



March 24, 2025

Mark Johnson
J Cyril Johnson Investment Corp.
125 Willow Road
Menlo Park CA 94025

Via e-mail to: mark@acclaimcompanies.com

RE: Major Site Plan and Architectural Review (SPAR)
Deer Creek Apartments 2, City Record Number PLSR-2023-0013
Consistency, Compliance and Conformity Review Letter

Dear Mr. Johnson:

On February 20, 2025, you were informed that your Site Plan and Architectural Review (“SPAR”) (City record number PLSR-2023-0013) application for a housing development project known as Deer Creek Apartments 2, (the Project) located on APN 007-391-005, was deemed complete.

This letter serves as notification from the City of Petaluma (the “City”) that the housing development project *is inconsistent, not in compliance, or not in conformity* with applicable City plans, programs, policies, ordinances, standards, and requirements, per California Government Code Section 65589.5(j)(2)(A) as provided below. Housing developments are of the utmost importance to Petaluma, and we have demonstrated a positive track record of permitting projects that are in full compliance.

- 1. General Plan and Zoning Amendment Applications Required:** As documented in the incomplete application letters dated November 6, 2023, March 4, 2024, July 3, 2024, and October 20, 2024, the land use classification for the project site is “Community Commercial,” and the zoning designation is “C2 (Commercial 2).” The project, as proposed, would include residential dwellings units but no other land uses. Per Implementing Zoning Ordinance (IZO) Table 4.4, dwellings within a residential mixed-use building are allowed if located above a ground floor non-residential use; a project with only dwellings is not a permitted use. To proceed, you may revise your project to provide appropriate ground floor commercial uses with dwellings above the ground floor, or, alternatively, apply for amendments to the General Plan Land Use Map and to Zoning map

MAYOR / ALCALDE

Kevin McDonnell

COUNCILMEMBERS / MIEMBROS DEL CONSEJO

Janice Cader Thompson, Dist. 1
John Shribbs, Dist. 2
Karen Nau, Dist. 3

Frank Quint, Dist. 4
Alex DeCarli, Dist. 5
Brian Barnacle, Dist. 6

to request a land use classification/zoning designation that would support your project as proposed.

If you chose to apply for the amendments, additional application materials are required by the [General Plan Amendment Checklist](#) and the [Specific Plan/Zoning Amendment Checklist](#). Please review the application checklists for each amendment to provide all applicable information/materials and submit the application fee deposits (General Plan map amendment fee deposit is \$7,893.78 and the Zoning map amendment fee deposit is \$8,522.71).

As stated in the letter dated July 3, 2024, from City Attorney Eric Danly, the parcel is not eligible for a “Builders Remedy” pursuant to California Government Code Section 65589.5. Accordingly, this application will need to include an application for a General Plan amendment and Zoning Code amendment.

Alternatively, you may choose to look into the various state laws that have focused on incentivizing the production of new housing in the state and may be eligible for this parcel.

2. **Owner Authorization Required:** The project proposes construction of a roadway and a bridge crossing a Sonoma County Water Agency-owned parcel with APN 136-100-028). Please provide a letter of authorization from the owner of this parcel acknowledging and authorizing this work. Pursuant to IZO Section 24.030.A “If the applicant is someone other than the property owner or the owner’s agent, proof satisfactory to the Director of the applicant’s right to use and possess the property that is subject to the approval sought shall accompany the application.”.
3. **Dedication Required:** In 1995, the City adopted the precise plan line for the Rainier Cross Town Connector and Interchange (Ordinance No.1991 N.C.S.). Per IZO Section 4.050, the developer shall dedicate any necessary right-of-way to the City to the alignment established by plan lines established in Chapter 13.20 of the Petaluma Municipal Code (PMC). As stated in the incomplete application letters dated March 4, 2024, July 3, 2024, and October 20, 2024, to the extent that you are seeking to waive the Rainier Plan Line pursuant to California Government Code Section 65915, the City does not believe it is a development standard as defined in Section 65915(o)(2), and per subsection 65915(j)(2), “the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.” The City maintains that the Rainier Plan Line cannot be waived. Please revise all plans to ensure the project complies with the Rainier Plan Line.
4. **Fire Apparatus Access Roads:** PMC Section 17.20.050 D106.1 mandates that multiple-family residential projects with more than 50 dwelling units must provide two separate and approved fire apparatus access roads.
 - a. **Remoteness:** California Fire Code (CFC) D106.3 Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.



