Date: January 13, 2021

To: County of Monterey Housing Authority Commissioners,
Carl Holm, Anita Nachor, Anasatasia Wyatt
From: Priscilla Walton, President, Carmel Valley Association, (CVA)
RE: Rancho Cañada Venture, LLC (RCV) Not Exempt from Affordable Units Requirement

The Carmel Valley Association has a long 10-year history with this Project. I apologize for the late submission of this letter. The Carmel Valley Association was not informed about this meeting until yesterday. I have several points to make on behalf related to this project meeting Monterey County's Inclusionary Housing Ordinance.

I. No Unusual or Unforeseen Circumstances

There are no "unusual or unforeseen circumstances" surrounding the Project that allow RCV to neglect the Inclusionary Housing Ordinance. The County must require the Project applicants, Rancho Cañada Venture, LLC (RCV), to comply with Monterey County's Inclusionary Housing Ordinance. As will be discussed in detail below, there are no "unusual or unforeseen circumstances" surrounding the Project that allow RCV to neglect the Inclusionary Housing Ordinance's requirement to provide low- and very low- income housing for new development. The purpose of Inclusionary Housing Ordinance is "to ensure that remaining developable land in the County is utilized in a manner consistent with State and local housing policies and needs." (Monterey County Code, § 18.40.030.B) The Monterey County Code requires "for-sale inclusionary units, eight percent of the total units in the development shall be set aside for moderate income households, six percent of the total units in the development shall be set aside for low income households and an additional six percent of the total units in the development, shall be set aside for very low income households." (Monterey County Code, § 18.40.110.B)

RCV is not exempt from this requirement because of "unusual or unforeseen circumstances." Real Parties are alleging that this situation constitutes an "unusual and unforeseen circumstance" and therefore RCV should be entitled to forego providing any affordable units at all. Specifically, the "unusual and unforeseen circumstances" are: (1) the delay in the entitlement process; (2) there are "too many" affordable units and "not enough" moderate-income units; (3) the commitment to sell lots at a reduced average price ($450K) to ensure an expedited sales process and that the Project remains affordable to middle-income buyers; (4) the inability to obtain a construction loan for the Project with eight percent of units as moderate-income housing, six percent as low-income housing, and six percent as very low-income housing.

All of these reasons are a pretext to avoid their responsibility to provide affordable housing. Reason (1) is not an unusual circumstance. Much of the delay is due to the applicant's lack of progress on the application. Failure to comply with law that resulted in granting of a writ of mandate cannot be an excuse to say that delay in and of itself it a cause for the infeasibility. Reason (2) contradicts all of the available information about housing needs in California and Monterey County. The County's Housing Element and RHNA numbers would not support a determination that low and very-low income housing are not needed. Reason (3) RCV is simply declaring what they are doing is "unusual," but it is not an "unusual circumstance," it is RCV's decision simply not to follow local law and wanting the County's imprimatur allowing its decision not to do so.

Reason (4) ignores other options for the applicant. Under state law, land can be set aside in lieu of building housing and in-lieu fees can be contributed. None of these options affect the ability to acquire a loan for the project. Under this logic, any development can get out of affordable housing requirements. RCV claims their own inability to obtain a construction loan for the Project with eight percent of units as moderate-income housing, six percent as low-income housing, and six percent as very low-income housing is an "unusual circumstance." The inability to obtain a loan, however, is not an unusual or unforeseen risk in the work of real estate development.

II. Insubstantial Evidence Regarding Financial Infeasibility

RCV's developer has submitted pro forma projections summarizing revenue and expenses and showing low profit margins. The developer also engaged an independent firm, EPS, to test the validity of the projections. However, even without the detail supporting the projections, several issues are open to question.

a) Land Value

The EPS Table A-1 shows "Land Purchase Price and Pre-Development Soft Costs" at $16,000,000. The cost per acre is about $200,000. That level may significantly overstate land value by not recognizing the restricted zoning for the property.

The site for RCV was a golf course owned and operated by Nick Lombardo, who willingly sought special zoning for the property that provided for 50% affordable housing. That zoning is still in force and has been a major source of contention.

County records show that 7 parcels at the RCV site, some 75 acres, are owned by the Lombardo Land Group LLC. On the County's books, the assessed value of these parcels is about $1,444,200 – or about $19,400 per acre.

The project is encumbered by the next generation of the Lombardo family with its price for the property. At issue is whether property bearing restricted zoning that calls for 50% affordable housing is fairly valued.

As a footnote, the Soft Costs are not broken out in the projections. Of concern are the "sunk costs," expenses for the developer resulting from previous unsuccessful attempts to obtain approval for a project at this site. A true evaluation of the project need not include these costs.

b) Affordable Housing Construction

The affordable units are projected as built at a cost of $500,000 each, or $500 per square foot for the 1,000 square foot units. In Figure C-1, EPS estimates the direct cost of construction at $322 per square foot (after deducting the developer fee and legal and other costs).

Projected revenue from the sale of affordable units is $323,145, or about $323 per square foot. Matching the revenue with the lower cost per unit, the Developer Subsidy in Table 4 of the EPS report essentially is eliminated. These subsidies range from $4.4 to $6.7 million, or 8% to 12% of projected sales revenue for the project.

c) Other

The developer has resisted raising the percentage of affordable housing above 20% as well as offering housing for lower income residents. Moreover, the developer has not brought forward for consideration alternative structures to the proposed project that might provide up to 50% affordable housing.

The Carmel Valley Association requests that the Housing Authority Commission require that the County require the Project applicants, Rancho Cañada Venture, LLC (RCV), to comply with Monterey County's Inclusionary Housing Ordinance. Giving special treatment to this development sets a dangerous precedent for other developers to evade the Inclusionary Housing Ordinance without good cause. None of the arguments made by the developer provide sufficient reasons to exempt them from meeting their responsibility to provide affordable housing.

Sincerely,
Priscilla (Pris) Walton, President, Carmel Valley Association