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SENT VIA FAX & FEDERAL EXPRESS

Community Development Department  
651 Pine Street  
North Wing, 4<sup>th</sup> Floor  
Martinez, CA 94533

February 18, 2004

**ATTN:** **Dennis M. Barry, AICP, Community Development Director**  
**Ruben Hernandez, Project Manager**  
**Robert Drake, Principal Planner**  
**Silvano Marchesi, County Counsel**

**FROM:** **R. Jean Taylor**  
**Shareholder Round Hill Golf & Country Club**  
**Member Round Hill Property Owners Association**

**SUBJECT:** **County File#VR031032**

**RE:** **First Notice: July 1, 2003 – Notice from Community Development Department**  
**Hal Reiland (Applicant) and Hal Reiland & Round Hill Enterprises (Owners),**  
**County File#VR031032:** A request for approval of the following entitlements on  
the two adjacent parcels has been requested:

**Second Notice: January 23, 2004 Filed by Community Development Department**  
**Notice of Public Review & Intent to Adopt a Proposed Negative Declaration**

The subject properties are located in the Alamo area, at #76 St. Andrews Lane and the 7<sup>th</sup> Fairway of the Round Hill Golf Course (APN: 193-690-062 and 193-470-025) (Zoning: R-15) (Census Tract: 3461.02).

Your Notice of a PUBLIC HEARING for Monday, February 23, 2004, at 1:30 PM before the County Zoning Administrator regarding the referenced notices is premature, and the subject file is deficient in information required for a fair and impartial hearing.

**Referenced Second Notice – Negative Declaration:**

The Negative Declaration prepared for this project does not meet the procedures required by the California Environmental Quality Act (CEQA). It does not meet the CEQA guidelines established by the State Office of Planning and Research. Subsequently, this Public Hearing should be postponed and/or cancelled in order to legally fulfill the Lead Agency's compliance with CEQA. Below are four points that identify how the CEQA process has not been correctly implemented.

1. Consultation with agencies on the adoption of the negative declaration. There is no public record or information that the Community Development Department consulted with other public agencies on the Initial Study/Environmental Checklist to determine the environmental impacts or concerns of project.

Citation: *Prior to determining whether to adopt a negative declaration or EIR, the lead agency must consult with all responsible agencies and "with any other public agency which has jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California" (i.e., any trustee agency). (Public Resources Code, subsection 21080.3, subd. (a).) Reference: "Guide to the California Environmental Quality Act (CEQA)", Michael H. Remy et al (1999 edition).*

This is an important point because, when a Negative Declaration is not reviewed by other agencies, the conclusions reached by the Negative Declaration (e.g., no significant impact) is not reviewed by the appropriate public trustee agency to validate its conclusions. An appropriate opportunity for comment from other public agencies must be provided under the law

2. The review period of the Negative Declaration "shall not be less than 20 days." *Public Resources Code, subsection 21091, subd. (d), also CEQA Guidelines, subsection 15073, subd. (a), 15105, subds. (b), (c).* The Notice of Public Review and Intent to Adopt a Proposed Negative Declaration shows a stamped (County Clerk office) dated January 23, 2004. And the "period for accepting comments on the adequacy of the environmental documents extends to 5:00 P.M., Thursday, February 12, 2004." The requirements of the Notice of Public Review and Intent to Adopt a Proposed Negative Declaration include "the starting and ending dates for the review period during which the agency will receive comments (including a statement, if applicable, that the review period has been shortened)" *Public Resources Code, subsection 21091, subd. (d), also CEQA Guidelines, subsection 15073, subd. (a), 15105, subds. (b), (c).*

The Notice of Public Review and Intent to Adopt a Proposed Negative Declaration did not state the starting date for the review period because the stamped date cannot be assumed to be the "start" date of the review period. Subsequently, the review period of 20 days (or more) cannot be substantiated by only the deadline date of "5:00 P.M., Thursday, February 12, 2004."

