

**December 1, 2025**

**Dear Members & Friends of “Protect the Covenant”,**

**RSFA Board President, David Gamboa, recently released a “Silvergate FAQ” sheet in which the Rancho Santa Fe Association attempted to answer several questions of concern asked by Association members regarding the proposed Silvergate development. Mr. Gamboa’s letter, and the 21 different questions addressed follow immediately below.**

**Following each question and Association response are comments from “Protect the Covenant”, which attempt to speak to both the intent of the question and the veracity of the Association’s responses – many of which were found to be either incomplete, some relying on governing document language taken out of context, or simply incorrect. In some cases, particularly regarding the requirement for the timing of Annexation of Silvergate’s two non-Covenant parcels, there is clear disagreement between the interpretation of the Association’s governing documents by the RSFA Staff and Board, and by Protect the Covenant. In these cases, language from the RSFA Protective Covenant, and sections of other Association governing documents, are provided in full context so that Members may make their own interpretations regarding the intentions of the Covenant’s founders.**

**Mr. Gamboa’s and the Association’s responses were generally silent on questions which would later be addressed by planners at the County level . . . should the Silvergate project make it that far. However, we believe answers to these questions are important for the Membership to have answered, so Protect the Covenant recently retained a planning expert who has worked on hundreds of development projects in San Diego County to help us all better understand the planning concerns, requirements and restrictions at the County of San Diego level. Our consultant’s responses are provided to several of the County level planning questions posed below.**

**Sincerely,**

**Your Neighbors at Protect the Covenant**

## **Letter from President Gamboa:**

### **Silvergate FAQs**

Dear Members –

The Association is aware of the significant concern and speculation surrounding the proposed Silvergate development. We understand the community's interest in preserving the character of the Covenant, and we want to be transparent and accurate about the facts.

Many questions and frustrations we've heard relate to decisions that will be made by the County of San Diego, not the Rancho Santa Fe Association. While the Association has its own Governing Documents and architectural review processes, we do not control County zoning decisions, flood zones, traffic infrastructure, noise regulations, or environmental approvals. Those are entirely under the County's jurisdiction.

This FAQ is designed to answer your questions with transparency and clarity, and to distinguish between what the Association can and cannot do. Our goal is to keep members informed with the information they need to participate in this ongoing process.

Sincerely,  
David Gamboa  
RSFA Board President”

## **1. What is the process for the review of the Silvergate project and what is the current status?**

The Silvergate project is currently at the Story Pole portion of the Conceptual Review phase of the Art Jury review. At this phase, the Art Jury reviews the story poles onsite to determine appropriateness of the proposed bulk and massing. The Art Jury's next review will occur at their regularly scheduled meeting on Tuesday, October 28, 2025. Should the Art Jury determine the bulk and mass are acceptable, the project would get advanced to the Plan Review and Final Review phases to analyze details such as Landscaping and Lighting. If the Art Jury requests changes to the design, the project would remain in the Conceptual Review phase and would return for additional comments.

If the project receives Art Jury approval at the Final Review phase, they would provide a recommendation to approve the design to the Board of Directors. Because final project approval is contingent upon all parcels comprising the subject property being within the Association's jurisdiction, the project cannot be approved unless and until the Applicant successfully completes and obtains approval of an annexation of the two external parcels. If determined acceptable, the Art Jury would provide their recommendation on the annexation to the Board of Directors, which includes details on the proposed construction on the parcels. The Board of Directors would then conduct an open meeting to review and consider approval of the Commercial, Multi-Residential project and annexation alongside the Art Jury's recommendation, as required by the Bylaws. If approved, the annexation can be challenged via a Bylaw provision allowing for a petition and subsequent vote of the membership. If the membership vote fails, the project is not approved.

See flowchart of the Annexation Process [here](#).

### **Protect the Covenant's Comments:**

Rancho Santa Fe's Protective Covenant requires that non-covenant property be Annexed, to provide both the RSFA BOD and Art Jury to have jurisdictional authority, prior to the Art Jury's consideration of a project on that property. The requirement is detailed in the Protective Covenant in three places and is also addressed in the RSFA Amended and Restated Articles of Incorporation, relevant passages from each follow below:

## **“Rancho Santa Fe Protective Covenant**

**“Paragraph 171. Section 5. Annexation of Additional Property. If at any time the owner or owners under deed or under a contract to purchase lands contiguous and/or adjacent, and/or within reasonable distance of said property shall agree to hold, sell and convey such land subject to restrictions, conditions, covenants, reservations, liens, or charges set forth in a covenant executed by such owner or owners and approved in writing by the Association and the Art Jury, and thereafter recorded in the office of said County Recorder, the Association and the Art Jury shall then and thereafter have power to do and perform any and all of the acts, to fix, impose and collect charges, assessments and dues from the owners of said land as therein provided and to grant said owners membership in the Association as therein agreed to; provided, however, that the Art Jury shall be given full jurisdiction over all lands and property which the Association may at any time have jurisdiction.”**

(See also Declaration No.2 of Establishment par 231. Section 12 and Declaration No.3 of Establishment par 259. Section 12).

