surface reduction & disconnection. The proposed shopping center does not use these LID techniques. Instead, the shopping center intends to pave over with impermeable surfaces the majority of the site. The shopping center does not intend to use any of the stormwater to irrigate its onsite landscaping.

The assumed use of runoff from offsite hillside land that is not part of the project is not reasonable, not reliable and not certain. Runoff is entirely dependent on weather and the use of the land. The Toro area is susceptible to droughts, including multi-year droughts. In drought years there could be no hillside runoff. The use of runoff from offsite hillside land is not adequately described in the project description. The owners of that hillside land are not bound by any County approvals of this Omni Resources LLC project. There is no evidence that the independent owners approve of the use of runoff from their property by Omni.

When asked about how the offsite hillside runoff would be captured as proposed, the project planner admitted he did not know, and suggested that the applicant would propose that in the future, after getting County approvals. The EIR does not contain an adequate discussion of the tools, methods or techniques that would be used to capture the offsite hillside runoff. If the capture would use impermeable surfaces – or require other development – on the natural drainage area, then the placement of those surfaces would be considered development under the County Code. (§ 21.06.310 Definition of “Development”: “Development means any activity which occurs on land or water that involves the placement of any structure, the discharge or disposal of any waste material, grading, dredging or mineral extraction”.) That type of development could have unanalyzed and unmitigated impacts. As one example, a concrete drainage swale that captures runoff could have impacts on biological resources that are paved over or that depend on that runoff for their existence. The environmental documents have not adequately disclosed or investigated the current claims, the potential impacts, the possible mitigations, or the remaining unmitigated impacts.

The applicant's claims about the drainage from the hillside have varied significantly over time. The current status of the claims are unclear. There is inadequate documentation of how stormwater runoff from an undeveloped hillside can
be captured, if at all. The environmental documents have not adequately disclosed or investigated the current claims, the potential impacts, the possible mitigations, or the remaining unmitigated impacts. The applicant’s claims with regard to the acreage on the hillside are unverified and appear to be inaccurate based on County records and according to the opinion of longtime Highway 68 residents who are familiar with the immediate area. The claims have not been adequately investigated. The ownership information was not provided in the County’s EIR documentation, so it was not clearly revealed to the public that some of the “hillside” area was offsite, and was not part of the project site, and was owned by different people or entities. Early on, the applicant proposed some 17 acres as drainage area from which to capture runoff. Later, as of August 2011, the applicant proposed six offsite hillside acres to be used for runoff capture. The ownership and location of those acres were not clarified, and the acreages were apparently based solely on representations of the applicant. The applicant’s early submittals show some parcels identified by assessor’s parcel numbers (APNs). Now, the applicant is proposing to use runoff from 3.6 offsite acres. It is unclear which 3.6 acres is assumed to be included, or exactly where they are located, or whether the land would provide runoff, or who calculated the acreage, or who owns the acreage. All that is clear is that the 3.6 acres are not owned by Omni Resources LLC. As of 6 PM on Friday, November 4, 2011, the project planner had not responded to this Office’s requests for that information.

There is inadequate evidence as to who owns the 3.6 acres of hillside claimed in the applicant’s water balance. Some or all of that acreage is owned by “Rancho El Toro County Club” which is the tract name for the development now known as The Villas of Corral de Tierra, at 23799 Monterey-Salinas Highway. The Villas is a condominium development that is a separate legal entity not controlled by Phelps or Omni Resources LLC. There is no evidence that shows that this project has a legal right to the runoff from properties, including The Villas, that are owned by others. The offsite property owners can take their own runoff and divert it for their own uses and purposes, and prevent this project, or Phelps/Omni Resources LLC, from using it.

As to runoff from property controlled by Phelps or Omni Resources LLC, the appropriate controls and conditions are not in place to ensure that the same amount of runoff — and the appropriate level of care and maintenance — will be in place in perpetuity. The runoff figures are speculative at best. Even if the runoff did occur, which is not certain to happen in any amount or with any reliability, the owners of the offsite land could change the use of their land in a manner that reduces or eliminates runoff to the project site in the future. The use of offsite property was not adequately investigated in the environmental documents, was not included as part of the project description, and is another example of the piecemeal approach to this project. As a separate issue, there is no survey or reliable independent confirmation showing how much acreage is actually contained in any offsite area claimed as a source of recharge. The environmental documentation under CEQA has failed to include adequate
discussion of these issues and impacts, or mitigations for them, or any remaining impacts.

As a separate and independent problem with the stormwater capture claims, the applicant has claimed to use runoff from the former gas station site at the corner. The only way the corner parcel’s runoff reasonably could be included in calculations is if the site is covered in impervious surface. There is no evidence that the existing paving would operate to channel water in any particular direction. Further, County records show that the applicant informed the County on October 31, 2011 that he intends to demolish the development on the corner parcel and remove the existing pervious paving. (October 15, 2011 workplan for remediation of underground contamination, received October 31, 2011 by County Environmental Health.) The clearing of the parcel is required by a proposed condition of approval, as well. That means that the only way that runoff from the corner parcel can be captured is if the site is redeveloped and paved, which means the owner must have a County permit to develop the corner parcel. That future development is foreseeable and necessary as part of the proposed project, but the environmental documents failed to disclose or evaluate that development in the project description, the environmental impacts analysis, the alternatives, or the mitigations.

No County agency has verified or certified the amount of recharge reported in the consultant’s findings. The failure of the County to independently verify the efficacy of the proposed recharge scheme violates fundamental principles of CEQA. It is improper for the County to delegate its legal responsibility to assess environmental impact, and for the project to proceed without distribution to the public of an independent examination of the recharge ability of the proposed site, and without a public comment period under CEQA on that information.

The effectiveness of the proposed stormwater chambers is uncertain. There is no percolation information specific to the site of the chambers. The information in the County files, including the applicant’s own reports and the EIR information, indicated that there are clay lenses or other aquitard underneath the proposed site of the chambers which would prevent or significantly slow percolation. Under those circumstances, the amount of recharge, if any, could be significantly less than the amount estimated in the EIR. County records indicate the presence of aquicludes or aquitards underneath the proposed recharge chambers which, if they exist as indicated, would act to prevent or significantly reduce stormwater recharge to usable groundwater. As groundwater hydrogeologist Tim Parker commented, the geotechnical report clearly indicated confining units underlining the location of the stormwater retention chambers. (July 8, 2011 report, p. 4.) Mr. Parker stated that these confining units are generally considered aquitards. Mr. Parker pointed out that the site-specific report showed silt and clay layers from 15-50 feet below ground surface. He pointed out that stormwater recharge from the ground surface is most likely to “perch” on top of the aquitard, and
remain there, rather than move downward into a productive water supply aquifer. Mr. Parker cited the reference plate and specific CPT logs that shows these aquitards. CPT stands for cone penetrometer or cone penetration test. The test used to characterize subsurface soils by pushing a "cone" shaped device on lengths of rigid pipe into the subsurface and measuring the tip and side (sleeve) resistance, which helps estimate the sand and clay composition of the materials. If the captured Omni stormwater "perches" on the aquitards, as is likely, and as is supported by the evidence, then the stormwater will not move downward and recharge any productive aquifer. If it is not certain that the captured stormwater will recharge the aquifer, then the stormwater reasonably should not be considered in a water balance.

In his July 8, 2011 report, groundwater hydrogeologist Tim Parker specifically identified missing information and data gaps in the EIR analysis. In its first and only response to Mr. Parker's report, the County characterized his comments as a disagreement between experts (Staff report for November 8, 2011 Board hearing, Ex. A, p. 4). The characterization is not accurate. The EIR omissions identified by Mr. Parker violate the informational mandates of CEQA. Failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation. In such cases, as here, the error is prejudicial. (Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council (2010) 190 Cal.App.4th 1351.) In this case, the public and the Highway 68 Coalition have pointed out many informational gaps with regard to water and other topics. Each of the informational gaps is a substantive violation of CEQA, because the gaps mean that the County EIR has omitted material necessary to informed decisionmaking and informed public participation. The EIR's gaps were not corrected by the FEIR's Appendix K, or by the other post-EIR documentation. Those documents were "too little and too late" under CEQA. (See California Oak Foundation v. City of Santa Clarita (2005) 133 Cal.App.4th 1219, 1239.)

Because all indications are that aquitards or aquicludes exist at that location, the EIR should have investigated the site specific information, and adequately and independently tested the proposed recharge scheme. It did not do either. The County Environmental Health Bureau informed this Office that Environmental Health monitors and witnesses percolation testing only where the purpose of the project is wastewater disposal, such as to test whether a site is acceptable for a septic system. The Environmental Health Bureau stated that where percolation (infiltration) is proposed as part of a stormwater runoff scheme, the County entity responsible for witnessing and monitoring the percolation tests is the Monterey County Water Resources Agency. There is no evidence that the Water Resources Agency witnessed the referenced percolation test or even has the percolation report in its possession. The environmental impact report appendices reference but do not include a document called the "Infiltration Testing for the Proposed Phelps Center" by Grice Engineering and Geology, dated September 2008. The report apparently was relied on by other consultants. This
Office has requested the report from the County (from Planning and Water Resources Agency orally and in writing) but the County did not provide it. The report is not available. The public should be able to review and inspect the report, and ask questions about it. The report may provide important information with regard to the actual percolation testing on the site, the presence of aquicludes or aquitards, whether the currently proposed recharge site was tested, and other key issues.

The consultants have carefully hedged their estimates in ways that show that the consultants cannot guarantee the outcome of the recharge scheme. For example, the applicant's consultant Whitson addresses "potential increase in groundwater recharge that may be achieved" (February 19, 2009 and August 24, 2009 reports, opening sentence, italics added for emphasis). There are similar statements elsewhere throughout the environmental documentation. The likelihood of the consultants' estimates of being wrong, or of failing short of the mark, is high. Where, as here, the water supply is in overdraft, and any new water demand has a significant negative impact, the environmental documentation should be solid, clearly stated, and coherent. (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal.4th 412.) The documentation should not be, as here, muddled, hedged with estimates, and made increasingly complex with late-added materials and changes.

The estimated amounts of recharge have varied significantly in the environmental documents. It does not appear that the County has performed an independent review of each of the estimates or studies that are part of the EIR or relied upon by the EIR. Due to the frequent — and often last-minute — changes to the project, it is difficult at this stage to know what the current project is, or what the environmental documents are that are being asserted to analyze the current project.

There is inadequate evidence and discussion in the environmental documentation as to whether the proposed onsite stormwater chambers could handle a 10-year event of 2.73 AF (889,573 gallons) or a 100-year event of 4.15 AF (1,352,282 gallons), as recommended as shown in County records, and as the applicant asserts.

County records show that currently stormwater does not leave the undeveloped site. The relatively flat nature of the site allows precipitation to percolate into soils or evaporate, before any precipitation can drain offsite. In other words, currently there is no loss of stormwater from the site through runoff going offsite.

