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June 11, 2018

Mr. Brian Kurnow  
Land Use Manager - OC Development Services/Planning  
OC Public Works  
300 North Flower Street  
Santa Ana, CA 92703

Re: Planning Application No. PA160056  
Oak Grove Project – Coto de Caza

Dear Mr. Kurnow:

We are the attorneys for the Coto Conservancy and we have been asked to contact you on its behalf. The Conservancy is comprised of residents of Coto de Caza who are committed to responsible community sustainability. Specifically, the Conservancy seeks to ensure that current and future generations of Coto de Caza residents and visitors will be able to enjoy the balance of nature and recreation that has long been the hallmark of the Coto de Caza community.

The Conservancy has reviewed the "Deemed Incomplete" letters dated: September 14, 2016; December 21, 2016; May 4, 2017 and October 5, 2017 relating to Planning Application No. PA160056 ("Application") for the single-family residential project that has been proposed by Oak Grove LLC ("Oak Grove") to be developed in Planning Area 21 of the Coto de Caza Specific Plan ("CCSP"). We understand that Oak Grove is a subsidiary of O Hill Capital of Newport Beach and that Mr. O Hill holds a controlling interest in the Silver-Bronze Corporation ("SBC") which, owns the 24-acre Coto Equestrian Center, located directly adjacent to the five-acre site where Oak Grove proposes to build its 13-home project.

Based on our analysis of the deficiencies noted in the "Deemed Incomplete" letters, the Conservancy believes that several additional errors and omissions in Oak Grove's Application need to be corrected before the County can deem that Application to be complete.

## **Project Description and the Whole of the Action**

The project description in Oak Grove's Application is not accurate because it only describes one phase of the anticipated development. The California Environmental Quality Act ("CEQA") requires that the "whole of an action" be analyzed for potential environmental impacts. This would include (1) all direct physical changes, and all reasonably foreseeable indirect physical changes, to the environment resulting from the project and (2) all phases of project planning, implementation, and operation.

The thirteen (13) homes to be developed as part of the Oak Grove project are merely one phase of a multi-phase development project envisioned by SBC for Planning Areas 20 and 21. For example, Robert O Hill stated at the July 5, 2017 Coto Advisory Planning Committee meeting that a portion of the proceeds generated by the development and sale of the 13 homes will be used to fund additional improvements, consisting of \$1.6 million in upgrades to the Equestrian Center in Planning Area 21, and \$1 million in improvements to the Tennis Center located in Planning Area 20.

Also, signage posted at the existing Equestrian Center, which is owned by SBC, currently states: "Coming Soon: Hunt & Saddle Lounge, Event Lounge, Plaza Barn and much more, totaling \$1.6 Million of enhancements". Also, there is a sign posted on the construction fencing at the Oak Grove/Merryhill School property, as well as at the entrance to the Equestrian Center, that includes a map and diagrams of anticipated development at the Equestrian Center. Additional statements by SBC directly linking the Oak Grove residential development to the Coto Tennis Club can be found on the SBC's website for the proposed Coto Equestrian Preserve at: <http://cotoequestrianpreserve.com/show-your-support/>. This website states that the anticipated construction at the Tennis Club will consist of 8 tennis courts, bathrooms and parking lot as a direct result of the Oak Grove project.

Tentative Tract No.17866 (the "Tract Map") provides for water and sewer connections to Parcel 2 and 4 of Lot Line Adjustment LL 2015-018, commonly referred to as "the Hebner Property." The Tract Map also indicates that easements will be granted to benefit anticipated future development on the Equestrian Center land and on the General Store site that are located outside the Tract Map boundaries. Furthermore, a storm water basin and easement area is located outside the tract boundary and within the Equestrian Center. SBC has recorded, as Instrument 2018000065606, dated February 23, 2018, a document entitled "Special Land Use Restriction," that permits equestrian improvements and two residential lots to be constructed within PA 21 on the Hebner Property. This additional development should be included in the project description for Oak Grove's project.

The Deemed Incomplete letters for the Oak Grove project include comments from the County that direct the applicant to remove aspects of the development project associated with known and anticipated future development phases. Removing known



future development from Oak Grove's Application does not satisfy CEQA's requirements to describe, analyze and mitigate the whole of the action. Indeed, the Conservancy respectfully submits that all anticipated future development needs to be addressed in the project description in Oak Grove's Application and must be analyzed for all foreseeable environmental impacts in order to determine, among other things, whether those impacts will be significant and will require the preparation of an EIR.

### **An Environmental Impact Report Needs to be Prepared**

An EIR needs to be prepared for all phases of the actual project because there are significant potential impacts to Land Use and Planning, Geology, and Hydrology/Water Quality that have yet to be fully described, analyzed or mitigated.

**Land Use and Planning:** The Oak Grove project—when correctly described as consisting of not only the 13 residences identified in the Application, but also the interrelated improvements that have been proposed for the Equestrian Center, the Hebner Property, and the Tennis Center—conflicts with the Coto de Caza Specific Plan (the "CCSP") in that residential development is prohibited in PA 21. The Conservancy is concerned that Oak Grove is attempting to carve out areas of PA 21 that are currently open space and to assign new planning area designations to circumvent the land use restriction that prohibits residential development. This appears to be an attempt to "up zone" (i.e., increase the density) from open spaces uses to residential development. If allowed, it would result in residential development occurring in the exact same location in which it was originally prohibited, but under a different planning area designation. This will result in a reduction of the intended recreational and open space benefits to the residents of Coto de Caza and will diminish the open space acreage listed in the CCSP Statistical Table.

