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CITY OF CLEARLAKE

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**February 2, 2009**

Honorable Members of the City Council  
City of Clearlake  
14050 Olympic Drive  
Clearlake, CA 95422

Re: Specific Plan for the Provinsalia Golf Community, Council Agenda Item, February 12, 2009

Dear Council Members:

This letter is written by the undersigned at the direction of the Steering Committee for the Clearlake Vision Task Force. As you know, the Vision Task Force was charged with forming a vision for the City of Clearlake as we would like to see it in the year 2020. The Steering Committee is continuing to carry out the mandate of the Vision Task Force as expressed in the Report of the Vision Task Force that was adopted by the City Council in September, 2007.

The Steering Committee has some serious concerns about the Specific Plan for the Provinsalia Golf Community. Before expressing these concerns, however, the Steering Committee would first like to commend the City Administrator & Community Development Director, Dale Neiman, and the City's Planning Consultant, Melissa Floyd, on their recent work in connection with the subject project. We have read with interest the memorandum letter to the Planning Commission from City Administrator Neiman, dated December 12, 2008.

In general, the Steering Committee feels that recent changes to the draft Specific Plan and additional assurances provided in City Administrator Neiman's December 12 letter, including the requirement for trails open to the public, the construction of an interpretive center, and the requirement of off-site traffic improvements, have done much to mitigate the impact to the City's last unspoiled open space that is associated with this development. We also strongly support the abandonment of any concept of financing the infrastructure improvements through Mello-Roos bonds.

However, the Steering Committee remains extremely concerned to ensure that the promised improvements associated with the Project will, in fact, be constructed (or at least that the

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construction will be financially secured) before any of the individual lots of the Project can be legally sold and conveyed to buyers. Once such conveyance occurs, it is extremely difficult to “retroactively” finance infrastructure improvements. This difficulty is evident in the many blighted “paper” subdivisions that plague the City of Clearlake. The Steering Committee urges this Council to adamantly insist on financial security that will prevent the “Provinsalia” development from becoming a similarly blighted “paper” subdivision.

### **The Steering Committee’s Major Concerns**

#### **1. All of the Commitments in City Administrator Neiman’s December 12, 2008 Letter Should Be Adopted as Express Conditions of Approval**

Unfortunately, history tells us that City Administrators do not always remain permanently in their positions. Neither do planning staff. Additionally, the developer may claim that some or all of the contents of Mr. Neiman’s letter are precatory and non-binding. Therefore, the Steering Committee feels it is of the utmost importance that each and every requirement set forth in Mr. Neiman’s letter be incorporated as an express condition of approval of the Specific Plan. In this way, all of these requirements will have the binding force of law, independent of any subsequent changes in City officials or staff.

#### **2. All of the Infrastructure Improvements Should Be Fully Funded Before Any Lots May Be Sold**

The Steering Committee is concerned that the real purpose of the “Specific Plan” is to secure permanent “entitlements” that will enable the present landowner to sell subdivided lots at the Property for a profit. Therefore, the Specific Plan should provide that no Certificate of Compliance or Final Map approval shall be issued for ANY residential lot in any Phase of the Project until ALL infrastructure related conditions applicable to the entire Phase are funded, completed, inspected and approved. Otherwise, the City may once again be left with legal lots that are not accompanied by infrastructure.

Furthermore, everything included in the section of Mr. Neiman’s letter titled “Financing of the Public Improvements” [p. 8] should be included as an explicit condition of approval of the Plan. It is particularly important that the requirement of “Security for Completing the Public Improvements” be irrevocable, and not subject to discretionary waiver.

#### **3. A Cost Auditing Budget Should Be Required**

Because the City may need to become involved in constructing the Public Improvements, all cost

estimates submitted by the Developer must be carefully audited. The City lacks these resources. The Steering Committee recommends that the developer of this Project should be required to fund a budget of \$25,000 to enable the City to audit the cost estimates provided by the developer regarding all public and infrastructure improvements required in connection with the Project.

**4. The Exact Public Improvements as to Which Financial Security Is Required Should Be More Precisely Specified**

The exact "Public Improvements" as to which financial security in the form of one or more Letters of Credit (or performance bond or cash) is required to be posted before ANY lot may be sold or ANY construction may proceed should be defined. The following is a partial list that the Steering Committee compiled from the Specific Plan and Mr. Neiman's December 12 letter:

1. Off-site sewer improvements for Phase I
2. On-site sewer improvements for Phase I
3. Off-site water improvements for all Phases
4. On-site water improvements for Phase I
5. Provinsalia Avenue including sidewalks, curb, gutter, etc.
6. Trails
7. Golf Course restoration (see discussion above)
8. Woodlands mitigation
9. PG&E, other underground wires, Propane Farm
10. Repeater antenna
11. Gate @ Dam Rd.
12. Storm drainage for all Phases being rough graded
13. Interior streets, curb, gutter, street lights – for each Phase before construction

And, similar security should be required with respect to public improvements required for subsequent Phases, before any grading begins.