The applicant’s October 2011 workplan to remediate the contamination of the corner parcel (see discussion later in this letter) proposes to remove the existing structures on the corner parcel. The paving on the parcel will also have to be removed in order to allow for the required excavation. In other words, there will be essentially no impermeable surfaces left at the former gas station site. However, the water calculations for the shopping center site require capture of runoff from the gas station
site. Capture of runoff requires impermeable surfaces to capture the stormwater. The calculations are based on the currently existing coverage of impermeable surfaces at the site. In order for any stormwater capture at the gas station site, the site would have to be paved as part of a future development. That future development is a reasonably foreseeable event made necessary as part of the shopping center project, and there has not been an adequate analysis of the impacts, or the mitigations for those impacts.

The recharge scheme is similar to the recharge schemes rejected by the County for the Heritage Oaks and Spanish Congregation subdivisions in overdrafted areas. There, the County Board of Supervisors rejected EIR conclusions that the recharge schemes would work, and denied the projects. The same problems and reasons for denial are present here. The fact that this project is for a commercial project makes no difference in the effectiveness of a recharge scheme. There is no evidence or assurance that the recharge will work. Merely having professional management for the shopping center does not assure the technical, managerial and facilities expertise or dedication to making the recharge scheme work. There are no conditions that there be such dedication, and no accountability that would make the uncertain and unmeasured recharge scheme anything but a foreseeable failure. There is no evidence that an offsite shopping center manager would care any more about recharge than a homeowner, and the manager would likely care far less. And if the center has financial difficulties, then the maintenance of the center foreseeably would lessen or lapse.

Toro Area Plan

The project does not comply with area plan policies, as described in the past comments. The latest version of the project plans have not been analyzed under the applicable area plan and General Plan policies. The Highway 68 Coalition reiterates its objections to the project due to visual impacts, lack of compliance with setbacks, and other inconsistencies with the adopted plans.

Not Consistent with CEQA

The project description offered in the environmental impact report is different in many ways from the project now being considered by the County. Because the project keeps changing, the project description is inadequate and out of date. It is not reasonable to expect the public to keep up with the many ways that the project description has changed over the years and months, because many of these changes are made through communications between the County and the applicant, without the public knowing about them. Those ways include, for example, the removal of the subdivision application, the addition of the lot line adjustment, the future development of the rear lot, the access points from the three lots under the control of the applicant, the location of the grocery store within the proposed development, the proposed uses on the site, the contaminated soil and water at the adjacent property under the same
ownership, and the claims with regard to offsite recharge. The environmental documents have not kept up with the changes, either. The offsite hillsides and the corner parcel should have been included in the project description. The corner parcel is an integral part of this shopping center project, as shown by County records (e.g., Board comments, applicant claims, County conditions, discussion of environmental issues). These are further examples of the piecemeal approach to the review of this project which has caused significant informational gaps in violation of CEQA.

The applicant’s maps and drawings of the project have been changing frequently, without adequate identification of the changes by the applicant or the County, and without adequate analysis or disclosure of the changes. The artistic renderings of the drawings do not include scales for measurement purposes, or even factual data as to size of the proposed development, so the public and decisionmakers are not provided with adequate information. The location of the existing Hargis well on the site is shown only sporadically on the plans, and the associated recorded easement for offsite water use is not shown on the June/July 2011 or August 2011 drawings.

The environmental documentation for this project violates CEQA, including flaws with regard to an inadequate project description, inadequate investigation and analysis of impacts, inadequate mitigations, inadequate responses to comments, and inadequate evaluation of alternatives. The statement of overriding considerations should not be adopted because it relies on a flawed environmental documentation. The project review has been piecemealed, and the project documentation and environmental documentation are confusing.

No Water Rights

There is no evidence of any water rights that are proposed to provide water to this project. The project proposes to get water from an offsite location through Cal-Am Water Company. Cal-Am Water Company is an appropriator. The Toro area is in overdraft. In an overdrafted basin, there are no new appropriative rights available. Where water rights are uncertain, they must be discussed in the EIR with a clear and coherent discussion based on material presented in the EIR. (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal.4th 412.) This was not done adequately here. Water rights are an environmental issue and a legal issue.

Late Provision of Staff Report

On Thursday, November 3, the Clerk to the Board emailed an announcement that the November 8, 2011 Board agenda and reports were available. Usually when the Clerk sends out the announcement that the agenda is available, all reports are concurrently available online at the County website. However, on November 3, the Clerk reported that due to technical problems the November 8 reports were not yet
available on the website, and indicated that the County was working on getting the materials online. Since the Clerk's announcement, there has been no followup announcement from the Clerk. Since Thursday, this Office has been diligently checking to see if the staff report for the Omni project was online. The agenda and the Omni item show up on the County website, but clicking on the item — attempting to get to the staff report — merely produces an error message. That means that the public has been unable to access the staff report and the numerous attachments to the staff report.

As of well after 3 PM on Saturday, November 5, 2011, the staff report and its attachments were not available at the County's website. Serious harm is caused to the public's trust in the County when the County releases important project information very late in the process. The staff report contains 54 pages of conditions, as well as two draft resolutions and pages of materials submitted by the applicant and 13 new pages of staff report. This information is new, and has not been released before. The public does not have adequate time to review this important information, or to raise concerns, or to research the new claims. (The staff report was sent to me by my special request, but the files are too large for me to forward it to my clients or other interested members of the public. I tried to forward the report but in return got error messages due to the size of the attachment.)

**Last-Minute Proposed Change to Water Cap**

In the staff report for the November 8 hearing, the County first announced a proposed change to the water cap. The change is based on the complaints submitted by the applicant as to the financial feasibility of the project. Those complaints are two one-page letters — one from a commercial mortgage banker and one from a commercial real estate agent. The County's newly proposed change would allow the project to exceed the 9 AFY "cap" and impose a fine if the project exceeds the "cap" for three years in a row. The proposed condition is inadequate as mitigation for water impacts, because paying a fine does not mitigate the harm of supplying this project by pumping more water from the already overdrafted water supply. The proposed condition was not identified or evaluated in the environmental document as possible mitigation. It would mean that the cap is meaningless, and that the project can use all the water it wants as long as it pays a fine. Under the proposed condition, the project could significantly exceed the cap for two out of every three years, and avoid any fine at all. Payment of fees would not mitigate water impacts because no solution has been proposed for the water problems and overpumping in Toro area, and in any event there is no fee collection system or program in place to address water problems in the area. The new proposed condition was not evaluated in the EIR, and has not been subjected to public comment under CEQA. There is inadequate environmental analysis of the impacts that would be caused by the new proposed condition. The condition would allow the project to use an unlimited amount of water, every year, without adequate mitigation under
CEQA. The condition would mean that the project would have significant unavoidable impact on the water supply.

The County has tried this "cap" approach unsuccessfully at other times and for other projects. As one example, reported by members of the Highway 68 Coalition, for the Bishop Ranch subdivision – now known as Pasadera – the County placed a condition of approval that theoretically put a cap on the water use. The County let the property owner self-report the amounts of water used yearly to the MCWRA. Eventually, after MCWRA was shamed into reading the water use meters on their own, it was shown that Bishop/Pasadera was using significantly more water than the County "cap." Bishop/Pasadera then argued that a literal reading of the condition meant they didn't have to comply with it all. The County apparently accepted this argument, and has not enforced the cap. Bishop/Pasadera is a subdivision located along Highway 68. Complaints by the Highway 68 Coalition members as to the Bishop/Pasadera water use exceeding the cap have gone unaddressed. As another example, the County's approval of an unenforceable cap with regard to the County's second consideration of the September Ranch subdivision in the water-short Carmel Valley was rejected by the Monterey Superior Court in 2008 (Sierra Club, Save Our Carmel River, Patricia Bernardi v. County of Monterey).

Documents Submitted for Board Review

With this letter we are hand delivering records that support the comments in this letter and comments made in the past to the County by this Office and other members of the public. We submit these records for your information with regard to the shopping center proposal. These records are relevant and material to important matters involved in the County's review under CEQA of the development proposal, including the proposed recharge, water demand, other water issues, traffic impacts and the development in general. We ask that you review these materials in advance of any decision.

A Much Smaller Project Should Be Approved

The Highway 68 Coalition has consistently supported the development at the site of a much smaller project that would be consistent with the rural nature of the area and would truly be resident-serving, as opposed to a regional destination.
The Proposed Project Should Be Denied

For all the reasons and problems stated above and in the many public comments against this project and expressing concerns as to its impact, the Highway 68 Coalition respectfully asks the Board to deny the project and to refuse to certify the EIR.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

