



Lynn C. Atkinson  
May 13, 1986  
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maps and a one and one-half page Staff Report. The Staff Report states, inter alia:

Residential proposals involve 37 zero lot line single-family units along the north and east property lines as a buffer between proposed multi-family and existing single family along Burlwood Lane and Belinda Drive. Multi-family would involve 126 units through the center of the property, and 32,500 sq. ft. of office development would be located along Hanford-Armona Rd. A total of 163 residential units is proposed as compared to 150 permitted by density regulations, after subtracting the area proposed for office development (PO). The application proposes a density bonus of 13 units, which is equal to an 8.66% density bonus.

In addition, by telephone you have advised that Councilmember Wyckoff is the one residing immediately adjacent to the proposed project. The Councilmember residing across Burlwood (173 ft. away from the project) is Mr. McKee. The lots along the south side of Burlwood are approximately 12,000 sq. ft., whereas the adjacent zero lot line lots in the proposal are approximately 4,500 sq. ft., a substantial increase in density.

#### ANALYSIS

The Political Reform Act (the "Act")<sup>1/</sup> requires that public officials disqualify themselves from making, participating in making, or using their official positions to influence the making of any governmental decision in which they know or have reason to know they have a financial interest. Section 87100. A financial interest in a decision exists when the reasonably foreseeable effects of the decision will be material on certain economic interests and will be distinguishable from the decision's effects on the public generally. Those economic interests include, inter alia, any real property in which the official has an interest of \$1,000 or more. Section 87103.

Here both councilmembers own interests in real property worth more than \$1,000. Consequently, the issues to be resolved are whether the effects upon their real property will be material and distinguishable from the effects upon the public generally. The guideline for determining materiality is

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

contained in regulation 2 Cal. Adm. Code Section 18702, as follows:

(a) The financial effect of a governmental decision on a financial interest of a public official is material if the decision will have a significant effect on the business entity, real property or source of income in question.

(b) In determining whether it is reasonably foreseeable that the effects of a governmental decision will be significant within the meaning of the general standard set forth in paragraph (a), consideration should be given to the following factors:

\* \* \*

(2) Whether, in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will be to increase or decrease:

\* \* \*

(B) The fair market value of the property by the lesser of:

1. Ten thousand dollars (\$10,000); or

2. One half of one percent if the effect is one thousand dollars (\$1,000) or more.

2 Cal. Adm. Code Section 18702(a),  
(b)(2)(B).

Under this standard, if the value of the councilmembers' property will change by \$1,000 or more (up or down) disqualification may be required. The exact amount of change requiring disqualification will depend upon the current fair market value of their properties, which has not been provided to us. However, unless their properties exceed \$200,000 in value, the \$1,000 threshold will apply.

The next issue is whether the effect upon their properties will be distinguishable from the effect upon the public generally. If it is not distinguishable then they are not

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disqualified. Regulation 2 Cal. Adm. Code Section 18703 is helpful in this regard.

A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public. Except as provided herein, an industry, trade or profession does not constitute a significant segment of the general public.

\* \* \*

2 Cal. Adm. Code Section 18703.

As can be seen from the regulation, the question is whether the effects on the councilmembers' properties (if material) will be substantially similar in manner to the effects upon the properties of a significant segment of the general public in the jurisdiction (i.e., the City of Lemoore). You have indicated that the City of Lemoore has a population of approximately 12,000 residents composed of 4,576 households, of which 2,692 are single-family homes. Approximately 50% of Lemoore's residents live in housing units in the area north of Cinnamon Drive.

Single family homeowners are a significant segment of the public (see, Owen Opinion, 2 FPPC Opinions 77, No. 76-005, June 2, 1976, copy enclosed). However, the issue here remains how many homeowners' properties will be affected in "substantially the same manner" as the councilmembers' properties. (See, Legan Opinion, 9 FPPC Opinions 1, No. 85-001, August 20, 1985, copy enclosed.) Generally, those whose properties are situated in close proximity to a development will be affected to a greater degree than those whose properties are situated more distantly. However, even more distant properties may be affected in "substantially the same manner" as the properties in close proximity. (See, Owen Opinion, supra.) For instance, if the major economic effect of the proposed project will be to affect the housing market generally in all of Lemoore by driving prices down, or up, the councilmembers' properties would be affected in substantially the same manner as other homeowners, wherever situated. On the other hand, if the effects of the project will be more localized, due to density, noise, visual intrusion, traffic, etc., then the circumstances will be reversed and the effect

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upon their properties would be distinguishable from the effects upon the public generally.