- b. **Secondary Access Road Location:** The secondary access road proposed through the Alternate Means and Methods Request (AMMR) dated September 20, 2024, in the floodplain does not meet the requirements of an "approved" fire apparatus access road due to substantial risks to public safety, first responder safety, and operational reliability.
- c. **Fire Code Compliance:** California Fire Code and California Code of Regulations (Title 19, Division 1, Section 3.05) establish minimum standards for fire access roads, which the proposed floodplain access does not meet. The fire code official has the explicit authority to reject secondary access roads that are impaired by environmental or operational factors, per CFC 503.1.2 and D106.3. The Proposed Secondary Access is Not "Approved" Under Fire Code Requirements.
- d. **Regulatory and Public Safety Justifications:**
 - 1) PMC Section 17.20.050 requires two approved fire apparatus access roads.
 - 2) CFC Section 503.1.2 grants the fire code official the authority to reject fire access roads that are subject to impairment due to climatic, terrain, or congestion-related factors.
 - 3) The floodplain designation inherently compromises the reliability of the road, making it unfit as an approved fire apparatus access route.
- e. **Floodplain Risk:** The Floodplain Location Poses a Foreseeable Risk to First Responders.
 - 1) Flooded conditions make the road impassable to emergency vehicles, violating Title 19, Division 1, Section 3.05, which mandates an "all-weather hard-surfaced right-of-way not less than 20 feet in width."
 - 2) In high-water events, fire apparatus and ambulances cannot traverse submerged roads, delaying or preventing emergency responses.
 - 3) A Roadway Failure Compromises Evacuation and Emergency Response.
 - 4) CFC Section D106.3 requires two independent access points to ensure redundancy in the event of an emergency. A flood-impacted road is unreliable and does not provide the required separation between fire apparatus access points.
 - 5) In a major fire, hazardous material spill, or medical emergency, residents and emergency responders would be left without a viable secondary route, violating the requirement of the fire code's redundancy requirement.
- f. **Fire Access Road and River Trail Construction:** The Road Does Not Meet "All-Weather" Standards Required for Fire Apparatus Roads.
 - 1) Title 19, Division 1, Section 3.05 mandates that all fire access roads be all-weather, hard-surfaced, and at least 20 feet wide.



- 2) Roads located in a designated floodplain are subject to erosion, washout, and standing water, making them unreliable for emergency response in adverse conditions.
 - 3) The stability of the roadway base is questionable under flood conditions, which could lead to a catastrophic failure during a fire response, delaying or preventing access.
- g. **Conclusion and Determination:** Given the foreseeable risks associated with fire access routes located in floodplains, the secondary access road proposed by the applicant does not meet the requirements of an “approved” fire apparatus access road under PMC Section 17.04.020, CFC D106.3, CFC 503.1.2, and Title 19, Division 1, Section 3.05.

The fire code official has the explicit authority to reject fire access roads compromised by climatic, terrain, or traffic-related factors. The use of a floodplain as a secondary fire access road introduces an unacceptable level of risk to both residents and first responders, violating the life safety intent of fire codes. The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access. Additional access roads may be required by the fire code official based on his or her knowledge of traffic patterns, local weather conditions, terrain or the anticipated magnitude of a potential incident.

The applicant must provide an alternative fire access road that is all-weather, compliant with separation requirements, and not subject to flood-related impairment.

5. **Floodplain Standards:** Sheet C2.1 clearly shows the 20-foot elevation line in close proximity to the FEMA FIRM 100-year flood boundary, which is indicated on the FEMA FIRM as having a Base Flood Elevation of 21-feet on the project site and 20 feet well below the Deer Creek corridor. The proposed fire apparatus access road and river trail at Deer Creek, Sheet C2.3 indicates fill for the approach, concrete headwall and the arch culvert to contain and redirect the creek flow. Under this scenario, the apparatus road could interrupt the flow of surface water and redirect it back into the development area. As proposed, the fire access road and river trail location and construction do not comply with IZO Chapter 6.

- a. **IZO Section 6.070.F - Zero Net Fill.** A zero net fill policy covers the area along the Petaluma River west of the freeway, upstream of the Payran Street Bridge and including the area along Willowbrook Creek east of the freeway downstream of Old Redwood Highway (this area known generally as Redwood Business II). In this area, clearance above base 100-year flood elevation for finished floors shall be a minimum of two feet, and zero net fill as defined shall apply to any proposed development activity. The project is located west of the freeway and upstream of Payran Street Bridge. Therefore, it is subject to the zero net fill standard.