Molly Erickson

Attachments: See Table of Exhibits
<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Toro Area Plan</td>
</tr>
</tbody>
</table>
| B       | Toro Area Plan Figures  
- Figure 9, Visual Sensitivity and Scenic Highways  
- Figure 10, Land Use Plan  
- Figure 10a, Index to Visual Sensitivity Maps  
- Figure 10a.1 |
| C       | October 26, 2010 Monterey County General Plan: Toro Area Plan excerpts |
| D       | Monterey County Zoning Ordinance: sections 21.38 - 21.38.70 |
| E       | Board of Supervisors Resolution No. 10-240 (Heritage Oaks) |
| F       | Monterey County Board of Supervisors: March 23, 2010 Resolution; March 29, 2011 Minutes and Agenda No: S-2 Staff Report with exhibits |
| G       | March 1993 Fugro-McClelland (West), Inc. Preliminary Hydrogeologic Assessment: Toro Vista Area Monterey County |
| H       | November 1, 2004 Central Coast Watershed Studies Physical and Hydrologic Assessment of the Carmel River Watershed California (excerpt) |
| I       | Monterey County Floodplain Management Plan Chapter 4 - Community Description, pages 13-14 |
| K       | October 2008 PMC Harper Canyon (Encina Hills) Subdivision Draft Environmental Impact Report (excerpts) |
| L       |  
- "Corral de Tierra Village: FAQs" webpage printout  
- "Corral de Tierra Contact Us" webpage printout  
- Phelps Family November 3, 2011 update |
| M       |  
- Mazda Raceway Laguna Seca webpage printout  
- Directions to Mazda Raceway Laguna Seca (Hwy 68 Gate) |
<p>| N       | May 16, 2011 California American Water PowerPoint slides |</p>
<table>
<thead>
<tr>
<th>O</th>
<th>April 2011 Association of California Water Agencies Sustainability from the Ground Up: Groundwater Management in California (excerpts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit Q</td>
<td>October 13, 2010 Monterey Peninsula Water Management District Rainfall at San Clemente Reservoir Site: Water Year 1922-Present</td>
</tr>
<tr>
<td>Exhibit R</td>
<td>Excerpt from Appellant’s Opening Brief in Charles A. Pratt Construction Co., Inc. v. California Coastal Commission, Court of Appeal, Second Appellate District, Division Six, Case No. B190122</td>
</tr>
<tr>
<td>Exhibit T</td>
<td>Pang Engineers, Inc.</td>
</tr>
<tr>
<td></td>
<td>• Webpage printout</td>
</tr>
<tr>
<td></td>
<td>• Services</td>
</tr>
<tr>
<td>Exhibit U</td>
<td>Perched water – explanations and figure (excerpts)</td>
</tr>
<tr>
<td>Exhibit V</td>
<td>• Grant Deed from Exxon Corporation to William R. Phelps and Nancy Phelps, recorded November 12, 1974</td>
</tr>
<tr>
<td></td>
<td>• Grant Deed from Capital Services, Inc. to William R. Phelps and Nancy D. Phelps, recorded April 23, 1987</td>
</tr>
<tr>
<td>Exhibit W</td>
<td>Monterey County Place Names: “Corral de Tierra”</td>
</tr>
<tr>
<td>Exhibit X</td>
<td>The Monterey County Herald September 19, 2010 Real Growth Will Require Real Water</td>
</tr>
<tr>
<td>Exhibit Y</td>
<td>The Salinas Californian Article, September 2011, “Contaminants delay final hearing on Corral shopping-village project”</td>
</tr>
<tr>
<td>Exhibit Z</td>
<td>September 29, 2011 email from John Ford</td>
</tr>
<tr>
<td>Exhibit AA</td>
<td>Stone Creek Village, Del Rey Oaks</td>
</tr>
<tr>
<td>Exhibit BB</td>
<td>• The Monterey County Herald April 3, 2011 “Corral de Tierra shopping center too big”</td>
</tr>
<tr>
<td></td>
<td>• The Monterey County Herald April 10, 2011 “Con: Multiple reasons to reject Corral Plan”</td>
</tr>
<tr>
<td></td>
<td>• The Salinas Californian April 11, 2011 “Board to discuss Corral de Tierra development plan”</td>
</tr>
<tr>
<td></td>
<td>• The Salinas Californian April 13, 2011 “Corral project suffers setback”</td>
</tr>
<tr>
<td></td>
<td>• The Monterey County Herald April 13, 2011 “Smaller project urged”</td>
</tr>
</tbody>
</table>
| Exhibit CC | The Salinas Californian March 12, 2011 “Greed for greed’s sake: Local real estate development”  
The Monterey County Herald August 4, 2011 “Industrial Vacancy Rate Nudges Up” |
| Exhibit DD | 2010 Monterey County General Plan:  
• Cover Page  
• Chapter 1.0 Land Use Element, pages LU-4, LU-5  
• Chapter 5.0 Public Service Element, Policy PS-3.1  
• Chapter 5.0 Public Service Element, Policy PS-3.2  
• Chapter 10.0 Glossary, Long Term Sustainable Water Supply |
| Exhibit EE | Projects Approved and Unconstructed in Monterey County |
| Exhibit FF | 1982 Monterey County General Plan:  
• Cover Page  
• 1982 Monterey County General Plan, Goal 53.1.3  
• 1982 Monterey County General Plan, Goal 6.1.1 |
| Exhibit GG | Monterey County Zoning Ordinance Title 21 section 21.42.030H Building Site Area Setbacks, B-8 |
| Exhibit HH | October 10, 2000 Memorandum from Walter Wong, Director of Environmental Health to Monterey County Planning Commission |
| Exhibit II | Granite Ridge water problems – news articles and County documents |
| Exhibit JJ | County Department of Environmental Health hazardous materials guidelines for site mitigation |
| Exhibit KK | County Department of Environmental Health communications addressing the Omni/Phelps site |
| Exhibit LL | California Regional Water Quality Control Board Communications |
| Exhibit MM | Monterey Peninsula Water Management District – commercial water uses study; communications |
| Exhibit NN | July 25, 2011 Len Foster letter to the Board of Supervisors re: OMNI Partners, LLC, Corral de Tierra Development Project |
| Exhibit OO | Groundwater Contamination- Site specific and general information |
| Exhibit PP | Toro LUAC review of CalAm Water Storage Tank at the Meadows |
Table of Exhibits  
November 7, 2011

<table>
<thead>
<tr>
<th>Exhibit QQ</th>
<th>Monterey County Regional Fire District – station information, communications re Omni project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit RR</td>
<td>LEED information from USGBC/LEED website; news articles on LEED</td>
</tr>
<tr>
<td>Exhibit SS</td>
<td>Seaside Main Gate – EIR information, City of Seaside website</td>
</tr>
<tr>
<td>Exhibit TT</td>
<td>California RWQCB information on stormwater</td>
</tr>
<tr>
<td>Exhibit UU</td>
<td>MTBE contamination – articles</td>
</tr>
<tr>
<td>Exhibit VV</td>
<td>SOPC v. County of Monterey (Monterey Superior Court Case No. M110694) – Judgment filed September 22, 2011</td>
</tr>
<tr>
<td>Exhibit WW</td>
<td>2004 County records – comments on water study by Omni consultant Kleinfelder</td>
</tr>
<tr>
<td>Exhibit XX</td>
<td>County records: 2006 and 2011 communications with regard to County failure to monitor wells and water consumption by new development within Cal Am’s Ambler water system</td>
</tr>
</tbody>
</table>
From: Michael Weaver [michaelrweaver@mac.com]
Sent: Thursday, December 29, 2011 4:11 PM
To: Novo, Mike x5192
Cc: Feikert, Bronwyn K. x1346; John Goni
Subject: Omni/Phelps-Corral de Tierra- Water Quality concerns and questions

Dear Mr. Novo,

Attached is a letter from the Highway 68 Coalition regarding the proposed Phelps shopping center project. We have several concerns and questions about water quality. We understand the Monterey County Board of Supervisors has scheduled a Hearing on the Omni/Phelps application for January 10, 2012. We would appreciate the courtesy of a reply to our concerns and questions.

Thank you very much,
Mike Weaver
From: Arlene Guest  
129 San Benancio Rd  
Salinas, CA 93908  

To: Monterey County Board of Supervisors  

Re: Omni Project / Corral de Tierra Shopping Center  

11 July 2011  

I am primarily concerned about the quantity and quality of the water in this project. In late summer 2008, our well on San Benancio stopped producing water. We had to dig a new, deeper well. As a concerned citizen and an oceanographer by training, I have tried to research the water issues and proposals, read the hydrogeology reports and looked at the literature for similar studies and projects. We have not found anything quite like this, and in fact, the best practices encourage permeable pavement (considered the best method to avoid runoff and get the water directly into the soil) or direct the water into bioswales, where vegetation can use the water for irrigation. We looked at the quantity calculations from how much precipitation falls to how much can be captured and then how long it would take to get into the groundwater supply. At every step in the calculations, the Whitson report and the latest revision of June 21 make the most favorable assumptions, which are unsupported. For instance, we found an 80% capture rate might be appropriate for a roof area where most of the water could be collected, but certainly this is not realistic for the parking lots and walking / seating areas which would require a certain threshold of rain before it could run into the drains and be collected.

If you assume 80% capture on the roof areas (99,970 sq ft is 2.3 acres) and 60% capture from rest of the area that is paved area (5.7 acres), and then a 90% efficiency in the cleaning process and another 90% efficiency from there to the ground supply, then you would have 5.5 acre-ft / year (AFY) of water recharge, not the 8.28 AFY claimed. In addition, 15.5 inches per year is optimistic for the average rainfall, and very uncertain. There are expected to be long periods of drought, and scientists also expect the gradual decrease in rainfall to continue. Attached on the next page is a plot of the rainfall using Salinas precipitation data, which extends back to 1860, with the trend line shown in red.

On the water quality side, the pollutants from the runoff of the parking lot are a huge concern to people nearby and downstream. There are regulations in place for tertiary-treated recycled water that it has to have at least 6 months travel time through the soil before entering the groundwater supply. This water will be more contaminated by pollutants and carcinogens that can’t be removed by sediment filters because they are dissolved in the water. There should be regulations on the water quality of this proposed water recharge that are at least as strict as those for tertiary-treated recycled water.
On the usage side of the equation, under the LEED alternative, only 70% of the water would be used as compared with the non-LEED proposal would be used. We applaud this. However, it is hard to believe that an entire shopping center of this size with a large grocery store, deli, restaurants, etc and all the people that work there day and night would use only the equivalent of 10 families (based on usage of .6 afy per household).

I urge you to deny this project once and for all. If approved, it would set a precedent by allowing developers to claim new water surpluses that simply do not exist.

Sincerely,
Arlene Guest
129 San Benancio Rd
Monterey County Planning Department  
Mike Novo, Planning Director

In the matter of the application of: OMNI RESOURCES INC. (PLN020344)  
Board of Supervisors hearing scheduled for January 10, 2012

December 29, 2011

Letter contents:
I. Monterey County Planning Department Proposed Finding
II. Monterey County Title 21, Section 21.42.030.H
III. Some Concerns of Highway 68 Coalition
IV. Highway 68 Coalition Questions to Monterey County

I. Monterey County Planning Proposed Finding

3 FINDING: The Project as proposed by the applicant is consistent with the B-8 zoning, and the B-8 zoning provides an appropriate level of protection for the site at the corner of Hwy 68 and Corral de Tierra.
EVIDENCE: a) On September 7, 1993 the Board of Supervisors adopted Ordinance No.3704 which amended the original provisions relative to development of commercial uses, as stated in Section 21.42.030 H (1) to state that the “B-8” District does not affect the “construction or expansion of commercial uses where such construction or expansion can be found to not adversely affect the constraints which caused the ‘B-8’ district to be applied to the property.”
 b) A 99,970 square foot retail center has been designed for the subject site using a water balance approach to satisfy the requirements of the B-8 Zoning. This water balance will direct storm water runoff into the groundwater through infiltration chambers. There will be a cap on the amount of water used on the site. The cap is related to how much water can be directed to the groundwater providing a net benefit of water to the groundwater basin. This approach will allow construction of a commercial center on this site without adversely affecting the groundwater constraints of the area.

II. Monterey County Title 21, Section 21.42.030.H

H. B-8 1. The purpose of the "B-8" Zoning District is to restrict development and/or intensification of land use in areas where, due to water supply, water quality, sewage disposal capabilities, traffic impacts or similar measurable public-facility type constraints, additional development and/or intensification of land use if found to be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole.

For the purpose of this Section "intensification" means the change in the use of a building site which increases the demand on the constraint(s) which
caused the "B-8" District to be applied over that use existing at that time the "B-8" district is applied to the property. The "B-8" district does not affect construction of the first single family dwelling on a building site, additions to dwellings, guesthouses, non-habitable structures accessory to a dwelling use, or addition and/or expansion of existing commercial uses where such addition and/or expansion can be found to not adversely affect the constraints which caused the "B-8" district to be applied to the property.

2. The minimum building site shall be that which is recognized as an existing legal lot at the time the "B-8" Zoning District is imposed on the property, or lots that are created by minor or standard subdivision for which an application was received by the Monterey County Planning Department prior to the imposition of the "B-8" Zoning District on the property;

3. Setbacks to be not less than "B-4" regulations unless otherwise indicated on parcel maps, final maps, or Sectional District Maps;

4. Reclassification of an area from "B-8" zoning may be considered when the constraints existing at the time of placing "B-8" zoning on the area zoned "B-8" no longer exist and additional development and/or intensification of land use will not be detrimental to the health, safety, and welfare of the residents of the area, or the County as a whole.

