

## Attachment B

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Comment Letter (DeLano & DeLano  
on behalf of GuARD, July 15, 2022)



# DELANO & DELANO

July 15, 2022

Planning Commission  
City of Vista  
200 Civic Center Dr.  
Vista, CA 92084

Re: July 19, 2022, Planning Commission Meeting, Agenda Item PH2: P21-033,  
Camino Largo Project and MND

Dear Honorable Planning Commission Members:

This letter is submitted on behalf of Guajome Alliance for Responsible Development (“GuARD”) in connection with the proposed Camino Largo project (“Project”) and Mitigated Negative Declaration (“MND”).

## **I. The Project Violates the General Plan, Municipal Code, and State Law**

The General Plan is the City’s single most important planning document. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570 – 71. Any attempt to approve a project that is inconsistent with the General Plan would be “invalid at the time it is passed.” *Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544. Here, the Project is inconsistent with the General Plan and Municipal Code; as such, the Project should be denied. *See e.g., Carmel Valley View, Ltd. v. Board of Supervisors* (1976) 58 Cal.App.3d 817, 822 – 23 (upholding denial of a tentative map because the site was not physically suited for the proposed project); *Harroman Co. v. Town of Tiburon* (1991) 235 Cal.App.3d 388, 393 – 94 (upholding denial because the proposed project was inconsistent with general plan).

The California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 *et seq.*, requires the preparation of an Environmental Impact Report (“EIR”) whenever substantial evidence in the record supports a “fair argument” that significant environmental impacts may occur. Pub. Res. Code § 21080(d); *No Oil, Inc. v. City of Los Angeles* (1975) 13 Cal.3d 68. If there is “substantial evidence that the project might have [a significant impact on the environment], but the agency failed to secure preparation of the required EIR, the agency’s action is to be set aside because the agency abused its discretion by failing to proceed in a ‘manner required by law.’” *Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002. Here, the City should prepare an EIR before proceeding; the Project is likely to lead to several significant impacts.

The Project will lead to significant impacts to land use, aesthetics, and agricultural resources.

- The Project proposes to place dense residential uses in a rural, agricultural area. The Project is inconsistent with the surrounding area. Indeed, the staff report acknowledges the Project is surrounded mainly by agricultural zoning and generally rural and low-density General Plan designations. Staff Report at 6.
- The staff report claims the “property is surrounded by residential uses ....” Staff Report at 9. But this claim misses the fact that the dense project is incompatible with its much less dense surroundings.
- The Project is inconsistent with several aspects of the City’s General Plan. For example, contrary to LUCI Policy 2.4, it disrupts the existing development pattern within the established neighborhood (the diagram on page 2-4 of the Land Use and Community Design Element demonstrates clearly how the Project violates this policy). And contrary to LUCI Policy 2.1, it does not provide for large-lot single-family residential development.
- The staff report claims the City recently adopted small lot development regulations “to provide an alternative to the traditional single-family subdivisions, thereby increasing options for fee simple homeownership opportunities.” Staff Report at 7. But there is no showing that the Project will provide affordable housing.
- Municipal Code Chapter 17.12 and the State Subdivision Map Act require findings for the approval of a tentative map. The Project does not meet these findings. For example, it is inconsistent with the General Plan. The site is not suitable for the type of development. And the Project is likely to cause public health problems.
- The MND claims the site is identified in the City’s Housing Element, but there is nothing in the Housing Element indicating the site should be developed at anything greater than one dwelling unit.

The Project will lead to significant impacts to traffic.

- The MND fails to consider significant impacts associated with construction traffic.
- The MND fails to consider significant impacts to applicable roadway segments and intersections.
- The MND fails to consider the potential for public health and safety impacts, including significantly unsafe conditions associated with the several private streets intersecting with Camino Largo.



The Project will lead to significant impacts to air quality and greenhouse gas emissions.

- The MND claims the site is identified in the City's Housing Element, but there is nothing in the Housing Element indicating the site should be developed at anything greater than one dwelling unit. As such, contrary to the MND's assertion, vehicle trips associated with the development of 46 residential uses on the Project site were not accounted for in the State Implementation Plan. MND at 3-9. Such impacts on air quality and greenhouse gas emissions will be significant.
- The MND attempts to separate air emissions into construction and operational phases. However, it fails to account for the fact that such phases can, indeed are likely to, overlap, thereby increasing the amounts of emissions at any given time. This is particularly stark in light of the emissions of just construction equipment alone.
- The MND averages construction emissions over the life of the Project. MND at 3-27. Such emissions should be calculated as they will actually occur, not averaged over a longer period of time. *See Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4<sup>th</sup> 1013, 1049. Indeed, if construction emissions were appropriately accounted for, the Project would exceed the City's GHG Threshold.

The Project will lead to significant impacts to noise.

- The MND dismisses substantial construction noise impacts because they will be temporary. MND at 3-46. But the temporary nature of a noise impact does not make it insignificant. *See Berkeley Keep Jets Over the Bay Comm. v. Board of Port Commissioners* (2001) 91 Cal.App.4<sup>th</sup> 1344, 1380 – 81.
- The MND acknowledges the noise analysis found existing conditions far in excess of applicable limits. MND at 3-44. Yet the Project will not be providing mitigation to address these impacts. Indeed, where on-the-ground conditions are severe, the "relevant question" is whether the project's additional impacts will be significant "in light of the serious nature" of the existing problems. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.
- The Project's noise mitigation is vague and insufficient. *See Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4<sup>th</sup> 1323, 1341 ("there is no evidence of any measures to be taken that would ensure that the noise standards would be effectively monitored and vigorously enforced").

## **II. The Proposed Findings are Unsupported**

"[R]egardless of whether the local ordinance commands that the [] board set forth findings, that body must render findings sufficient both to enable the parties to determine

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whether and on what basis they should seek review and, in the event of review, to apprise a reviewing court of the basis for the board's action." *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514 (footnote omitted). The proposed resolutions fail to produce adequate findings supported by evidence. Among other things, as noted above, the Project is inconsistent with the General Plan, Municipal Code, and State Subdivision Map Act. Additionally, as discussed above, the Project will adversely affect the health, safety, and general welfare of the City and its residents.

Furthermore, the proposed findings do not address important criteria required by the Municipal Code.

### **III. Conclusion**

For the foregoing reasons, GuARD requests you reject the Project and MND. Thank you for your consideration of these concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Everett DeLano', with a stylized, sweeping flourish at the end.

Everett DeLano

cc: Patsy Chow, Deputy Director