Any material brought on to a project site within a flood plain area that would displace flood waters shall be offset by the removal of a like amount of material. This material may be removed from a portion of the project site; or it may be removed from a site in the immediate area where the removal of compensating material from the off-site location can be determined, to the satisfaction of the City Engineer and Sonoma County Water Agency, to result in a reasonable equivalence of hydrology and hydraulics to the situation before the development. For purposes of compliance, one or more individual parcels or an entire reach may demonstrate a “zero net fill” balance.

- b. All grading shall be in full compliance with the regulations within IZO Chapter 6 and no grading should be permitted that redirects existing surface flow adjacent to the River corridor in a manner that increase volume, velocity or flow depth above or below the development site; nor should it, hinder the flow within Deer Creek so as to increase volume, velocity and flow depth upstream of the proposed bridges. Relocation of the emergency vehicle accessway should be undertaken outside of the regulatory floodplain (Zone AE on the FEMA FIRM). Grading on the adjacent parcel to the south should comply with all applicable environmental review and all applicable zoning regulations for floodplain and floodway designated lands.
- c. Note: Even though the proposed buildings are located outside the FP-C, the lowest finished floor should be a minimum of two feet above the nearest Base Flood Elevation of 21 feet.
- d. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations.

In light of the above, the City of Petaluma has determined that the proposed housing development project, as currently designed, is not in compliance with applicable City plans, programs, policies, ordinances, standards, and requirements. To proceed, the City requests that you either revise the project to comply with existing regulations or submit the necessary applications and supporting documentation to address the identified deficiencies.

If you have any questions regarding the information contained in this letter, please contact me at gpowell@cityofpetaluma.org.

Sincerely,



Greg Powell, Principal Planner
M-Group Consulting Planner

Attachments:

Letter-Application Completeness, dated February 20, 2025

Letter-Ranier Plan not Eligible for Density Bonus, dated October 21, 2024





February 20, 2025

Mark Johnson
J Cyril Johnson Investment Corp.
125 Willow Road
Menlo Park CA 94025

Via e-mail to: mark@acclaimcompanies.com

RE: Major Site Plan and Architectural Review (SPAR)
Deer Creek Apartments 2, City Record Number PLSR-2023-0013
Application Completeness Letter

Dear Mr. Johnson:

This letter serves as notification from the City of Petaluma (the “City”) that the application submitted for Site Plan and Architectural Review (“SPAR”) (City record number PLSR-2023-0013) for the proposed project known as “Deer Creek Apartments 2,” located on APN 007-391-005, is complete pursuant to California Government Code Section 65943(b).

On August 8, 2023, the City deemed the SPAR application submitted per Petaluma Implementing Zoning Ordinance (IZO) Section 24.030.C.1.

The submission of a complete SB-330 preliminary application for the same property preceded the submittal of the SPAR application. The application and the submittal’s timing comply with California Government Code Sections 65941.1(d) & 65941.1(e).

Per California’s Permit Streamlining Act [California Government Code Section 65943(a)], the City had until September 7, 2023, 30 days from the application date of August 8, 2023, to determine in writing whether the application was complete and notify the Applicant.

Per California Government Code Section 65943(d), the City and the Applicant mutually agreed to extend the 30-day review period as documented in the enclosed email correspondence dated July 14, 2023. This extension moved the deadline for the City’s completeness determination to November 6, 2023.

MAYOR / ALCALDE

Kevin McDonnell

COUNCILMEMBERS / MIEMBROS DEL CONSEJO

Janice Cader Thompson, Dist. 1
John Shribbs, Dist. 2
Karen Nau, Dist. 3

Frank Quint, Dist. 4
Alex DeCarli, Dist. 5
Brian Barnacle, Dist. 6

Per California Government Code Section 65940, the City reviewed the Application for completeness against the City's SPAR checklist. On November 6, 2023, the City provided the Applicant with a timely initial incomplete application notice, which specified the incomplete parts of the application.

On February 2, 2024, the City received new and revised Application materials and reviewed them for completeness against the City's SPAR checklist. On March 4, 2024, the City notified the Applicant in writing that the Application materials were deemed incomplete.