III. Concerns of Highway 68 Coalition

* Monterey County Planning finds the proposed 99,970 sq. ft. project consistent with B8 Zoning, despite water quality and quantity issues.
* The Water Balance Approach is inexact, speculative, and even incorporates areas not owned or under control of the applicant.
* The discovery of groundwater contamination in lower Corral de Tierra from leaking underground storage tanks.
* The B-8 Zoning overlay includes water quality as one of the area constraints.
* There is an inappropriate level of protection for current area residents and current area water wells.
* "Risk Analysis" does not identify the County of Monterey's liability should the "risk analysis" be wrong, or should conditions change over time.

IV. Highway 68 Coalition Questions to Monterey County

1. County approvals should not be considered until the soil and the groundwater has been cleaned up (not just until a water remediation system has been operating for 1 month). How, exactly, does one tell if a groundwater remediation scheme is actually working? Just because it has been operating for 1 month, does that mean the system is effective, or has fully remediated the problems?

2. Water quality and quantity received from parking lots and roofs needs to be regularly
monitored. If it is not, there will be other developers wanting to use the same questionable system. Is this a mitigation, and if not, why not? Who is to collect the data and how much clean water can actually be collected off 10-acres of roofs and parking lots?

3. Is there contaminated groundwater and/or soil at John Church's gas station across Corral de Tierra Road, located at 2 Corral de Tierra Road at the intersection of Highway 68? If so, shouldn't that also be remediated? Groundwater does not recognize property lines.

4. Can potential contaminant plumes from either gas station reach the 10 AFY runoff plume from the proposed recharge site? This question should be addressed in the "risk assessment ... performed by a licensed professional experienced in ground water contamination transport and modeling." Why are there no on-site measurements to estimate groundwater flow, or extent of contamination?

5. Does a 20 AFY recharge site (during an El Nino rain year) pose soil stability questions for State Highway 68 or Corral de Tierra Road?

6. Cleaning contaminated soil caused by leaking underground gasoline storage tanks is one thing. But given that the underground water table has been determined to be as shallow as 16 feet below ground level (BGL), how can the County seriously consider a plan that injects potentially contaminated storm runoff at 7-14 feet BGL? The County is apparently assuming that the Storm Tech isolation chambers will sufficiently clean the roof and parking lot storm runoff. This is not a reasonable assumption. None of the filters discussed in the Storm Tech literature will remove dissolved or volatile organic contaminants (VOC), which have been documented to be present in parking lot runoff. The developer's water balance analysis assumes no losses due to storm runoff filtration and cleanup. This is unreasonably optimistic, especially for dissolved contaminants and VOC's. These contaminants can be partially mitigated with bioswales; but bioswales trap and prevent contaminated water from passing, and can thus dramatically reduce the water transmission efficiency of an inline filtration system. The developer's analysis implicitly assumes a fictitious filtration system that can transmit all of the storm runoff and also remove all the contaminants. Such a filtration system does not exist.

Sincerely,

Mike Weaver, Chair
The Highway 68 Coalition
52 Corral de Tierra Rd
Salinas, CA
831-484-6659

c.c. Bronwyn Feikert, Monterey County Department of Environmental Health
John Goni, Regional Water Quality Control Board, San Luis Obispo
Novo, Mike x5192

From: Novo, Mike x5192
Sent: Tuesday, November 08, 2011 9:42 AM
To: 'Molly Erickson'
Cc: Ford, John H. x6049

Subject: RE: No Omni Staff report in today's mail, or in last week's mail
Molly—the staff report was emailed to you last Thursday; a hard copy was not mailed because of that.

Thanks,
Mike

-----Original Message-----
From: Molly Erickson [mailto:erickson@stamplaw.us]
Sent: Monday, November 07, 2011 4:51 PM
To: Novo, Mike x5192
Cc: Ford, John H. x6049
Subject: No Omni Staff report in today's mail, or in last week's mail

Mike:

We did not receive a mailed staff report last week. In the U.S. mail delivered to our Office this afternoon (Monday November 7), there was no staff report on Omni for the November 8 hearing.

The only materials we received from County Planning were three envelopes, all showing postage dated 11/4/2011 (which was Friday), but none of the contents involved Omni.

Thanks,

Molly

Molly Erickson
Law Offices of Michael W. Stamp
479 Pacific Street, Suite One
Monterey, CA 93940
tel: 831-373-1214
fax: 831-373-0242

11/08/2011
Dear Supervisors,

Well the newest data on the Phelps Shopping Center is finally posted and is nicely timed by those wanting to ram this through to not allow adequate time for the public to see what is really going on. It is obvious that the 3 supervisors that want this passed are doing so in spite of a majority of public opinion against it, in spite of not having a traffic plan to avoid a traffic and safety nightmare, in spite of the project not really being reduced in size but rather split into sections, in spite of not having an enforceable water restriction plan which is based on an unproven system, and in spite of having currently contaminated soil that will leach the contaminates into the collection system and ground water.

If this weren’t so serious a matter, the process of this misguided decision-making would be a joke and one that is obviously motivated by political pressure, job lobbyists or other influential individuals that don’t really care about the potential damage that will occur with this project and its size. Will there be no honest and rational action by the supervisors when faced with the conflict between the good and safety of the local community and the greed of a landowner trying to maximize the profit in overdeveloping their land when they could easily make a reasonable profit and do what is best for the community. The Phelps stewardship and lack of concern for the community is demonstrated by their refusal to deal with the contaminants from their gas station for a number of years and they still have not done what is required by law, let alone what is ethical and best for the community.

Having recently moved to this area, this demonstration of ineffective enforcement of existing law and rules by the Planning Commission who then punt it to the Board of Supervisors, who in turn allowed influence, money and politics to prevail over logic, community majority and existing laws has really been an eye opening disappointment. I sincerely believe that those supervisors that vote to allow this project to proceed at its current size and without carefully mitigating the traffic, water and contaminates will do so at a great political and ethical cost and will have their names forever associated with this project and its future negative consequences. I urge you to carefully reconsider your course of action, your legacy and your responsibility to be advocates for the entire community rather than a single, greedy developer.

Dwight Stump
Corral de Tierra Resident
11/7/11
Novo, Mike x5192

From: Michael Weaver [michaelrweaver@mac.com]
Sent: Monday, November 07, 2011 4:44 PM
To: Greenway, Paul H. Ext.4807; Saavedra, Enrique M. Ext. 6043; Novo, Mike x5192; 100-District 4 (831) 883-7570; 112-Clerk of the Board Everyone
Subject: Board Hearing, Item S-4, 1:30 pm, 11-8-11
Monterey County Public Works  
c/o Paul Greenway, Acting Director  
Enrique Saavedra, Transportation & Development Engineer

Monterey County Planning Department  
c/o Mike Novo, Director

Monterey County Board of Supervisors  
c/o Jane Parker, Board Chair  
Clerk to the Board of Supervisors

Re: Board of Supervisors Hearing  
Tuesday November 8, 2011, 1:30 p.m.  
Agenda Item S-4, Omni Resources LLC  
PLN110077 (appeal of PLN020344)  
APN 161-571-003, 161-581-001

November 7, 2011

Ladies and Gentlemen,

This specific letter is to express concerns and disappointment starting with a with a staff report that arrived late. Sunday and Monday are simply not enough time to study the materials for a Hearing on Tuesday. I request a continuance to allow time to review the materials and to get legible copies of some items.

I note that there are no building sizes listed in square feet, or dimensions on the plans in the packet. There are some artistic renderings, but no sizes. Looks like another "to be determined". Except that these may be the Final Plans?

Of considerable concern to the property owners across Corral de Tierra Road from the proposed project, is that there are no sketches of any modifications to Corral de Tierra Road. I am surprised to find in Condition #90 language about the project that says there is inadequate street frontage, hazardous situations, access improvements, and then requirements for items A-I, and then more language.

A call to Public Works today advises me that plans still need to be done. A quarter mile or so of new merge lanes, turn lanes, bike lanes, center medians preventing left turns, and a 5-ft. wide sidewalk. These are some of the changes, but again, to be determined. Road widening? Unknown.

Please know that the hillside opposite the proposed project has slid out to the center of Corral de Tierra Road before during a muddy wet winter. It has a history of yearly sloughing going back to when Bruce McClain was the Public Works Director. Monterey County Public Works recently arrived to perform some maintenance on a drainage swale located there.
Every Monterey County Public Works Director since Bruce McClain has advised to leave that hillside alone and continue to let the native vegetation grow on it. This issue was not adequately responded to or addressed in the EIR.

There are no visible plans available for changes to lower Corral de Tierra Road, so we cannot determine what is happening, or the potential impacts. At one time rumor had it a median would be put along the entire frontage. We don’t know where or how cars would make U-Turns. Any median may put the business owner across the street out of business as it denies northbound access from Corral de Tierra. This was not analyzed in the EIR.

The neighborhood of Corral de Tierra is going to take a keen interest in changes to lower Corral de Tierra Road. Because there are no plans, they have no opportunity to comment. We never had the promised scoping hearing for the proposed shopping center project. Now it appears we may have no input on changes to the entrance/exit to Corral de Tierra regarding the road.

Please do continue this Hearing.

Thank you,

Mike Weaver
831-484-6659
Novo, Mike x5192

From: Gardenjeweltg@aol.com
Sent: Monday, November 07, 2011 3:39 PM
To: Novo, Mike x5192

Subject: Corral de Tierra Shopping Center; failure to post Staff Report

The public has a right to know the details regarding the Omni application for a shopping center in Corral de Tierra at Highway 68. It is basic transparency to have access to the County’s project report at least 72 hours before the County intends to take action at a Hearing.

It is now Monday the 7th and still no report. What is going on?

Who’s running the County? Our elected officials or the staff?
Novo, Mike x5192

From: Barb Home [barb@eppersons.com]  
Sent: Monday, November 07, 2011 2:48 PM  
To: Novo, Mike x5192  
Subject: Re: Board of Supervisors Hearing on Omni/Phelps final plans

Thank you mike for the reply. Unfortunately many of us have day jobs and can not attend the hearings. While I understand the desire to develop property and believe in the rights of private property, I am concerned by the size of this project and the potential traffic congestion. As a resident of the meadows I would like to see a much smaller project approved.

Sent from my iPhone

On Nov 7, 2011, at 9:33 AM, "Novo, Mike x5192" <novom@co.monterey.ca.us> wrote:

Ms. Epperson—we will forward your comments on to the Board of Supervisors. We are also presenting the following information to those interested in the project.

We have had many complaints related to the Board Report for the Omni (Corral de Tierra) Shopping Center not being available until Saturday evening.

The staff reports were delivered (hard copies and electronically) to the Clerk of the Board of Supervisors on Wednesday November 2. Hard copies were also available at that time at the Planning Department. However, the Clerk of the Board had technical difficulties in posting the documents to the website. They worked with the Information Technology Department for three days, resulting in the documents not getting posted until Saturday night. We apologize for that unforeseeable event, but hard copies of the report have been available since last Wednesday and have been distributed to anyone who has requested a copy.

