

# County of Santa Clara

Department of Planning and Development  
Planning Office

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December 9, 2020

**\*\*Sent via email only\*\***

Jim DiVittorio  
1545 Santa Monica Avenue  
San Jose, CA 95118  
Email: mapleleaf@garlic.com

Re: File 10824-18P-18A – Incomplete letter for Proposed RV Park at East Middle Avenue, San Martin, CA  
(APN 825-04-001)

Dear Mr. DiVittorio,

The Use Permit (UP), Architecture and Site Approval (ASA), and Grading Approval application (re-submittal) for a 270-space RV (Recreational Vehicle) Park, submitted on November 9, 2020, is deemed **Incomplete**.

This letter is composed of two Sections: Section I outlines the incomplete items and comments associated with the referenced project, and Section II addresses the letter from Chris C. Chapman at Rudderow Law Group, dated October 15, 2020.

## **SECTION I. – INCOMPLETE ITEMS AND COMMENTS**

In accordance with the Permit Streamlining Act (Govt. Code §§ 65943) and the County Zoning Ordinance, Section 5.20.080, all items identified below shall be submitted to the County in order to resume processing of the UP, ASA, and Grading Approval application. If you have any questions about the information requested, please contact the staff person for each agency as noted below. They represent the documented department/agency and can provide details regarding the requested information.

## PLANNING

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Contact: Valerie Negrete (Valerie.Negrete@pln.sccgov.org /408-299-5791).

Within the project description and plans to be submitted, clearly document all proposed site improvements as follows:

1. Update the Plans to include the following:
  - a. Floor plans for all proposed structures including the intended use of interior spaces. Sheets A1.2 and A1.3 are partial floor plans without layout references. Floor plans for the staff housing were not provided. **[This item was previously requested on May 11, 2018.]**
  - b. Setbacks of structures to property line and any required road right-of-way dedications. [Note: East Middle Avenue frontage includes a future dedication which must remain unimproved and this was not clearly labeled on all sheets for clarity.]
  - c. Indicate length of stay for all spaces. **[This item was previously requested on May 11, 2018. Not provided on plans.]**
  - d. Proposed site improvements and design for the identified “Dump Station” and all related appurtenances. Provide a partial area plan that shows clearly labeled “Dump Station” area on plans and provide elevations or specifications of any associated structures. Neither the Project Description nor Sheet C4.a include details such as how the dump station would function. See also Comment 5. **[This item was previously requested on May 11, 2018. Not provided on plans.]**
  - e. Elevations for all buildings and structures, including propane station, dump station area, water storage tanks, trash area with shed, outdoor recreation areas with pool, and employee lodging buildings. Include details for proposed siding and materials and label height of each structure from final grade. The submitted elevations are incomplete (missing height information and elevations for several structures, and some are partial elevations).
  - f. RV washing area. The updated Project Description describes RV washing at individual sites but this is not shown on the plans and needs to be provided in more detail. Describe the frequency and describe how expected runoff would be managed.
  - g. Provide a lighting plan that clearly shows the location of each type of light fixture and the resulting photometric analysis for lighting levels at each property line. A preliminary lighting plan with proposed exterior lighting details was provided; however, it was not clear as to which lighting levels corresponded with each proposed lighting location on the plans. [This information is needed to assess aesthetic impacts under CEQA.]

- h. Parking, including the following:
  - i. Provide a complete circulation analysis for the largest RVs on site at the 2 access driveways. Please submit an updated on-site circulation plan analyzing the largest vehicles proposed to be on site. Sheet C1 only accounts for a turning radius for a 30-foot truck at the entry. The project description indicates the largest RVs allowed to be upwards of 46 feet. [This information is necessary to determine off-site traffic safety impacts per CEQA.]
  - ii. Time limitation for all parking spaces provided on plans. RV vehicles parked on the property have certain limitations as described in Section 4.20.090.A. Please label any proposed RV parking provided on site. November 4, 2020 response letter only states this will be adhered to but does not provide any specifics. **[This item was previously requested on May 11, 2018. Not provided on plans.]**
  - iii. Evaluation by a licensed traffic professional of parking proposed to determine if it is adequate to avoid off-site parking. Submit a parking table with County Code requirements along with the proposed number of on-site parking stalls. **[This item was previously requested on May 11, 2018, Item 1.h]**

2. Provide a Project Description with the following:

- a. Clearly describe how the project will meet short, medium, and long-term occupancy stays in Zoning Ordinance section 4.10.280(D)(1). Project Description does not indicate how this will be managed or tracked. **[This item was previously requested on May 11, 2018.]**
- b. Amend the traffic assessment prepared by TJKM dated February 4, 2020 to include store deliveries. **[This item was previously requested on May 11, 2018.]**
- c. A dog run area is shown on Sheet C1 – provide a corresponding waste management plan for the dog waste.