On June 3, 2024, the City received new and revised Application materials and reviewed them for completeness against the City's SPAR checklist. On July 3, 2024, the City notified the Applicant in writing that the Application materials were deemed incomplete.

On September 20, 2024, the City received new and revised Application materials and reviewed them for completeness against the City's SPAR checklist. On October 20, 2024, the City notified the Applicant in writing that the Application materials were deemed incomplete.

On January 21, 2025, the City received new and revised Application materials, **and on February 20, 2025, found the Application complete pursuant to California Government Code Section 65943(b).** As the City deems the revised Application complete pursuant to California Government Code Section 65943(b), the City will commence a consistency and compliance review in accordance with applicable plans, programs, policies, ordinances, standards, and requirements, per California Government Code Section 65589.5. Within 30 days of deeming the application complete (as required by California Government Code Section 65589.5(j)(2)(A)(i)), the City, if applicable, will provide the Applicant with written documentation identifying any provisions the housing development does not meet, along with an explanation of why it is considered inconsistent, noncompliant, or not in conformity.

As documented in the incomplete application letters dated November 6, 2023, March 4, 2024, July 3, 2024, and October 20, 2024, as well as the letter from Eric Danly dated July 3, 2024, the City maintains that the proposed project is not eligible for a "Builders Remedy" pursuant to California Government Code Section 65589.5. However, the City will continue to process the Application in compliance with Government Code Section 65589.5.

During the review for application completeness, the City identified consistency and compliance issues related to applicable plans, programs, policies, ordinances, standards, and requirements. It may identify additional issues as the review process continues. The General Plan 2025 classifies the site as "Community Commercial," the zoning designation is "C2," indicating that the proposed project would need both a General Plan Land Use Map Amendment and a Zoning Map Amendment. Furthermore, the site plan must consider the adopted precise plan line for the Rainier Cross-Town Connector and Interchange (Ordinance #1991 N.C.S.). Lastly, the proposed second access route within the floodplain is not a feasible option.

California Environmental Quality Act (CEQA)

In previous communications, the City informed the Applicant that an EIR is required to comply with CEQA and that technical studies are necessary to support its preparation. The City will now issue a Request for Proposals (RFP) to obtain a scope of work and cost estimate for the EIR. All



CEQA review costs are fully recovered, and per City policy, consultant fees for EIR preparation must be paid in full before the consultant begins work on the EIR.

Per the City's FY 2024-25 Master Fee Schedule, the applicant is responsible for covering the full consultant fee, a 25% administrative overhead charge, and the actual cost of staff time and materials for the EIR.

If you have any questions regarding the information contained in this letter, please contact me at gpowell@cityofpetaluma.org.

Sincerely,



Greg Powell, Principal Planner
M-Group Consulting Planner

Enclosures: July 4, 2023 - 65943(d) PSA Extension Confirmation



Powell, Greg

From: Mark Johnson <mark@acclaimcompanies.com>
Sent: Friday, July 14, 2023 2:29 PM
To: Powell, Greg
Cc: Gary Johnson; Justine Johnson-Nurnberg; Janusek, Mike; Matthew Visick
Subject: RE: Deer Creek 1_PLSR-2023-0009_559 Apartments: Government Code Section 65943

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---
Greg,

Please allow this communication to confirm our agreement to allow the City of Petaluma additional time to review our two development applications for Deer Creek I and Deer Creek II per the correspondence below.

Regards, Mark j.

Mark Johnson
Managing Director
ACCLAIM COMPANIES
125 Willow Road
Menlo Park, CA 94025
Direct: 650-800-7503
Mobile: 650-906-8970
Email: mark@acclaimcompanies.com
www.acclaimcompanies.com

From: Powell, Greg <GPOWELL@cityofpetaluma.org>
Sent: Friday, July 14, 2023 2:17 PM
To: Mark Johnson <mark@acclaimcompanies.com>
Cc: Gary Johnson <gary@acclaimcompanies.com>; Justine Johnson-Nurnberg <justine@acclaimcompanies.com>; Janusek, Mike <mjanusek@cityofpetaluma.org>
Subject: RE: Deer Creek 1_PLSR-2023-0009_559 Apartments: Government Code Section 65943

Hi Mark,

I appreciate the follow-up question.

The mutually agreed-upon extension allowed by 65943(d) in no way modifies the timeline established by 65941.1(d)(2). In other words, with this extension, the City will have until 9/13 to respond to your application, and under the provisions of SB330, you and your team will have until 12/12/23 to respond.