The Board of Supervisors has received many requests by the public to continue the hearing on the item to a later date due to this problem with the web posting. We will not know of the Board’s decision on those requests until the Board item comes up tomorrow at public hearing. In their discretion, they may either continue the public hearing to another date, or they may decide to proceed with the hearing tomorrow.

Mike Novo
Planning Director

-----Original Message-----
From: Barb Epperson [mailto:barb@eppersons.com]  
Sent: Sunday, November 06, 2011 8:13 PM  
To: Novo, Mike x5192; 100-District 5 (831) 647-7755  
Subject: Board of Supervisors Hearing on Omni/Phelps final plans
Planning director Mike Novo and Supervisor Dave Potter: It is very sad to see such a poor process happening in our local planning. The public has a right to know the details regarding the Omni application for a shopping center in Corral de Tierra at Highway 68 well before the County intends to take action at a Hearing. Please postpone the Tuesday hearing to allow adequate time for the documents released on Saturday to be reviewed by the public. Thank you – Barb Epperson
Novo, Mike x5192

From: Kapolka, Daphne (CIV) [dkapolka@nps.edu]
Sent: Monday, November 07, 2011 1:11 PM
To: Novo, Mike x5192
Subject: Late Staff Report

Mike-

There’s going to be another hearing on the Omni shopping center, but the proposal wasn’t posted until Saturday. I would request that the hearing be delayed so that we have sufficient time to look at the report before the meeting. There are a number of important issues I’m concerned with.

Thank you-
Daphne Kapolka

13963 Tierra Spur
Salinas, CA 93908
Novo, Mike x5192

From: Timothy Sanders [tds@oxy.edu]
Sent: Monday, November 07, 2011 12:20 PM
To: 100-District 5 (831) 647-7755; Novo, Mike x5192
Cc: Molly Erickson; Michael Weaver; CVACHristine Williams; Margaret Robbins

Subject: Supervisor's hearing -- Corral de Tierra

Dear Dave and Mike,

I'm very troubled by the continuing failure of the Board and Staff to manage the Corral de Tierra process fairly and in a way that reflects their responsibility to the people of the County.

Important information about this meeting (staff report) was not available to the public until late on Saturday before a Tuesday hearing! That left only one working day before the hearing, which is wholly inadequate and does not meet the County's reasonableness in its conduct of the public's affairs.

People come from substantial distances to participate in County hearings, and they should not be drawn into false starts -- hearings that are continued at the last minute. Yet there is no other option when substantive information is not available until in a timely way, as in this case. This is entirely unfair to constituents and to citizens in general.

This hearing clearly should be continued. But the County's schedule of actions to prepare hearings should be reviewed and modified to insure that this does not happen again.

This is a very serious matter of the Board's (and other agencies such as the Planning Commission) responsibilities to the public it serves.

Please insure that this process is corrected immediately.

In other words, continue the hearing with no action taken tomorrow, and correct the system that led to the need for the continuation.

Thanks.

Tim Sanders

Please insure that this hearing is
Novo, Mike x5192

From:  Karen Pfeiffer [karen.pfeiffer@salinasuhsd.org]
Sent:  Monday, November 07, 2011 9:55 AM
To:    Novo, Mike x5192
Subject: Re: CdT Shopping Center

I would also like to request a traffic congestion study to take place. I have lived in the Corral de Tierra for more than 30 years and it is getting more congested and dangerous to travel Hwy 68. A shopping center would only add to the problems that already exist especially at that intersection.

On Mon, Nov 7, 2011 at 9:17 AM, Novo, Mike x5192 <novom@co.monterey.ca.us> wrote:

Ms. Pfeiffer—we will forward your comments on to the Board of Supervisors. In addition, we are providing the following information to all those interested in this project, as the Clerk of the Board had technical difficulties in posting the staff report to the web last week.

We have had many complaints related to the Board Report for the Omni (Corral de Tierra) Shopping Center not being available until Saturday evening.

The staff reports were delivered (hard copies and electronically) to the Clerk of the Board of Supervisors on Wednesday November 2. Hard copies were also available at that time at the Planning Department. However, the Clerk of the Board had technical difficulties in posting the documents to the website. They worked with the Information Technology Department for three days, resulting in the documents not getting posted until Saturday night. We apologize for that unforeseeable event, but hard copies of the report have been available since last Wednesday and have been distributed to anyone who has requested a copy.

The Board of Supervisors has received many requests by the public to continue the hearing on the item to a later date due to this problem with the web posting. We will not know of the Board’s decision on those requests until the Board item comes up tomorrow at public hearing. In their discretion, they may either continue the public hearing to another date, or they may decide to proceed with the hearing tomorrow.

Mike Novo
Planning Director

-----Original Message-----
From: Karen Pfeiffer [mailto:karen.pfeiffer@salinasuhsd.org]
Sent: Monday, November 07, 2011 8:36 AM
To: Novo, Mike x5192
Subject: CdT Shopping Center

You MUST follow the policies and procedures in a timely manner and not violate EPA laws. This project is a complete sham and must be stopped, and it is YOUR job to make sure the law is followed!

--

Karen Pfeiffer
Special Education
Salinas High School

--

Karen Pfeiffer
Special Education
Salinas High School
Novo, Mike x5192

From: joaniewood@comcast.net
Sent: Monday, November 07, 2011 9:49 AM
To: Novo, Mike x5192
Subject: Re: Corral de Tierra Proposed Shopping Center

Thank you for your reply. Given the circumstances and the large numbers of people against this proposal, I would hope the Board of Supervisors would postpone any decision-making regarding the shopping center until the report can be analyzed. Most of us cannot get to the Clerk's office with work and family constraints and rely on communication through email. The technical glitch puts us at a disadvantage in preparing our rebuttal to the Omni endeavor.

Again, thank you.

Joan Wood

---Original Message---
From: "Mike x5192 Novo" <novom@co.monterey.ca.us>
To: "joaniewood@comcast.net" <joaniewood@comcast.net>
Sent: Monday, November 7, 2011 9:39:46 AM
Subject: RE: Corral de Tierra Proposed Shopping Center

Ms. Wood--we will forward your comments on to the Board of Supervisors. We are also presenting the following information to those interested in the project.

We have had many complaints related to the Board Report for the Omni (Corral de Tierra) Shopping Center not being available until Saturday evening.

The staff reports were delivered (hard copies and electronically) to the Clerk of the Board of Supervisors on Wednesday November 2. Hard copies were also available at that time at the Planning Department. However, the Clerk of the Board had technical difficulties in posting the documents to the website. They worked with the Information Technology Department for three days, resulting in the documents not getting posted until Saturday night. We apologize for that unforeseeable event, but hard copies of the report have been available since last Wednesday and have been distributed to anyone who has requested a copy.

The Board of Supervisors has received many requests by the public to continue the hearing on the item to a later date due to this problem with the web posting. We will not know of the Board’s decision on those requests until the Board item comes up tomorrow at public hearing. In their discretion, they may either continue the public hearing to another date, or they may decide to proceed with the hearing tomorrow.

Mike Novo
Planning Director

---Original Message---
From: joaniewood@comcast.net [mailto:joaniewood@comcast.net]
Sent: Sunday, November 06, 2011 1:20 AM
To: Novo, Mike x5192
Subject: Corral de Tierra Proposed Shopping Center

To Whom It May Concern,

It is late Saturday November 5th and is the first information we have received indicating the pending hearing for the unwanted shopping mall at Corral de
Tierra. We have elderly family members scheduled for doctors appointments. This is not enough time to reschedule. Please postpone this hearing and give us an appropriate time frame in which to plan to attend the hearing. This proposal is highly sensitive to the area and our residents. You need to provide an adequate time in which to schedule attendance.

Sincerely,
Joan Wood
Novo, Mike x5192

From: K Isaac [ag4n62@aol.com]
Sent: Monday, November 07, 2011 9:25 AM
To: Novo, Mike x5192
Subject: Re: CTD shopping

How convenient for the Board to "have technical difficulties". Availability of hard copies via trips to the offices or mail remain untimely and inefficient not to mention suspect in consideration of the lightening fast (and sometimes less than transparent) scheduling achieved by the BOS.!

Karen Isaac

-----Original Message-----
From: Novo, Mike x5192 <novom@co.monterey.ca.us>
To: 'K Isaac' <ag4n62@aol.com>
Sent: Mon, Nov 7, 2011 9:10 am
Subject: RE: CTD shopping

Ms. Isaac--We have had many complaints related to the Board Report for the Omni (Corral de Tierra) Shopping Center not being available until Saturday evening.

The staff reports were delivered (hard copies and electronically) to the Clerk of the Board of Supervisors on Wednesday November 2. Hard copies were also available at that time at the Planning Department. However, the Clerk of the Board had technical difficulties in posting the documents to the website. They worked with the Information Technology Department for three days, resulting in the documents not getting posted until Saturday night. We apologize for that unforeseeable event, but hard copies of the report have been available since last Wednesday and have been distributed to anyone who has requested a copy.

The Board of Supervisors has received many requests by the public to continue the hearing on the item to a later date due to this problem with the web posting. We will not know of the Board's decision on those requests until the Board item comes up tomorrow at public hearing. In their discretion, they may either continue the public hearing to another date, or they may decide to proceed with the hearing tomorrow.

Mike Novo
Planning Director

-----Original Message-----
From: K Isaac [mailto:ag4n62@aol.com]
Sent: Monday, November 07, 2011 8:47 AM
To: Novo, Mike x5192
Subject: CTD shopping

Why was there no timely Report regarding the CTD Shopping Center available to interested parties prior to Tues 11/8 BOS meeting? I am seriously questioning the actions of the BOS and others in this and many other matters that come before them.
It may be time to clean house if you ask me.
Karen Isaac
From: Arlene Guest [pguest@redshift.com]  
Sent: Monday, November 07, 2011 8:55 AM  
To: district5@co.monterey.ca.us; Novo, Mike x5192; 100-District 4 (831) 883-7570; 100-District 3 (831) 385-8333; 100-District 2 (831) 755-5022; 100-District 1 (831) 647-7991; 112-Clerk of the Board  
Everyone  
Subject: Omni / Corral de Tierra Shopping Center Project  

Dear Mr. Novo and Monterey County Supervisors:

As we head towards this November’s hearing on the Corral de Tierra shopping center project, let me summarize the pros and cons that have been mentioned concerning the project:

Pros:

1. This is a short-term plus up for the economy by creating some construction jobs. There is a lot of pressure from construction labor unions for jobs.
2. Some people want the convenience of stopping at the shopping center.
3. The shopping center will provide some outdoor seating to promote a sense of community.