**5. An Overall Deadline Should Be Established for the Development to Meet the Conditions of Approval**

Due to the possibility of blight, the Specific Plan should be conditioned on the Project proceeding within a reasonably prompt time frame. The Steering Committee thus feels that the Plan should include a deadline of ten years for Phase I to be completed to the point that the conditions of approval have been satisfied and the subdivided lots are eligible to be sold. If a hiatus of more than the stipulated period occurs, the development approval must expire, the remaining lands should revert to their original Resource Protection -- RP zoning, and the

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landowner will be required to seek a new Specific Plan for the remainder of the subdivision. We simply cannot accept any more "paper" subdivisions!

The Steering Committee also recommends that a similar deadline of five years should be established as a time limit in between each of the Phases subsequent to Phase I.

**6. The Specific Plan Should Include a Requirement that the Golf Course, if Its Operations Are Suspended for More than a Specified Time, Should Be Restored to Natural Open Space Conditions**

A major question mark about this Project, in the Steering Committee's view, is the financial viability of the golf course. Similar golf course communities elsewhere in Lake County -- for example the Clearlake Riviera which is the nearest such golf course community -- have recently experienced severe financial difficulties maintaining their golf courses in operation. Defunct golf courses are blight. The Steering Committee therefore recommends that the Specific Plan include, as a condition of approval, a requirement that if the golf course operations should cease for more than a specified period of time, then the golf course will be restored to natural open space conditions. Furthermore, the Specific Plan should absolutely prohibit any future residential construction in the area designated as golf course. This area should explicitly be reserved, by a restrictive covenant, as permanent open space.

The Steering Committee feels that a lapse of three years, without being open to the public, is an appropriate outside limit on the amount of time that the golf course, once constructed, might be allowed to lie defunct before becoming a blight. Thus, the Steering Committee recommends a deadline of three years in connection with the foregoing requirement.

Additionally, the Steering Committee recommends that the financial security requirements for the Project should include an amount sufficient to restore the golf course to natural open space conditions, including trees, if needed. This should be in effect for 10 years from the time when the Phase I conditions are satisfied and the developer acquires the legal right to sell lots.

**7. More Attention Should Be Devoted to the Dam Road Widening**

The Steering Committee agrees that the requirement of widening of Dam Road in the segment between the Lake Street intersection and Dam Road extension [the McDonalds / Wal-Mart corner] is appropriate. However, the Steering Committee feels that more attention to the details of this widening is needed. Specifically, in view of heightened pedestrian and bicycle traffic, at least some of which will be associated with Provinsalia Avenue and "Provinsalia," we recommend that the widening should explicitly include either a sidewalk, or an off-street path,

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for pedestrians and cyclists. Current conditions along this route are extremely hazardous for pedestrians and bicyclists.

#### **8. Issues and Ambiguities About the Trail System Should Be Resolved**

Several issues exist for the Steering Committee with regard to the trail system that is a requirement of the Project. The Steering Committee feels that the trail system open to the public is, overall, a highly salutary aspect of the Project. However, an issue exists as to the timing of its construction. Since "rough grading" for Phases V through IX is included in Phase V, the Steering Committee submits that it would make far more sense to require the trail system for these phases to be constructed at the same time, i.e., in Phase V, rather than in Phase VII as in the current draft of the Specific Plan.

There is also problematic ambiguity about the correlation between "trails" and "Phases." The Specific Plan presently states that trails will be constructed "within" each Phase. However, most if not all of the trails are not actually located within "Phases" as they are delineated in the Plan. Therefore, the Specific Plan should include an explicit correlation as to what portions of the Trail System are associated with each Phase, for purposes of the trail construction requirement.

Finally, it is critical that the financial security for the Project, discussed in Mr. Neiman's letter as applying only to "water" and "street" improvements, also explicitly include the money necessary to build the trails, should the developer fail to do so.

#### **9. The Identity of "Lots on the North Side of the Property" Should Be Clarified.**

The requirement of a "second access for the lots on the north side of the Property" – referenced in Mr. Neiman's letter – is an excellent idea, in the opinion of the Steering Committee. We further feel that these "north side" lots should be specifically delineated as including those in Phases III, IV, VII, and VIII of the Project.