I hope this helps.

Let me know if you would like to talk. Otherwise, I would like to confirm the 9/13 date by the end of the day today.

Best,
Greg

Greg Powell, Principal Planner

M-Group Consulting Planner
Serving the City of Petaluma
11 English Street, Petaluma, CA 94952
Hours: Monday-Thursday 8am-5pm, closed Fridays

Greg Powell

Principal Planner
City of Petaluma | Planning
GPOWELL@cityofpetaluma.org

Curious about what is happening with the Petaluma Fair and Fairgrounds? [Click to learn more.](#)

From: Mark Johnson <mark@acclaimcompanies.com>

Sent: Friday, July 14, 2023 12:24 PM

To: Powell, Greg <GPOWELL@cityofpetaluma.org>

Cc: Gary Johnson <gary@acclaimcompanies.com>; Justine Johnson-Nurnberg <justine@acclaimcompanies.com>; Janusek, Mike <mjanusek@cityofpetaluma.org>

Subject: RE: Deer Creek 1_PLSR-2023-0009_559 Apartments: Government Code Section 65943

---Warning: Use caution before clicking any attachments. THIS EMAIL IS FROM OUTSIDE OUR EMAIL SYSTEM.---

Hello Greg,

Thank you for the confirmation on the date when we could expect the City's response letter. We just need confirmation that the City agrees with our understanding that the 90-day period in Government Code section 65941.1(d)(2) to provide additional information in response to the letter does not begin to run until we receive the letter. For example, if the City provides a letter on the extended date of September 13th explaining that the application is incomplete, we will have until December 12th to submit the information requested in the letter. If you can confirm the City agrees with our understanding, then we would be willing

to extend the deadline in Government Code 65943(a) by 60 additional days, until September 13th.

Let me know any questions you may have.

Regards, Mark J.

Mark Johnson
Managing Director
ACCLAIM COMPANIES
125 Willow Road
Menlo Park, CA 94025
Direct: 650-800-7503
Mobile: 650-906-8970
Email: mark@acclaimcompanies.com
www.acclaimcompanies.com

From: Powell, Greg <GPOWELL@cityofpetaluma.org>
Sent: Wednesday, July 12, 2023 3:59 PM
To: Mark Johnson <mark@acclaimcompanies.com>
Cc: Gary Johnson <gary@acclaimcompanies.com>; Justine Johnson-Nurnberg <justine@acclaimcompanies.com>; Janusek, Mike <mjanusek@cityofpetaluma.org>
Subject: FW: Deer Creek 1_PLSR-2023-0009_559 Apartments: Government Code Section 65943

Hi Mark,

I hope you are doing well.

Following up with you to confirm if you received the e-mail sent Tuesday + ask if you can provide a timeline for a response.

Thank you!

Greg

Greg Powell, Principal Planner
M-Group Consulting Planner
Serving the City of Petaluma
11 English Street, Petaluma, CA 94952
Hours: Monday-Thursday 8am-5pm, closed Fridays

Greg Powell

Principal Planner
City of Petaluma | Planning
GPOWELL@cityofpetaluma.org

Curious about what is happening with the Petaluma Fair and Fairgrounds? [Click to learn more](#).

From: Powell, Greg <GPOWELL@cityofpetaluma.org>

Sent: Tuesday, July 11, 2023 4:59 PM

To: Mark Johnson <mark@acclaimcompanies.com>

Cc: Gary Johnson <gary@acclaimcompanies.com>; Justine Johnson-Nurnberg <justine@acclaimcompanies.com>; Janusek, Mike <mjanusek@cityofpetaluma.org>

Subject: Deer Creek 1_PLSR-2023-0009_559 Apartments: Government Code Section 65943

Hi Mark,

This e-mail is a follow-up to our conversation today regarding the date that the City will provide a written response to your SPAR application that was deemed submitted on 6/15/2023.

Per California Government Code Section 65943(a), the City would have until 7/15 (30 days after the application date of 6/15), to provide a written response to your application. During our meeting today, we discussed an extension of 60 days to this time limit.

Per California Government Code Section 65943(d), an applicant and a City may mutually agree to an extension of the time limit. With this e-mail, I am confirming with you that the City will provide a written response to your application by 9/13/23.

Please respond to this e-mail to indicate you agree with this extension.

Let me know if you have any questions or comments.

Thank you!