Cons:

1. There is not a sustainable water supply. There is a B8 moratorium and the Toro Area is in overdraft.
2. The plan to capture water is full of problems in both quantity and quality. There is no plan to remove volatile organic compounds that will be contained in the parking lot runoff. The StormTech chambers and filters do not remove dissolved carcinogenic organic compounds.
3. The shopping center, if successful in attracting stores, will be detrimental to the Salinas economy and therefore the tax base of Salinas. Families are not going to eat more or buy more merchandise, but Salinas’ stores and economy will suffer.
4. If the shopping center isn’t successful, there will be empty storefronts such as what we see at the Toro Park shopping center. But there is no undoing a bad decision.
5. Sewage concerns have not been addressed.
6. Traffic concerns around Corral de Tierra Rd and Hwy 68 have not been addressed. I think Corral de Tierra Rd would need to be widened to handle the traffic in and out of the shopping center, but I haven’t seen that in the plan. Cars exiting the shopping center directly onto Hwy 68 will cause traffic backups on 68. Cars turning right on red from Corral de Tierra Rd into oncoming traffic on 68 already cause a major slowdown in eastbound traffic on 68.
7. The staff report that was just released has major changes in the shopping
center. Where did these come from and are they going to be explained at the hearing? The Brown Act has been violated by not giving the public at least 72 hours to consider the new information.

8. Has the applicant responded about what kind of trees will supposedly block the view from Corral de Tierra? A wider landscaping buffer is needed for trees, and it is doubtful that this can actually be achieved.
9. Noise, crime and light pollution will increase.
10. The rural nature and atmosphere of the area will be degraded.
11. Leapfrog development such as this is against the County’s principles and policies as approved in the General Plan.
12. The scenic viewshed requirements from Highway 68 and Corral de Tierra Road are violated and cannot be mitigated. A parking lot does count as a manmade structure, and is definitely uglier even than a building.

As you can see, the cons definitely outweigh the pros. The seriousness of the water quality and quantity issues cannot be ignored or be left to be worked out later by the developer and staff, so I urge you to vote against final approval of this project. However, in spite of sound reasoning, I realize that the votes have most likely been decided already and that the project is likely to be approved despite the unsolved problems. So if the project is approved, I would urge you to insist on a couple of requirements for the project – it is essential to collect actual data for making decisions on future projects that make similar claims of putting more water back into the ground than is taken out. We need monthly monitoring of the water capture and collection, in quantity and quality. This data that is collected needs to be posted automatically (can and should be automated) to a website in near real-time on a monthly or more frequent basis. Having real data will help determine whether the claims made are realistic. Obviously, water usage data needs to be collected and reported as well.

Thank you for your consideration of these issues. Please enter this letter into the public record.

Arlene Guest
129 San Benancio Rd
Salinas, CA 93908
pguest@redshift.com
From: K Isaac [ag4n62@aol.com]
Sent: Monday, November 07, 2011 8:47 AM
To: Novo, Mike x5192
Subject: CTD shopping

Why was there no timely Report regarding the CTD Shopping Center available to interested parties prior to Tues 11/8 BOS meeting? I am seriously questioning the actions of the BOS and others in this and many other matters that come before them.

It may be time to clean house if you ask me.

Karen Isaac
Novo, Mike x5192

From: Karen Pfeiffer [karen.pfeiffer@salinasuhsd.org]
Sent: Monday, November 07, 2011 8:36 AM
To: Novo, Mike x5192
Subject: CdT Shopping Center

You MUST follow the policies and procedures in a timely manner and not violate EPA laws. This project is a complete sham and must be stopped, and it is YOUR job to make sure the law is followed!

--
Karen Pfeiffer
Special Education
Salinas High School
Subject: Proposed project at Corral de Tierra

Having just received the report late Saturday it is necessary to request a continuance of the Tuesday hearing since the report is rather lengthy.

Thank you

Terry Vogl, resident in Corral de Tierra
From: susanaw108@aol.com
Sent: Monday, November 07, 2011 7:55 AM
To: Novo, Mike x5192
Subject: Phelps train wreck project at Corral de Tierra

Dear Mr Novo,
I am asking you vote for a continuance to allow sufficient time to study WHAT the County and the applicant are currently proposing, and HOW the applicant plans on addressing key issues such as groundwater poisoning with MTBE and benzene at the corner gas station site, traffic, impacts to scenic highway, water use, and much more. How does the County plan on dealing with these critical issues? What are the proposed conditions of approval?

How can the Phelps get away with not cleaning up this site for 9 years? Are they paying some sort of fine? This entire project is a joke. A joke on us who live in Corral de Tierra and have to deal with them.

PLEASE vote this project down. The Phelps have proven once again they are dishonest and will do anything for greed.

A shopping mall will never succeed in this area. It might be built and then will sit empty and falling apart. They have proven that they do not take care of their property by the condition of the gas station. It has been an eyesore for years, along our 'scenic highway'. This economy cannot support a shopping center and it cannot compete with the big box stores.

Please don't fail the country property owners who almost totally oppose this project.

Susan Needleman
From: Tim Sanders [tds@oxy.edu]
Sent: Sunday, November 06, 2011 11:53 PM
To: Novo, Mike x5192
Subject: Corral de Tierra project - attached letter
Please deliver the attached letter to members of the Board of Supervisors as soon as possible.

Thanks!

Tim Sanders
November 6, 2011

Board of Supervisors
C/o Clerk of the Board
168 West Alisal, 2nd Floor
Salinas, CA 93901
Delivered by email (CTTB@co.monterey.ca.us <CTTB@co.monterey.ca.us>)

Re: Corral De Tierra Shopping Village, PLN110077 appeal of PLN020344

Dear Members of the Board of Supervisors:

Once again, the Corral de Tierra project’s failure to address the significant unavoidable and irreversible traffic impacts its implementation would impose on County residents and visitors must be confronted.

Traffic generated by the Corral de Tierra retail project would, without question, have a significant irreversible and unavoidable impact on traffic volume on all six segments of Highway 68 from Olmstead Road to Portola Drive. This remains true now, just as it was true when the original project applications were submitted.

All of these segments are already 30% to 62% above their capacities according to the EIR for the 2010 General Plan; they are rated at LOS F by wide margins. (See EIR for the General Plan, Section 4.6, p. 4.6-8; Appendix C to Section 4.6, p. A-6.) According to County road segment traffic criteria, “If the segment is already operating at LOS F, the addition of a single trip is considered significant.” Therefore the impact of the project necessarily is highly significant under CEQA, since it operates at a level well below that delimiting LOS F.

Emergency services would be significantly adversely affected by any increase in traffic volume congestion on these segments that currently have traffic exceeding their capacity. Emergency access cannot be understood and assessed accurately on the basis of intersection analysis alone; segment operations are critical to emergency transportation and their absence from the EIR for the project is a serious inadequacy in relation to emergency service evaluation.

The EIR for the project is inadequate in failing to study traffic volume on these segments, which are highly congested at peak hours.

Having ignored this obvious issue, which is well known and was commented upon explicitly in the 2010 General Plan’s EIR (p. 4.6-7), the Corral de Tierra project’s EIR
clearly is incomplete and inadequate and fails to make the good faith disclosure of critical information concerning the project’s impacts as required by CEQA.

Any decisions concerning the project in the absence of full, open and explicit disclosure of these circumstances to the public and to all decision makers would violate CEQA. Just as importantly, such decisions are and would be serious affronts to the public and their entirely legitimate interests in the project’s effects on the environment, on their property, their endeavors, and the quality of their lives.

Highway 68 already is infamous for the existing excess of traffic volume over the roadway’s capacity. Further processing of this project should be halted unless and until the road is capable of handling existing traffic without congestion at a level of service substantially superior to LOS F.

Your attention and action appropriate to these circumstances is appreciated.

Yours sincerely,

Timothy D. Sanders

Cc: Amy White, LandWatch, <Landwatch@mclw.org>,
    Michael Weaver, <michaelrweaver@mac.com>,
    Molly Erickson, <erickson@stamplaw.us>
Novo, Mike x5192

From: Donna Vaughan [DVaughan@leachandwalker.com]
Sent: Sunday, November 06, 2011 11:07 PM
To: Novo, Mike x5192
Subject: Proposed Corral de Tierra Shopping Center

Dear Mr. Novo:

We are residents of The Meadows at Corral de Tierra. We have lived along the Highway 68 corridor for more than 35 years. My husband has lived in and around Monterey for more than 65 years and we have chosen to live where we live because of the bucolic, quiet atmosphere in and around our area. While we do not begrudge anyone’s ability to develop their land, we do not agree with that one person’s right to totally change the area in which we live and enjoy simply because he has the right to do so. The fact is that Mr. Phelps’ proposed development will forever change our rural, quiet area that we have decided to live in and retire to long before Omni decided to build a monstrosity right in our backyard. They have not proven to anyone’s satisfaction other than a few supervisors who do not even live in or near our neighborhood that this project will benefit our rural community by putting in another overcrowded Stone Creek strip mall. The traffic nightmare this will cause in and around our neighborhood will be beyond totally disruptive for the remainder of our lives. But this has all been said at many meetings.

We have now been advised that the Staff Report has just been made available for review, less than two business days before the hearing on the final report, which doesn’t give sufficient time for a clear and concise review by all interested persons. This is a decision that will affect all of our lives and one that must be made with enough time to give complete review by all. It is for that reason that we respectfully request a continuance of the hearing to allow time to review the current report.

Respectfully submitted,

Bill and Donna Vaughan
14380 Mtn Quail Road
Corral de Tierra

Donna G. Vaughan
Paralegal
Leach & Walker, PC
24591 Silver Cloud Court, Suite 250
Monterey, California 93940
Email: dvaughan@leachandwalker.com
Phone: (831) 373-2500
Facsimile: (831) 373-2510

Donald F. Leach *
Jennifer L. Walker *
Frances R. Gaver *+

*Certified Specialists in Probate, Estate Planning & Trust Law by the State Bar of California Board of Legal Specialization
+ Of Counsel

CONFIDENTIALITY NOTICE: This e-mail transmittal and the documents accompanying it contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this
information is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone to arrange for the return of the original documents to us.

To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, by any taxpayer for the purposes of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.
Novo, Mike x5192

From: corralbox1-shopping@yahoo.com
Sent: Sunday, November 06, 2011 10:05 PM
To: Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755
Subject: Phelps project: Corral de Tierra and 68

Mr. Novo and Supervisor Potter:

The Staff Report was not yet available for this coming Tuesday’s Board of Supervisors’ hearing on the Shopping Center until late Saturday. It is basic transparency to have access to the County’s project report at least 72 hours before the County intends to take action at a Hearing. There are rumors afloat regarding the county and this development. If they are in any way true the residents of this area need to be able to hear and voice concerns. I appeal to you that decisions be continued to a future date, not tuesday.

Leslie Tripp
Resident of Corral
From: Paul Schneider [Paul@CenturyEnvironmentalServices.com]
Sent: Sunday, November 06, 2011 10:01 PM
To: Ford, John H. x6049; Novo, Mike x5192; 112-Clerk of the Board Everyone
Cc: 100-District 1 (831) 647-7991; 100-District 2 (831) 755-5022; 100-District 3 (831) 385-8333; 100-District 4 (831) 883-7570; 100-District 5 (831) 647-7755

Subject: Letter concerning Corral de Tierra shopping center development project

To whom it may concern:

Please find attached a PDF file letter to the Monterey County Board of Supervisors concerning potential impact to the water well located near the center of the proposed shopping center development project.