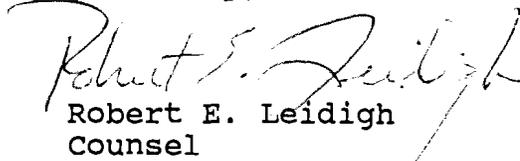
Even so, if all of the homeowners in the area to the north of Cinnamon Drive will be affected in substantially the same manner as the councilmembers, under these facts that would seem to constitute a significant segment of the public generally and disqualification would not be required.

#### CONCLUSION

We have not been provided with sufficiently detailed facts to render specific advice; however, generally, Councilmember Wyckoff's property, situated directly adjacent to the large project would appear to be affected materially and in a manner which is not substantially similar to a significant segment of the public. However, you are in the best position to judge the specific facts in Lemoore and they may lead to a different conclusion. Councilmember McKee's property does not abut on the project. It is screened from the project by the property across the street and is removed by several lots from the increased traffic which will occur on Beverly Drive. The effects upon his property from such a large and dense development nearby are quite probably material, but are more likely to be similar in both kind and degree to those on other property owners in the vicinity. Ultimately, it is a factual question whether the effects upon Mr. McKee's property are shared by a sufficiently large group of other homeowners to constitute a significant segment of Lemoore's general public, as discussed in the Legan Opinion, supra.