LAND DEVELOPMENT ENGINEERING (LDE)

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Contact: Eric Gonzales (Eric.Gonzales@pln.sccgov.org /408-299-5716)

The following information is required to analyze the project’s environmental impacts related to geology and soils, hydrology and water quality:

- 1. **Third request:** Grading for the bio-retention areas brought the project over the exempt limits, requiring a Grading Approval. The Grading Approval was missing a separate table, providing separate cut and fill quantities for each of the proposed improvements and facilities, such as: asphalt parking, store, pool, clubhouse, bio-retention basin, etc. Separate the site grading quantities apart from the building sites. Indicate where the 14,263CY of stripping material come from and how it achieves earthwork balance as stated. This new quantity shall be reflected on the earthwork table. **[This item was previously requested on May 11, 2018.]**

2. **Third request:** Provide earthwork calculations of the earthwork quantities shown on the plans. Provide a separate sheet showing a breakdown of the earthwork calculations. A sample from another project is available upon request. Provide earthwork calculations. The earthwork table on the cover sheet is not the actual calculations. **[This item was previously requested on May 11, 2018.]**

DEPARTMENT OF ENVIRONMENTAL HEALTH (DEH)

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Contact: Darrin Lee (darrin.lee@deh.sccgov.org /408-299-5748)

In order to assess whether or not the project has adequate potable water and wastewater treatment and to properly assess the project's environmental impacts on hydrology and water quality, the following is still needed:

1. Submit an on-site wastewater treatment system (OWTS) design to both DEH and Central Coast Regional Water Quality Control Board (RWQCB) for review and approval. Under Santa Clara County's Local Agency Management Plan (LAMP), an OWTS for a proposed RV park is under the jurisdiction of the Regional Board; however, the County needs complete review of the OWTS design for compliance with OWTS Manual, LAMP and Ordinance. (Note: this will also be needed for commencing environmental review.) **[This item was previously requested on May 11, 2018.]**
  - a. In order to support preparation of the OWTS design, the Applicant must coordinate OWTS feasibility studies/field activities with Santa Clara County Department of Environmental Health (DEH). The feasibility activities may include but are not limited to site assessment, soil profiles, and percolation testing. Based on the results of these activities and project proposal, additional reports such as wet weather groundwater investigations, hydrological report, cumulative impact assessment, groundwater mounding report, and a groundwater nitrate loading report may be required. Review OWTS Manual Part 2 Attachment B for Wet Weather Groundwater Investigation and Attachment E for Guidelines for Cumulative Impact Assessment. DEH review is subject to separate fees and an application.
  - b. Details of the proposed Dump Station must also be provided. Please note that dump stations must be referred to RWQCB for permitting.

Note: OWTS design must include/incorporate wastewater loading from retail food and spa/pool facilities into design.

Note: Contact RWQCB for input on review of the RV washing onsite.

2. The Applicant has indicated using groundwater to satisfy the projects potable and fire protection water needs. Provide information regarding the number of wells, location of wells, and a groundwater analysis of water demand to support the project. This information is needed to evaluate the project's hydrology and water quality impacts under CEQA. **[This item was previously requested on May 11, 2018.]**

## FIRE MARSHAL

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Contact: Alex Goff (alex.goff@pln.sccgov.org /408-299-5763).

1. Show which buildings will have fire sprinklers. All proposed structures will need to have fire sprinklers installed.
2. Provide the calculations for the water tank demonstrating the proposed size is adequate for fire suppression purposes.

## ROADS & AIRPORTS

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Contact: Leo Camacho (Leo.Camacho@rda.sccgov.org /408-573-2464).

1. The Future Width Line (FWL) on E. Middle Ave is 46' half street. Revise project plans to show the FWL.
2. Revise project plans to show acceleration and deceleration lane on E. Middle Ave. designed to provide adequate deceleration distance for RVs. Currently the site plan does not reflect consistency with the recommendation in the Draft Traffic Impact Analysis (TIA) prepared by TJKM dated February 4, 2020. Site plan and TIA report must be consistent.
  - a. It is unclear if proper deceleration and acceleration lanes for large vehicles can be accommodated with the current design of 2 driveway approaches. If any access restrictions will apply to either of the driveways, it should be indicated on the plans.
3. The design vehicle for the truck turning templates should utilize the largest proposed vehicles that will be accessing the site.
4. Most vehicles accessing the site are larger than typical passenger cars, proposed project should identify and recommend feasible routes for RV access to/from major arterials and freeways.
5. Revise project plans to show an adequate left turn lane for WB traffic on E. Middle to enter the site in accordance with Caltrans Highway Design Manual (HDM).
6. Submit a Signal Warrant Study at Monterey Road and E. Middle intersection.
7. Submit a TIA that analyzes Weekend Peak and Peak Hour of Generator conditions.
8. The vehicle counts utilized for the TIA were collected on January 19, 2016, which are out of date. Please contact Planning and Roads and Airports staff to discuss the appropriate methodology and scope and submit an updated TIA.