Thank you;

Century Environmental Services
Paul Schneider
831.206.5920
Paul@CenturyEnvironmentalServices.com

11/07/2011
Monterey County Planning Department
c/o John Ford, Project Planner

Monterey County Clerk to the Board of Supervisors

Re: Board of Supervisors Hearing
Tuesday, November 8, 2011, 1:30 pm, Item S-4
Project Location: 5 Corral de Tierra Road.
Southeast corner of the State Highway
68/Corral de Tierra Road Intersection.
APN: 161-571-003-000 & 161-581-001-000
Planning File Number: PLN020344
Owner: OMNI Resources LLC

November 5, 2011

Dear Supervisors and Mr. Ford,

I am a state licensed water treatment contractor and manage water systems in Monterey County. I have an extensive background in treatment systems, water quality, wells, and water distribution management. I have been in the water business for eleven years. I previously worked at the former Fort Ord superfund cleanup site on water and water issues. I am familiar with the water contamination issues there.

For the past seven years I have been managing and caring for the Hargis Mutual well and water system in Corral de Tierra, known in the county health department water system records as Corral de Tierra #4. This water well is located in APN 161-581-001. This is a 5.601-acre parcel that is part of the shopping center application known as PLN020344. This potable well and its water system serve nine residential units in Corral de Tierra near and adjacent to the Corral de Tierra Creek.

The Hargis Mutual Well is about 160-feet deep and while it is an older well, it is a proven one as it produces good water. It is a valuable well to the nearby property owners and persons using it for their drinking water and residential use. It is an economical source of good water, and has been for over 60 years.

Hargis Mutual Water agreements have all designated this to be:

1) A well and system for the residents of Hargis Mutual whose use is for residential and domestic use only.
2) Should this well ever fail a new well can be drilled somewhere else in this 5.601 acre field
The Hargis Mutual Well produces about 18 gallons of water per minute. The depth to the water below ground surface is about 70 feet.

The water quality, so far, has been good.

Because it is a shallower well I don't believe it has had arsenic problems that some of the other wells in the area have encountered.

I occasionally have to chlorinate the water because some of the water lines are older pipelines known to have leaks.

I have some serious concerns about this well and the Hargis Mutual resident's source of water. Neither the Monterey County Planning Department nor the shopping center project applicant have addressed these concerns. The project applicant, Phelps, owns one of the homes at #53 Corral de Tierra that shares this water well and system.

Concern #1:
What happens during the construction of a shopping center? There will be grading, earth moving, bulldozers, backhoes, and earth compacting equipment, all of which have a vibratory impact on the ground. Due to the manner in which the well is constructed this raises the real danger of the Hargis Mutual well collapsing. What happens then?

Concern #2:
The proximity of the Hargis Mutual Well to the proposed StormTech Chambers Water Recharge system. What happens when all this parking lot water is funneled underground? The Hargis Mutual Well is an older shallow well drilled before the requirements of deep well seals. During previous testing water could be heard cascading into the well when the drawdown was 88 feet from the surface showing a very shallow recharge supply. The water quality will be affected when contamination from parking lot runoff enters the shallow aquifer. What happens then?

Concern #3:
Water well levels have been dropping in the area. The time may come when it might be necessary to drill another well. To the best of my knowledge current codes require the well to be protected by a 50 foot setback allowing another well to be drilled close to the old one, however the current development plan does not meet these setbacks. This well will become surrounded by shopping center buildings and parking lot. What happens then?

The E.I.R. did not look at these important concerns, or address them adequately. Proper setback requirements are not being observed.

In summary, the well is in danger of collapse or contamination due to the proposed development and the potentially harmful impacts have not been adequately mitigated.

Sincerely,

[Signature]

Paul Schneider
Century Environmental Services
Novo, Mike x5192

From: MARILYN TRIPP [mctripp@sbcglobal.net]
Sent: Sunday, November 06, 2011 9:57 PM
To: Novo, Mike x5192
Cc: 100-District 5 (831) 647-7755
Subject: Corral de Tierra Shopping Center

As a resident of Corral and within a 5 minute walk of this proposed development, I urge continuance on this issue. There are still a number of items that need to be addressed, ground water with MTBE and benzene, conditions of approval, site changes,

Marilyn Tripp
Community Liaison

ARIEL Theatrical
320 Main St.
Oldtown Salinas
Phone: 831-775-0976
Fax: 775-0962
www.arieltheatrical.org
Sign up for our e-news at
http://visitor.constantcontact.com/email.jsp?p=oi&m=1102126620140
Hello,

As you may know, Carmel Valley Association is concerned about development along the Highway 68 Corridor, especially as it affects traffic near Laureles Grade.

We are protesting the very late posting of the staff report on the shopping center project at Corral de Tierra. The public and Supervisors have less than 72 hours, over a weekend, to review it. Hardly fair.

In the words of Commissioner Diehl, at a recent PC hearing, "IF the staff report is not available to us by Thursday prior to our hearing, as we have asked multiple times, we should not be hearing this. It hardly gives us time to be well prepared."

In similar fashion, not only are the Supervisors not given adequate time to review the file when the staff report is posted extremely late, before a Tuesday hearing, but neither is the public. And that is not even considering the lack of adherence to policy.

We respectfully ask for a continuance of this project until November 15 or later.

Sincerely,

Christine

--
Christine Williams, President
Carmel Valley Association
P. O. Box 157, CV, 93924
659-1307

11/07/2011
Novo, Mike x5192

From: Barb Epperson [barb@eppersons.com]
Sent: Sunday, November 06, 2011 8:13 PM
To: Novo, Mike x5192; 100-District 5 (831) 647-7755
Subject: Board of Supervisors Hearing on Omni/Phelps final plans

Planning director Mike Novo and Supervisor Dave Potter: It is very sad to see such a poor process happening in our local planning. The public has a right to know the details regarding the Omni application for a shopping center in Corral de Tierra at Highway 68 well before the County intends to take action at a Hearing. Please postpone the Tuesday hearing to allow adequate time for the documents released on Saturday to be reviewed by the public. Thank you – Barb Epperson
Recognizing that your function in the Planning process is not subject to the strict rules of a court of law you still have the responsibility to provide a fair and unbiased report both to the Board of Supervisors and to the public. Failure to provide such with enough time for fair review and comment is a denial of fundamental rights and only furthers the belief that you are not functioning in the public’s interest but only on the part of certain vested interested parties.

By a copy of this I am alerting Supervisor of my thoughts and asking that he share them with the rest of the Board of Supervisors with the further comment that the planning staff’s acts all but guarantee further legal action which is unnecessary. N. Michael Rucka

Resident of District 5

---------------------------------

N. Michael Rucka

pushytwo@gmail.com
Supervisor Potter, and Mike Novo:

Staff is generally relatively timely when disseminating information to keep the public informed as required concerning projects; however, as of 4:00 p.m. on Saturday afternoon, the staff report for the above noted project, which is scheduled for hearing this Tuesday, had not been forthcoming.

With all due respect, as a property owner in the Toro area, voter, taxpayer, and local activist, I have several serious concerns about the approval of this project, and some have been provided in Board testimony during past hearings. I would therefore very much like (and have the right to) review this report, and make comment concerning it.

As I recall, the Board gave the intent to approve the 99,970 square foot version with a remainder parcel of 1.2 acres which could be developed in the future, another 10,000 square foot to 20,000 square foot development. As the public anticipated, the usual THREE Supervisors ---Calcagno, Armenta, and Salinas cast the majority votes.

Please correct me if I am in error, but as I understood, Planning Staff was directed to come back to the Board with a specific resolution containing Findings and Evidence for FINAL PROJECT APPROVAL, together with Conditions of Approval. As of late Saturday, this information was just posted...(http://publicagendas.co.monterey.ca.us/... This schedule was not timely, nor does it provide adequate opportunity for the public to review and make comment when the public has daily obligations for earning a living, (often with 2 jobs), raising their children and participating in their children's activities, as well as other obligations under which families are currently suffering due to TODAY'S economic downturn. The public is NOT PAID to monitor government inadequacies and/or mistakes, and foolishly we look to our elected Supervisors to make "common sense" decisions on our behalf.

The public has a right to know ALL DETAILS regarding this OMNI application for this mega-shopping center, especially due to the serious water and traffic impacts which are being "swept under the rug"... Furthermore, the public has the RIGHT to respond and make comment. Documents should be available at least 72 hours prior to the County's intent to take action at any hearing. IF THEY CANNOT BE AVAILABLE IN A TIMELY MANNER, THEN THE HEARING SHOULD BE POSTPONED UNTIL DOCUMENTS CAN BE MADE AVAILABLE TO SATISFY PUBLIC REVIEW AND COMMENT.

It has been rumored that the County is proposing to REMOVE THE CAP ON WATER USE? and instead allow Omni to use unlimited water, so long as Omni "pays a fine"? I'm hard pressed to visualize this as a "mitigation"... It has also been rumored that Omni has RELOCATED the big grocery store so that it is now facing Highway 68 (our scenic highway)? ---and that Omni wants to WAIT A YEAR prior to cleaning up the contamination at their corner site (the former gas station). Please..AGAIN, in the name of "common sense"...WHAT IS WRONG WITH THIS PICTURE?? Does Monterey County make prudent decisions on behalf of our communities, or do developers dictate what they want, and how they
want it?

WHAT ELSE HAS CHANGED? Now, at the 11th hour, AND AS IS TOO
FREQUENTLY THE CASE, WE public are put upon to rush through a lengthy
document to respond. I hope you ALL recognize, this does NOT set
well with the public, and it certainly does NOT LOOK good to encourage
future votes from those of us who expect representatives to honor
their oath of office!

Thank you in advance for following protocol which is not only prudent,
but is required.

Happy trails,

Jan & Eddie Mitchell
RANCH FORGOTTEN
Prunedale, District 2
Novo, Mike x5192

From: Beverly Bean [beverlygb@gmail.com]
Sent: Sunday, November 06, 2011 12:10 PM
To: 100-District 5 (831) 647-7755; 100-District 4 (831) 883-7570; 100-District 3 (831) 385-8333; 100-District 2 (831) 755-5022; 100-District 1 (831) 647-7991
Cc: Novo, Mike x5192
Subject: Corral de Tierra Shopping Center Hearing Violates Brown Act

Dear Supervisors:

The specific Resolution containing Findings and Evidence for FINAL project approval, and the CONDITIONS of Project Approval (in other words, THE DETAILS OF THE PROJECT being approved) was not posted until late on Saturday, November 5 before the Tuesday, November 8 hearing.

The public has a right to know the details regarding the Omni application for a shopping center in Corral de Tierra at Highway 68. It is basic transparency and required by the Brown Act to have access to the County’s project report at least 72 hours before the County intends to take action at a Hearing.

Therefore I request that you continue the hearing to a future date so that the public has the opportunity to study the entire Resolution and prepare comments on it.