Greg

Greg Powell, Principal Planner

M-Group Consulting Planner
Serving the City of Petaluma
11 English Street, Petaluma, CA 94952
Hours: Monday-Thursday 8am-5pm, closed Fridays

Greg Powell

Principal Planner

City of Petaluma | Planning

GPOWELL@cityofpetaluma.org



CLIMATE
READY
Petaluma 2030



Curious about what is happening with the
Petaluma Fair and Fairgrounds? [Click to learn
more.](#)

CITY OF PETALUMA, CALIFORNIA

MEMORANDUM

City Attorney's Office, 11 English Street, Petaluma, CA 94952
(707) 778-4362 E-mail: cityatty@ci.petaluma.ca.us

DATE: October 21, 2024

TO: Planning Staff

FROM: Eric Danly, City Attorney
Dylan Brady, Assistant City Attorney

SUBJECT: Whether the Ranier Plan Ordinance is Eligible for a Concession/Incentive or Waiver under the Density Bonus Law?

I. The Ranier Plan Line is not a Waivable Pursuant to the Density Bonus Law

a. The Ranier Plan Line is not a "Development Standard"

The City cannot grant a proposed request to waive the Ranier Plan Line for the Deer Creek I and Deer Creek II parcels because the Density Bonus Law, as outlined in Govt. Code Section 65915 specifically authorizes waiving only "development standards." The term "development standard," as defined in the in subsection (o)(2), includes criteria such as height limitations, setback requirements, floor area ratios, and onsite open-space requirements. These examples are all generally applicable development standards and differ significantly from a plan line, which is a site-specific designation. Also, the Ranier Plan Line pertains to the City's circulation rather than development aspects. This distinction is further supported by the fact that Ordinance No. 1991 N.C.S., which established the Ranier Plan Line, was not codified as part of the City's Zoning Code. Moreover, the Density Bonus Law explicitly states that "the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards" (Govt. Code Section 65915(j)(2)). As the Ranier Plan Line is not a development standard, the City cannot waive this requirement and the applicant must comply with it.

b. City Staff Cannot Invalidate the Ranier Precision Plan Line Ordinance

Furthermore, it is beyond the authority of City staff to waive the Ranier Plan Line on Deer Creek II as proposed, as doing so would essentially render the existing ordinance void. Granting a waiver exclusively for Deer Creek I and Deer Creek II would effectively abolish the entire Plan Line and negate the ordinance. This course of action would present a logistical impasse, as constructing a road on the surrounding parcels while omitting Deer Creek II would be counterproductive and contradictory to the original intent behind the adoption of the Ranier Plan Ordinance by the City Council. It's important to note that only the City Council possesses the authority to repeal a valid and still effective ordinance; thus, staff cannot grant such a waiver and invalidate the ordinance. (*Whitmore v. City of Eureka* (1972) 29 Cal.App.3d 28, 32)

To: Planning Staff
Re: Ranier Plan Line Eligibility for a Density Bonus Waiver
Date: October 21, 2024
Page 2

c. Removing the Ranier Plan Line would Result in Specific Adverse Impacts to Health and Safety

Even if the Ranier Plan Line were considered a Development Standard, the City is compelled to deny the waiver under Govt. Code Section 65915(e)(1). This subsection empowers local governments to reject proposed waivers of development standards if such waivers would result in specific, adverse impacts on health or safety, without any feasible means of satisfactory mitigation or avoidance. As previously explained, granting a waiver of the Ranier Plan Line solely for Deer Creek I and Deer Creek II would invalidate the entire Ranier Plan and effectively nullify the entire ordinance. The specific health and safety impacts warranting denial stem from the absence of the proposed road, leading to increased traffic in Petaluma. This would result in delayed emergency response times, limitations on potential evacuation routes, and heightened risks of traffic accidents.

Additionally, the environmental harms associated with increased traffic, such as noise pollution, greater fuel consumption leading to carbon dioxide emissions, and the emission of particulate matter—a leading cause of climate change—further emphasize the importance of preserving the proposed road.

Moreover, when the City Council enacted Ordinance No. 1991 N.C.S. to establish the Ranier Precise Plan, it was obligated under Petaluma Municipal Code Section 13.20.080 to make findings that the Ranier Plan Line was crucial for "public peace, safety, comfort, convenience, interest, and welfare." Therefore, granting a waiver would not only invalidate the Ranier Plan Line but also contradict the health and safety findings made by the Council when the ordinance was enacted.