3. The Community Development Department determined that the Negative Declaration was not subject to be filed with the State Clearinghouse on the basis that it had no "statewide, regional, or area wide significance" (personal conversation with Ruben Hernandez, Project Planner and C. Toyama, Shaw Environmental, Inc., Senior Planner, February 17, 2004). However, this conclusion is unsupported. Under CEQA guidelines 15206 (a)(5), "A project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by Section 15380 of this Chapter." Review of existing biological databases, indicates that the subject property is located in an area that has 12 to 62 sensitive species habitat. We find that until the California Fish and Game Department is consulted on this issue, the project

could “substantially affect sensitive wildlife habitats” and require that the Negative Declaration be filed with the State Clearinghouse under CEQA guidelines 15206 (a)(5).

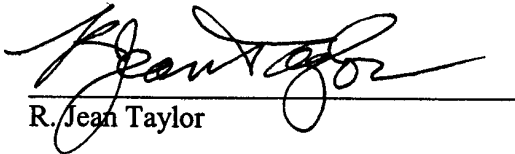
4. CEQA Guidelines 15072, relating to the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration. The various subsections were not complied with. These include:
  - a) Subsection (a) that the lead agency did not include all the public, responsible agencies, trustee agencies that would have interest in the project prior to the adoption by the lead agency of the negative declaration.
  - b) Subsection (b) the lead agency has three options to providing the notice of intent to the public. Mr. Hernandez indicated they posted the notice on and off site in the area where the project is to be located and directly mailed to the owners and occupants of property contiguous to the project. However, we as one of the adjacent property owners did not receive a copy of the notice through the mail until after January 23, which reduced our time for reviewing and commenting on the Negative Declaration. Nor were any posted notices on or off site in the area observed.
  - c) Subsection (e) requires a project of statewide, regional, or area wide significance to consult with transportation agencies. Because we believe this project does have statewide significance this subsection should be complied with.
  - d) Subsection (f) highlighted in item 2 of this letter.

**Referenced First Notice – Request for VARIANCES – Subject File Deficiencies:**

1. No accuracy of titled ownership to this property, #76 St. Andrews Lane. Current title: Harold & Melinda Reiland 75.2244%, Preferred Secured Agents, Inc. 24.7756%.
2. No indication of Round Hill Enterprises (RHE) support of approval of VARIANCES on the 7<sup>th</sup> Fairway. Letter dated January 2, 2004, to shareholders from President Pete Davis and on behalf of the RHE Board of Directors, states as follows: **“Round Hill Enterprises, its Board of Directors and its management have no relationship with the Reilands or their corporation other than Club to member and Club to neighbor.”** This letter is not in the County File.
3. No letter dated December 29, 2003, from Round Hill Property Owners Association refuting the authority of President Les Schwab’s letter supporting the VARIANCES. The letter states RHPOA is a separate entity and cannot address the issue of a variance by the RHE to construct a retaining wall on their property.
4. No notification to Valley Community Bank (Pleasanton) as required by a Deed of Trust, secured by a note in the amount of \$295,750.00, on #76 St. Andrews Lane, Alamo (APN for the real property: 193-60-062).

5. No clarification of the easements referred to in a fax dated 08/07/2003 to Jack Mahoney, General Manager Round Hill Country Club, from Ruben Hernandez.
6. No response to the request made on 7/30/2003 by Ruben Hernandez, "Please respond in writing your possessary interest in the property. This is needed so we can explain the situation to the Zoning Administrator if necessary."
7. No adequate redesign of the project as requested by Robert H. Drake, Principal Planner, on October 1, 2003, for **Clarification of Required Yards (Structure Setback Areas) For Proposed Retaining Wall.**

In conclusion, please let me know by 5 PM tomorrow if there are any changes in the scheduled PUBLIC HEARING on these properties.



R. Jean Taylor

Copies to: Peter Felsenfeld, Contra Costa Times  
President California Oak Foundation, Janet Cobb  
Supervisor John M. Gioia  
Supervisor Gayle B. Uilkema  
Supervisor Millie Greenberg  
Supervisor Mark DeSaulnier  
Supervisor Federal Glover