Thank you

Beverly G. Bean
39 Calera Canyon Road
Corral de Tierra, CA, 93908
832-484-2451
Novo, Mike x5192

From: Beverly Bean [beverlygb@gmail.com]
Sent: Sunday, November 06, 2011 12:03 PM
To: 100-District 1 (831) 647-7991; 100-District 2 (831) 755-5022; 100-District 3 (831) 385-8333; 100-District 4 (831) 883-7570; 100-District 5 (831) 647-7755
Cc: Novo, Mike x5192
Subject: Corral de Tierra Shopping Center - Questions Remain

To Monterey County Supervisors:

The questions raised in my guest editorial (see below) published in the Monterey County Herald on September 7 have NOT been answered by the Planning Department. The contamination of near by wells with MTBE from gasoline is not even mentioned in the staff report.

I hope you will take these concerns seriously and reconsider your possible approval of this project until these issues are resolved. Putting off the clean up for a year is not acceptable to those neighbors who are impacted by the spreading of the MTBE contamination.

In addition, the latest version of the plan lifts the cap on water use, rendering void all the promises made previously. The developers paid consultants guaranteed low water use, and that the recharge system would produce more water than the shopping center would use.

Now they want to "pay a fee" to exceed the ten acre foot limit. Their previous claim was that the water recharge scheme would not violate the B-8 moratorium. Apparently that claim no longer applies and the project clearly violates the moratorium.

Thank you for your attention to these issues.

Beverly Bean
39 Calera Canyon Rd.
Corral de Tierra
484-2451

Corral De Tierra center's water plan troubling

This week the Monterey County Board of Supervisors was forced to postpone its irresponsible approval of the controversial Corral de Tierra Shopping Center because of contaminants found in soil samples under the adjacent gas station owned by the same property owner, the Phelps family.

This is an example of Monterey County's lack of enforcement as the owner is in violation of the required clean-up following removal of leaking gas tanks from the property in 2002. It was citizen action that discovered the violation, along with finding MTBE in tests of nearby well water. MTBE is a contaminant from gasoline which cannot be removed once it is in the water table.
Neighbors are deeply concerned about the unproven water recharge plan which the developer claims will create more water than the project will use. The plan is to collect storm runoff from parking lots and roofs, direct this water to underground chambers and then percolate it into the aquifer. The discovery of MTBE adjacent to the proposed recharge site raises the possibility of percolating the collected water through contaminated soil.

There will be predictable problems with both the quantity and quality of the storm water collected. During dry years, insufficient water will be collected. Parking lot runoff can contain serious contaminants, including the carcinogens xylene and benzine. Xylene is particularly difficult to control. Properly maintained settling tanks and mechanical filters can remove some contaminants, but dissolved contaminants will avoid all the proposed filter systems.

This area of Corral de Tierra is under a moratorium on all new development which would impact the existing water, sewage and traffic problems. The El Toro aquifer is in overdraft according to studies commissioned by the Board of Supervisors in 2007. Nevertheless, Supervisors Fernando Armenta, Simon Salinas and Lou Calcagno overturned the Planning Commission and voted for the project and its water recharge system.

Highway 68 Buzz, an organization of concerned neighbors, wrote to the Monterey County Department of Environmental Health in April, reminding them about the environmental disaster at the Ft. Ord Superfund site where contaminated groundwater plumes have already spread beyond the borders of the Army base. They asked many questions about the proposed recharge system, including the lack of monitoring of recharge water quality and quantity and the potential for contaminated groundwater spreading to nearby shallow wells that supply hundreds of homes.

How will Monterey County regulate and deal with these potential hazards? There has been no response to date.

According to John Ford, planner for the project, “If the runoff passes through contaminated soil and picks up unhealthy levels of dangerous chemicals, the project would need to mitigate those dangers.”
This is not a reasonable answer since there is no mitigation for MTBE, the chemical found in nearby well water. Once the groundwater is contaminated, there is no going back.

Monterey County has a history of approving projects with lists of conditions that are not effectively enforced. For this project the County will likely downplay the contamination as minimal, issue a list of mitigation conditions and allow the developer to monitor them. Then, if nearby wells become contaminated, the county will spend taxpayer dollars trying to devise a way to bring clean water to the affected residents. This scenario is unfortunately all too likely.

The decision is scheduled for the October 4 Board of Supervisors meeting. The public is encouraged to attend and to write to the Supervisors about their concerns.
Please ask for a continuance of the report to be give this Tuesday. There is not enough time to study the report. Eliz. Helfrich
Novo, Mike x5192

From: Karen Watkins [kwandsw@sbcglobal.net]
Sent: Sunday, November 06, 2011 11:09 AM
To: Novo, Mike x5192

Subject: Shopping Center staff report

Please postpone hearing on Corral de Tierra Shopping Center in order to allow time for input from concerned citizens. Staff report released too late for adequate review and appropriate response.

Thank you.

Karen Watkins
Novo, Mike x5192

From: Margaretmike@aol.com
Sent: Sunday, November 06, 2011 9:37 AM
To: 100-District 5 (831) 647-7755; Novo, Mike x5192
Subject: Corral de Tierra Shopping Center

Supervisor Potter, Mike,

I am upset about the late notice for the really critical details on this project. Late Saturday afternoon doesn't cut it for a Tuesday meeting. Many of us do not have the entire weekend to stare at our computers. And some of us even leave town on weekends. I know the planning staff is under pressure, but please try to get important details out in a more timely manner. Many thanks, Margaret Robbins
To Whom It May Concern,

It is late Saturday November 5th and is the first information we have received indicating the pending hearing for the unwanted shopping mall at Corral de Tierra. We have elderly family members scheduled for doctors appointments. This is not enough time to reschedule. Please postpone this hearing and give us an appropriate time frame in which to plan to attend the hearing. This proposal is highly sensitive to the area and our residents. You need to provide an adequate time in which to schedule attendance.

Sincerely,
Joan Wood
Dear Mr. Nova,

The staff report was not available in time to sufficiently go over all the proposals and the details of the Corral de Tierra shopping center. I would like to have the hearing, on Tuesday the 8th, at a later date in order to understand fully what is proposed and what has been lightly skipped over.

Sincerely,

Whitney Stolich
To: Mike Novo & Dave Potter

My concern is for the Phelps/Omni proposed project on Highway 68 at Corral deTierra Road. The staff report for the proposed changes wasn’t posted until today.

This is not acceptable, as there are too many issues that so many people have followed for years in our concerns about the negative impact of this development. How can we be an educated public when the supporting documents aren’t available for review in a timely manner?

Whether this is due to technical problems or staff not able to complete the report until today is unknown. It seems that there has been several staff changes recently, including the senior planner for this project.

Please continue this agenda item to a later date, after the public has had time review the entire supporting documentation for this project.

Thank you both for your consideration of this important matter. Respectfully submitted, Noel Thieleman, 36 year resident of Corral deTierra
Novo, Mike x5192

From: Steve Shearn [SteveS@hw-cpa.com]
Sent: Saturday, November 05, 2011 6:03 PM
To: Novo, Mike x5192; 100-District 5 (831) 647-7755
Subject: CORAL DE TIERRA SHOPPING CENTER

Mr. Novo, Mr. Potter;

It is my understanding the Staff Report for the above referenced project was not available as of the afternoon of Saturday November 5th. Since this document contains critical information you and the public need to make an informed decision, it would seem appropriate the County should postpone any action on this project that was scheduled for Tuesday, November 8 until all parties have had a reasonable time to analyze the report. I respectfully request you institute a continuance related to any decision on this project.

Steve Shearn
W 831-759-6336
F 831-759-6381

Disclaimer:
This e-mail is only intended for the person(s) to whom it is addressed and may contain confidential information. Unless stated to the contrary, any opinions or comments are personal to the writer and do not represent the official view of the company. If you have received this e-mail in error, please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. Thank you for your cooperation.

Circular 230 Disclosure: Any advice contained in this email (including any attachments unless expressly stated otherwise) is not intended or written to be used, and cannot be used, for purposes of avoiding tax penalties that may be imposed on any taxpayer.

For information on new tax laws, upcoming events, or other useful information, please visit our website at www.hw-cpa.com.
Novo, Mike x5192

From: Kmdf1@aol.com
Sent: Saturday, November 05, 2011 5:53 PM
To: Novo, Mike x5192
Subject: Re

Why no staff report??? This makes no sense. Are you all in the pocket of OMNI??

Kate Richardson
24522 Rimrock Canyon RD
Dear Chair Parker and Members of the Board of Supervisors:

The staff report for the November 8 Board hearing on the Omni shopping center project was not available on the County website last Thursday and Friday, November 3 and 4. For that reason, the Highway 68 Coalition requests that the item be continued.

When the Board Clerk sent out an email last Thursday announcing the Board agenda for November 8, 2011, her email stated that there were technical problems with getting the agenda materials (the staff reports) online and that once the problems were fixed the staff reports would be available online. Since that notification on Thursday, we checked the Board Clerk's website diligently on Thursday and Friday, hoping that the technical problems would be addressed and the staff report would be posted. I attach a printout showing that the staff report was not online as of 7:30 PM Friday. And as of after 3 PM on Saturday, the staff report for the Omni shopping center still was not online.

In the past, when the County has failed to provide the staff report to the public 72 hours in advance of a public hearing, the County has continued the hearing. The County should do the same thing here for this highly controversial project on a matter of great public interest. The public was not able to review the new material in the staff report, including approximately 15 pages of staff report, 54 pages of conditions and mitigations, a resolution, and a statement of overriding considerations.

This is a very high visibility and controversial project. The County should not try to avoid its duties to the public and avoid transparency and accountability. The delay in posting the report has harmed the public's ability to participate in the public process.

Very truly yours,

Molly Erickson
Good afternoon,
Attached is the agenda for the Board of Supervisors meeting of November 8, 2011. We are experiencing some technical difficulties with the publication of the agenda to the website. You will be able to access the Board reports at: http://publicagendas.co.monterey.ca.us/ when the site is working. We are working with IT to address the problem.
If you need assistance, contact the Clerk of the Board's office at: 831-755-5066.
Best regards,
Denise

Denise Hancock, Board Clerk
County of Monterey
Clerk of the Board of Supervisors
168 W. Alisal St., 1st Floor
Salinas, CA 93901
831-755-5066
http://www.in.co.monterey.ca.us/cob/
The page cannot be found

The page you are looking for might have been removed, had its name changed, or is temporarily unavailable.

Please try the following:

- Make sure that the Web site address displayed in the address bar of your browser is spelled and formatted correctly.
- If you reached this page by clicking a link, contact the Web site administrator to alert them that the link is incorrectly formatted.
- Click the Back button to try another link.

HTTP Error 404 - File or directory not found.
Internet Information Services (IIS)

Technical Information (for support personnel)

- Go to Microsoft Product Support Services and perform a title search for the words HTTP and 404.
- Open IIS Help, which is accessible in IIS Manager (inetmgr), and search for topics titled Web Site Setup, Common Administrative Tasks, and About Custom Error Messages.

Friday
11/4/2011 7:33 pm