Resubmittals are made [electronically](#) and must include all requested information along with a completed application form (which is used to track the resubmittal). A meeting with the planner and the land use agencies is required. Once the information is submitted, the Planning Division will distribute the plans, reports and/or information to the appropriate staff or agency for review. If the requested materials are not submitted within **six**

**(6) months of the date of this incomplete letter**, an additional fee is required to continue processing the application. If the requested information is not submitted within **180 days**, you will be required to pay a fee of 10% of the application fee at the time the information is submitted. PARTIAL RESUBMITTALS WILL NOT BE PROCESSED. Fees required at the time of resubmittal will be those in effect at that time.

All requested information must be submitted within 1 year of the date of this letter and will not be accepted after **one year**. If the required materials have not been submitted within **one year** of this incomplete letter, the application will be deemed abandoned, and the application fees will not be refunded.

Per County Zoning Ordinance Section 5.20.080(C), an applicant may appeal an incompleteness determination to the Planning Commission within **15 calendar days** of the date an application is deemed Incomplete through submittal of an appeal application with a statement clearly identifying the grounds for the appeal and payment of fees. The Planning Commission shall render a decision on the appeal within **60 days after the appeal is filed**.

## **SECTION II. RESPONSE TO RUDDEROW LAW GROUP LETTER**

Section II responds to issues raised within Mr. Chapman’s letter, dated October 15, 2020, and submitted as part of the application resubmittal.

### A. Incomplete Issues

The Department of Planning and Development’s (Department’s) practice is to inform applicants of issues that could present challenges to the County’s approval of the application (e.g., General Plan and Zoning inconsistencies) when issuing incomplete letters. This is to ensure that applicants are fully apprised of these issues from the outset. However, because these issues have been identified in prior communications to the applicant, this letter focuses on information that still needs to be provided to make the application complete. Those items are set forth in Section II of this letter.

As the County is the lead agency for this project for purposes of environmental review under the California Environmental Quality Act, Pub. Res. Code § 21000 et seq., the County needs to have sufficient information about the project to fully analyze all potential environmental impacts. For example, even though the County’s wastewater treatment and disposal ordinance identifies that the Regional Water Quality Control Board will issue the facility’s wastewater treatment and disposal permit, information concerning how the system will be designed and operated are necessary for the CEQA analysis. (See 25 Cal. Code Regs. § 1030.) The County also needs to have sufficient information regarding the system to make the findings required to issue a Use Permit pursuant to Zoning Ordinance section 5.65.030.

### B. County Authority Over RV Parks

Government Code Section 65852.7 provides that a county may require a use permit for a “mobilehome park” as that term is defined in Health and Safety Code section 18214, which is:

[A]ny area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative,

condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation.

Thus, for purposes of Government Code Section 65852.7, the County's authority to require a use permit extends to RV parks. This is further supported by the express references to local authority to regulate RVs in Health and Safety Code section 18865(g).

The Department does not agree with Mr. Chapman's assertion that the County's use permit authority under Government Code Section 65852.7 is limited to the items specified in Health and Safety Code section 18865(g). Government Code Section 65852.7 is located in Planning and Zoning Law, Gov't Code § 65000 *et seq.* Therefore, the term "use permit" references the typical meaning given to use permits issued by cities and counties pursuant to their authority under the Planning and Zoning Law. (*See also* Health & Saf. Code § 18501(e); <https://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-parks/park-construction.shtml>.) The Department recognizes that some subjects are preempted by state law.

### C. Employee Residences

Although single-family residences are allowed by right under the County Zoning Ordinance, only one is permitted per legal lot.<sup>1</sup>

The Department does not agree that constructing six separate single-family residences for employee housing falls within the scope of what must be treated as one single-family structure pursuant to Health and Safety Code section 17021.5.

### D. Housing Discrimination

The County needs to have sufficient information about the project to properly assess the project's environmental impacts under CEQA and to determine whether approval of the project meets the use permit findings in the County Zoning Ordinance. Failure to provide this information results in an incomplete application, and suspends the time periods for the County to act on the application. (Govt. Code §§ 65943, 65956(c); 14 Cal. Code Regs. § 15109.) The County's requirement for the applicant to submit a complete application with all of the information needed does not constitute discrimination pursuant to the California Housing Crisis Act (SB 330), Government Code section 12955, or any other state or federal law.

Sincerely,



Valerie Negrete  
Senior Planner

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<sup>1</sup> See County Zoning Ordinance section 2.10.030, which defines a single-family residence as: One dwelling unit on a single lot, completely detached from any other dwelling unit. This classification includes a manufactured home.

cc:

LDE – Eric Gonzales

DEH – Darrin Lee

FMO – Alex Goff

Roads – Leo Camacho

County Counsel – Lizanne Reynolds

Applicant: Chris Chapman (via email only)

John DiVittorio (via email only)