Should you have any questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

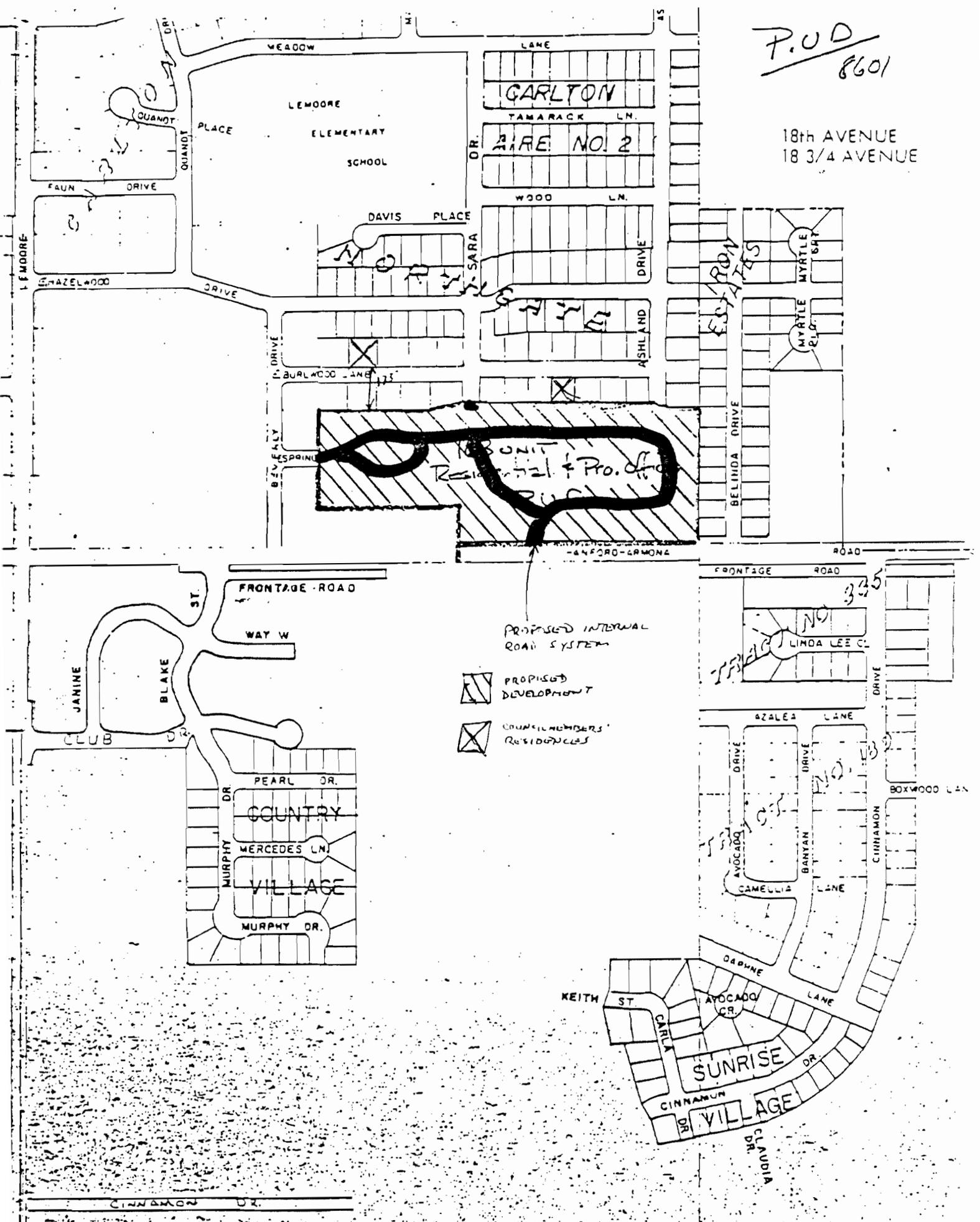


Robert E. Leidigh  
Counsel  
Legal Division

REL:plh  
Enclosure

P.U.D.  
8601

18th AVENUE  
18 3/4 AVENUE



PROPOSED INTERNAL ROAD SYSTEM

-  PROPOSED DEVELOPMENT
-  COUNCIL MEMBERS' RESIDENCES

MEADOW LANE  
 LEMOORE ELEMENTARY SCHOOL  
 TAMARACK LN.  
 WOOD LN.  
 ASHLAND DRIVE

PROPOSED DEVELOPMENT  
 UNIT  
 Residential & Pro. Dev.

FRONTAGE ROAD  
 335  
 LINDA LEE CL.

AZALEA LANE  
 AVOCADO DRIVE  
 BANYAN DRIVE  
 CAMELLIA LANE  
 BOXWOOD LANE

KEITH ST  
 CARLA DRIVE  
 AVOCADO CR.  
 SUNRISE VILLAGE  
 CINNAMON DRIVE  
 CLAUDIA DRIVE

JANINE CLUB DR.  
 BLAKE WAY W  
 PEARL DR.  
 COUNTRY VILLAGE  
 MERCEDES LN.  
 MURPHY DR.  
 CINNAMON DR.





Lemoore City Planning Commission Staff Report

PLANNED UNIT DEVELOPMENT NO. 8601

March 10, 1986

PROJECT DESCRIPTION

The applicant, I.C.M., Inc., proposes to develop a combination residential and office complex on a 15.0 acre site located along the north side of Hanford-Armona Road east of Beverly Drive. Five acres along Hanford-Armona Rd. is designated High Density by the General Plan and the remainder is Low-Medium Density. Under policies established by the City in late 1982, and through subsequent extensions granted to provide more time to achieve an approved PUD, the applicant is required to have a specific PUD application heard by the Planning Commission no later than March 10, 1986. If this deadline is not met or if an application is disapproved within this time, General Plan policy for the five acres of High Density changes to Medium Density, with RM-2.5 zoning.

Residential proposals involve 37 zero lot line single-family units along the north and east property lines as a buffer between proposed multi-family and existing single-family along Burlwood Lane and Belinda Drive. Multi-family would involve 126 units through the center of the property, and 32,500 sq. ft. of office development would be located along Hanford-Armona Rd. A total of 163 residential units is proposed as compared to 150 permitted by density regulations, after subtracting the area proposed for office development (PO). The application proposes a density bonus of 13 units, which is equal to an 8.66% density bonus.

Internal circulation is proposed by a system of connected drives, with principal access from a divided entrance from Hanford-Armona Rd. Secondary access would be from Spring Lane and Beverly Drive on the west. Access to the office area would be from the rear along a drive which shares access to multi-family. Dedications and improvements along Hanford-Armona Rd. would be to City standards for a four lane Arterial street. An emergency vehicle lane would connect with Sara Drive, along with pedestrian access.

Two off-street parking spaces are provided for each single-family dwelling. Two off-street parking spaces are provided for each M-F dwelling. However, only four covered spaces are provided for each four unit complex, with the remaining four spaces located within off-street parking lots or as parallel spaces along the street system, at scattered locations. Parking for offices is provided

PUD # 8601, cont.

at a ratio of one space for every 382 sq. ft. of gross floor area which is approximately 150% of that required by ordinance.

Common landscaped open space is provided at 31% of net site area for the 2-story M-F area (all M-F is two-story). Common recreation area would account for 11% of net site area. Landscaped open space for the office development is substantial.