#### **10. Lighting Should Be Anti-Skyglow**

The Vision Task Force identified dark skies as one of the more critical values we appreciate in our City. Regarding the "lighting" conditions (MM 4.14.3), which the Steering Committee generally think are excellent, we suggest a further clarification to indicate that street lighting and other night lighting is to be consistent with anti-skyglow standards.

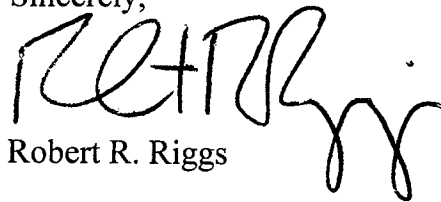
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### CONCLUSION

The Steering Committee, in conclusion, feels that the Specific Plan is acceptable, if the conditions, financial security, and other protections outlined in the Specific Plan, in Mr. Neiman's letter of December 12, and in this letter, are observed. The Steering Committee does not feel that the City is, or should be, desperate to have this Project. Thus, if the developer should be unwilling or unable to meet the conditions of approval suggested herein, then the alternative of "No Project," at least for the time being, would be preferable.

We are attaching, in a summary form, our recommendations regarding the public improvements promised in connection with the Project.

Sincerely,



Robert R. Riggs

RRR:krl

Attachment (table of improvements, deadlines and recommendations)

Reference in Plan	Proposed Improvements	Deadline for Action / Comments
14, 64-66	Design, construct WATER improvements to site	"In Phase I" per DN 12/12/08 letter <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
54	Construct PROVINSALIA AVE. to site	"In Phase I" per DN 12/12/08 letter <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
54	Install GATE @ Dam Road where it enters west edge of subject property	<b>NOT DEFINED – should be Phase I SHOULD BE INCLUDED in the letter of credit requirement.</b>
54	Install interior streets, including sidewalk, curb, gutters, and street lighting	<b>NOT DEFINED – should be required to be COMPLETE before any building permit issued in Phase.</b>
12, 59	Dedicate, construct TRAIL SYSTEM open to public	Dedicate in Phase I – per DN 12/12/08 letter Build – in each Phase – per DN 12/12/08 letter Totally complete – in Phase VII per DN 12/12/08 letter <b>Should be better defined as to what trails are associated with what Phase;</b> <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
66-67 MM 4.13.5	Construct WASTEWATER SYSTEM improvements, including Capital Reserve fees	Not well defined; phasing left to discretion of Lake Co. Special Districts <b>improvements &amp; fees should be req'd prior building permits for any Phase;</b> <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>

Reference in Plan	Proposed Improvements	Deadline for Action / Comments
68-72	Construct DRAINAGE improvements (storm drains)	<b>NOT DEFINED – should be required to be COMPLETE at the time any rough grading is done in any Phase.</b>
73	Install ELECTRIC SERVICE underground	<b>NOT DEFINED – should be required to be COMPLETE for entire Phase before any building permit is issued for any Phase</b>
74	Install underground PROPANE FARM	<b>NOT DEFINED – per Project concept, should be required to be COMPLETE during Phase I</b>
74	Install TELECOM lines underground	<b>NOT DEFINED – should be required to be COMPLETE for entire Phase before any building permit is issued for any Phase</b>
MM 4.5.2	Restore total of 63 acres (42 + 21 acres) of oak woodlands on site	<b>WHEN this must be done is not adequately defined. Needs to be carefully defined as to when this restoration is required to dovetail with the time when woodlands are destroyed</b>
MM 4.6.1b	Make Fair Share contribution to Off Site through streets and highways (incl. updated traffic study)	Prior to issuance of 360 <sup>th</sup> residence building permit
MM 4.6.5	Make Fair Share contribution to Dam Rd. widening between Lake St. & Wal-Mart center	Prior to issuance of 180 <sup>th</sup> residence building permit



Reference in Plan	Proposed Improvements	Deadline for Action / Comments
MM 4.6.14 MM 4.6.15	Make Fair Share contribution to listed traffic improvements	Prior to issuance of building permits. <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
MM 4.13.1.1	Establish FUND to pay for 2 additional firefighters and their equipment	Prior to 101 <sup>st</sup> building permit (1) Prior to 301 <sup>st</sup> building permit (2)
MM 4.13.2	Establish FUND to pay for 2 additional police officers and their equipment	Prior to 101 <sup>st</sup> building permit (1) Prior to 301 <sup>st</sup> building permit (2)
4.13.2.2	Construct repeater site antenna	Prior to Phase I <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
10, 12	Construct GOLF COURSE including Pro Shop, Maintenance Building	"In Phase I" per DN 12/12/08 letter <b>SHOULD BE INCLUDED in the letter of credit requirement.</b>
59	Construct INTERPRETIVE CENTER	"In Phase VII" per DN 12/12/08 letter