The intent of the Community Commercial ("CC") designation was to include development of facilities that serve all residents of Coto de Caza community and their guests and it was based on a mix-use concept that included retail and service commercial, office, recreation facilities and private clubs. Section 7 of the CCSP emphasizes recreation-oriented activities within the CC designation. The CCSP Statistical Table indicates that PA 21 has 35 acres of Open Space out of a total of 36 acres. The Equestrian Center is an open space land use. The proposed project will significantly reduce the amount of open space in PA 21 as well as the total amount of open space in the CCSP. These impacts need to be analyzed in an EIR, along with reasonable mitigation measures and project alternatives.

**Geology:** The Oak Grove project, as properly defined, will have potentially significant geological impacts because it is located in a designated earthquake fault zone and liquefaction zone. These impacts need to be fully analyzed in an EIR, as do reasonable project alternatives to avoid these significant impacts. CEQA requires that project impacts be analyzed and project design features and mitigation measures be incorporated prior to approval of the project.



**Hydrology/Water Quality**. The actual Oak Grove project area, including the Equestrian Center, the Hebner Property and the Tennis Center, is situated in a Special Flood Hazard Area (“SFHA”) designated as Flood Zone AE and Flood Zone A. This is a significant impact that needs to be analyzed in an EIR, along with reasonable project alternatives to avoid this impact.

In addition, Oak Grove’s proposed residential project and the proposed improvements to the Equestrian Center will have significant adverse impacts on water quality. The proposed Water Quality Management Plan does not include the whole project in that it does not analyze or propose mitigation for the storm water runoff from the Equestrian Center, the Tennis Center, or the Hebner Property—the latter of which also includes equestrian facilities, barns, and residential units. A storm water basin is proposed to be maintained by the Oak Grove homeowners association; however, there is no analysis of the feasibility and long-term cost to the 13 property owners of maintaining this facility.

### **Regulatory Agency Permits**

The Oak Grove project, if correctly defined, will potentially cause significant impacts to the Canada Gobernadora stream bed and watershed, as well as existing biological resources associated with the watershed. A biological resources survey by a County-approved biologist needs to be prepared as part of an EIR to identify existing biological resources, specify required regulatory agency permits, and analyze project impacts, mitigation measures, and project alternatives to avoid impact to biological resources. CEQA does not allow project impacts, mitigation, and alternatives to be analyzed after-the-fact. Therefore, the County cannot defer biological resource impact analysis by making it a condition of approval to be complied with sometime in the future.

The Tract Map shows the construction of a 5-foot concrete storm water channel outside the project perimeter wall that supposedly will direct untreated storm water from project slopes and the Equestrian Center to an existing outlet. This does not meet the regulatory agency requirements for treatment of storm water runoff. There is a proposed structure outlet associated with the water quality basin that requires a regulatory agency permit that needs to be reviewed and approved by US Army Corp of Engineers prior to project approval.

### **Preservation of Existing Oak Trees**

The Tract Map shows an entry drive from Vista del Verde that includes a twelve (12) foot landscaped median for an existing 60-inch diameter oak tree to “protect” the tree. However, this will not result in protecting the oak tree because construction of the median will cut the existing tree roots and will seriously compromise the tree’s sustainability. Oak Grove’s Application indicates that all oak trees will be preserved as a project benefit to the community. However, the Special Resources section of the CCSP states that buildings

should be set back fifteen (15) feet from an oak tree's drip line. As such, the Tract Map should be revised to comply with this requirement before Oak Grove's Application can be deemed to be complete.

### **Compliance with Standard Plan 1117**

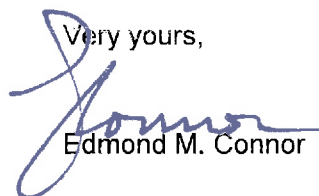
The Tract Map also creates a conflict with Standard Plan 1117 in that the project driveway is proposed in an area that cannot provide for the required sight distance for drivers exiting the project onto Vista del Verde. The project should not be designed with an unsafe condition.

### **Fences and Retaining Walls**

The Tract Map depicts retaining walls/fences and perimeter walls that are 12 to 14 feet in height along the property line with building pads 10-11 feet above the existing elevation. The maximum fence and wall height allowed under Orange County Zoning Code Section 7-9-137.5 is six (6) feet. Perimeter walls and fences of 12 to 14 feet will have severely adverse visual impacts on surrounding properties and are inconsistent with the CCSP. The CCSP establishes that fencing shall be of an open character, such as split rail fencing, so as not to constitute a visual barrier or act as a wall impeding wildlife circulation, necessary flood control works, or regional riding and hiking trails. The CCSP also states that residential projects should blend and be integrated with open space and community facilities. The Tract Map needs to be revised to comply with the CCSP by limiting the height of retaining walls, fences and perimeter wall to the six-foot maximum. Also, the building pads need to be compatible and blend with the existing grades.

We have hope that the County will give serious consideration to the matters discussed above before deeming Oak Grove's Application to be complete. If you have any questions or need any additional information, please contact Michele Munk, Coto Conservancy, at [michele.munk@cotoconservancy.org](mailto:michele.munk@cotoconservancy.org).

Very yours,



Edmond M. Connor

cc: Lisa Bartlett, 5<sup>th</sup> District Supervisor  
Dave Bartlett – 5<sup>th</sup> District Development Processing Review Committee  
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Mr. Brian Kurnow  
June 11, 2018  
Page 6



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