The project would be developed in four phases, from west to east. Phase 1 would be dependant on access from the extension of Spring Lane, which connects with Beverly Drive a short distance to the west providing access to Hanford-Armona Rd.

All street improvements are proposed to City standards. The section of the Dockstader Ditch which traverses the property on a diagonal would be piped underground.

OFFICE OF THE CITY ATTORNEY  
CITY OF LEMOORE  
237 C STREET - P. O. BOX 219  
LEMOORE, CALIFORNIA 93240  
TELEPHONE (209) 924-5376

APR 14 3 01 PM '86

April 10, 1986

Fair Political Practices Commission  
428 "J" Street, Suite 800  
Sacramento, California 95814

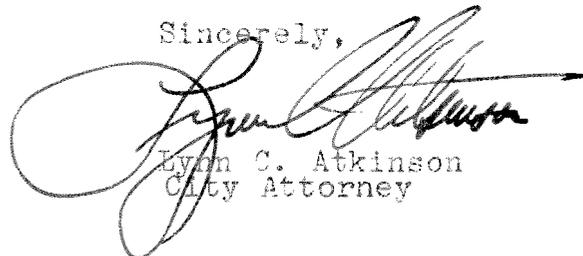
re: Request for Advice Letter--Conflict of Interest

The City Council will be considering the approval of a 48 lot subdivision conforming to the site design and use arrangements proposed under a Planned Unit Development. The 15.0 acre site is located as shown on the copy of the attached map. Two councilmembers reside on Burlwood Lane north of the proposed development as indicated on the map. Despite the proximity of their residences to the proposed project I conclude that a decision on the development by these councilmembers would not have a material financial affect on the councilmembers' properties, inasmuch as single family dwellings will abut the existing single family development wherein the councilmembers reside, there will be no vehicular access from the project to the councilmembers' neighborhood and the proposed development is in conformance with the present zoning.

However, I would appreciate your written opinion as to the eligibility of the councilmembers participation in this decision under these circumstances.

Additional information on the project is contained in the enclosed copy of the City's staff report to the Planning Commission. It is anticipated that the Planning Commission will hear this matter at its meeting set for May 5, 1986, and then the matter will be submitted to the Council for its automatic review.

Sincerely,

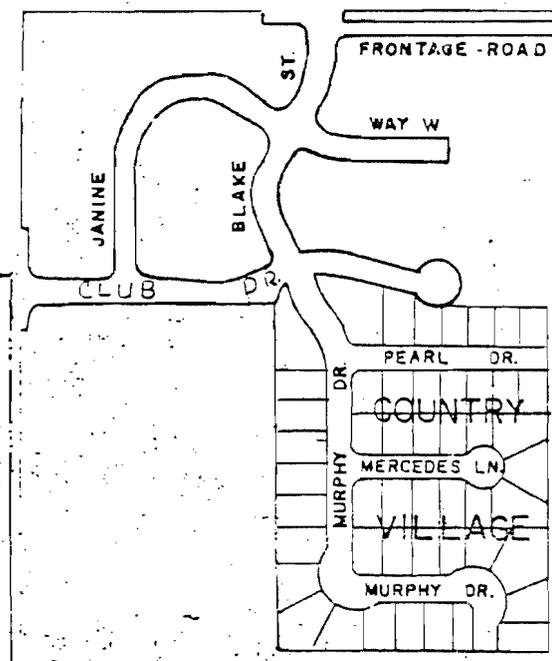
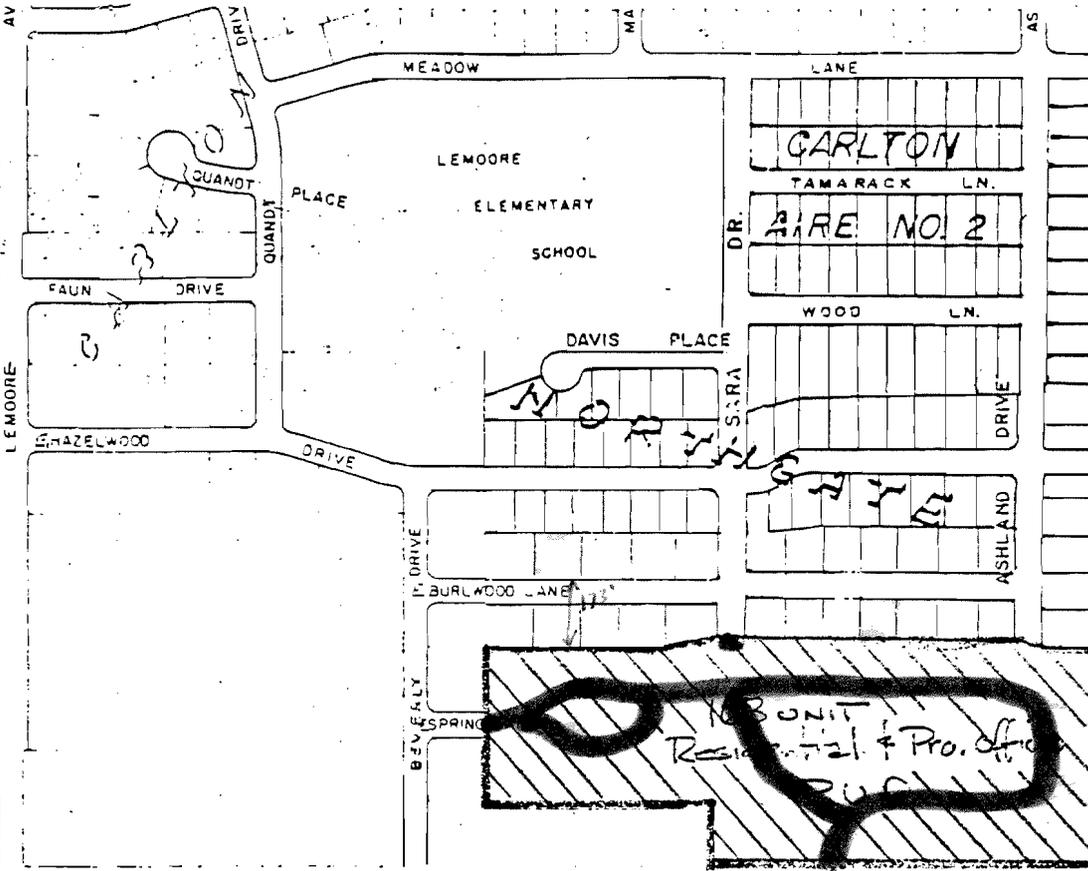


Lynn C. Atkinson  
City Attorney

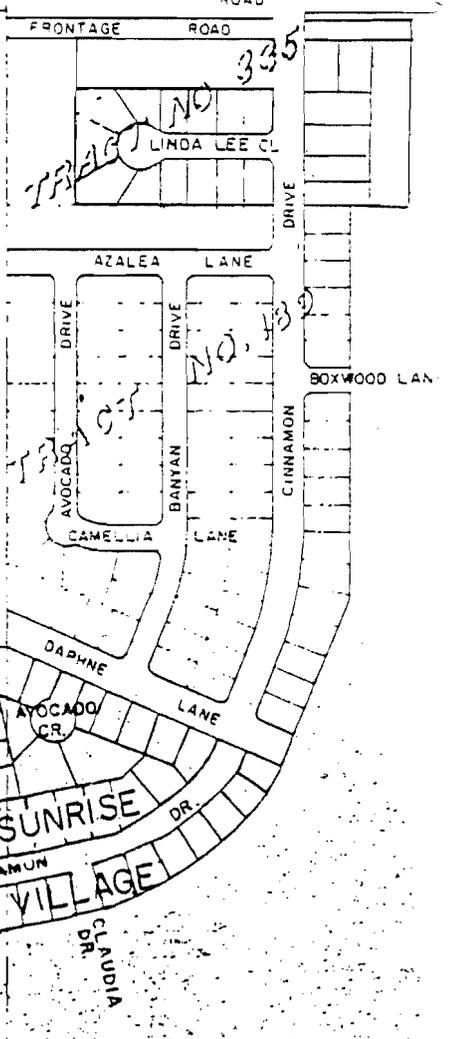
LCA:vl  
Enclosure

P.O.D  
8601

18th AVENUE  
18 3/4 AVENUE



- PROPOSED 1/2 MILE ROAD SYSTEM
- PROPOSED DEVELOPMENT
  - UNAPPROVED DEVELOPMENTS



CINNAMON DR.





## Lemoore City Planning Commission Staff Report

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# California Fair Political Practices Commission

April 17, 1986

Lynn C. Atkinson  
City Attorney  
P.O. Box 219  
Lemoore, CA 93245

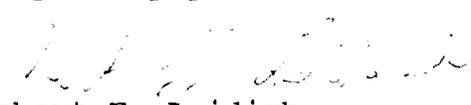
Re: 86-118

Dear Mr. Atkinson:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:plh