## **Rancho Santa Fe Association Amended and Restated Articles of Incorporation**

VII. Any other provisions of these Articles or the Bylaws of the Corporation to the contrary notwithstanding, **the Association shall not approve or enter into any covenant or other written instrument for the purpose of making any lands of property subject to the provisions of the Rancho Santa Fe Protective Covenant, or the jurisdiction of the Association, except in compliance with the provisions of this Article.** For the purposes of this Article, any such action by the Board may be referred to as an “annexation.”

(For ease of reference this language from our Governing documents will be so referred to.)

**Had the Board and the Art Jury followed the dictates of the Protective Covenant and Articles of Incorporation as required, the question of Annexation, which provides the Jurisdictional authority for the RSFA Board and Art Jury to act on the Silvergate project, would have been determined prior to the Art Jury ever considering the project.**

## **2. Is the project in violation of the San Dieguito Community Plan and the County of San Diego General Plan?**

This is outside the jurisdiction of the Association. The San Dieguito Community Plan and General Plan are documents published and enforced by the County of San Diego. The Rancho Santa Fe Association is a homeowners' association that employs its own Governing Documents separate from the County.

### **Protect the Covenant's Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The County of San Diego General Plan (GP) and the County of San Diego Zoning Ordinance (ZO) regulate development throughout the unincorporated area of San Diego County. The GP includes elements such as Land Use, Mobility, Conservation, Safety, Noise and Environmental Justice which include policies that development projects must adhere to through General Plan Conformance review as part of discretionary permit processing.

The County of San Diego recognizes the inherent conflict of placing high-density projects in rural or semi-rural communities.

### **County of San Diego Housing Update**

#### **3.3 SEMI-RURAL AND RURAL LANDS ISSUES**

Improving housing affordability in Semi-Rural and Rural Lands is a challenge because high-density housing is not compatible with the character in these locations. Semi-Rural and Rural areas often contain existing environmental resources, they are farther from regional job centers, and may not be served by public infrastructure, all of which limit their ability to accommodate additional growth. To maintain the semi-rural character and pattern of development in these communities, residential growth is directed away from Rural and remote areas with minimal public services to areas where higher density and a less rural character is consistent with the existing pattern of development and the availability of public services.

**It appears that the proposed project violates multiple GP policies across multiple elements. Examples include:**

- **LU-1.2 Leapfrog Development.** Prohibit leapfrog development which is inconsistent with the Community Development Model. Leapfrog Development restrictions do not apply to new villages that are designed to be consistent with the Community Development Model, that provide necessary services and facilities, and that are designed to meet the LEED-Neighborhood Development Certification or an equivalent. For purposes of this policy, leapfrog development is defined as Village densities located away from established Villages or outside established water and sewer service boundaries. [See applicable community plan for possible relevant policies.]
- **LU-5.3 Rural Land Preservation.** Ensure the preservation of existing open space and rural areas (e.g., forested areas, agricultural lands, wildlife habitat and corridors, wetlands, watersheds, and groundwater recharge areas) when permitting development under the Rural and Semi-Rural Land Use Designations.
- **LU-7.1 Agricultural Land Development.** Protect agricultural lands with lower-density land use designations that support continued agricultural operations.
- **COS-3.1 Wetland Protection.** Require development to preserve existing natural wetland areas and associated transitional riparian and upland buffers and retain opportunities for enhancement.
- **COS-3.2 Protect wetlands,** including vernal pools, from a variety of discharges and activities, such as dredging or adding fill material, exposure to pollutants such as nutrients, hydromodification, land and vegetation clearing, and the introduction of invasive species.
- **COS-5.1 Impact to Floodways and Floodplains.** Restrict development in floodways and floodplains in accordance with policies in the Flood Hazards section of the Safety Element. Development in floodways and floodplains has the potential to alter natural hydrologic flow and cause soil erosion and increased stormwater runoff—including loss of wetland and health issues related to surface and groundwater contamination.

- COS-5.5 Impacts of Development to Water Quality. Require development projects to avoid impacts to the water quality in local reservoirs, groundwater resources, and recharge areas, watersheds, and other local water sources.
- COS-6.2 Requiring development to minimize potential conflicts with adjacent agricultural operations through the incorporation of adequate buffers, setbacks, and project design measures to protect surrounding agriculture.
- S-2.7 Evacuation Access. All development proposals are required to identify evacuation routes at the Community Plan level and identify and facilitate the establishment of new routes needed to ensure effective evacuation. Evacuation routes should be incorporated into existing Community Wildfire Protection Plans where available.
- S-9.1 Landslide Risks. Direct development away from areas with high landslide, mudslide, or rockfall potential when engineering solutions have been determined by the County to be infeasible.
- S-9.2 Risk of Slope Instability. Prohibit development from causing or contributing to slope instability.
- S-9.3 Evacuation Route Risk. Identify and propose mitigation actions for evacuation routes located in close proximity to active or potential landslide zones.
- S-10.3 Development in Floodplains. Limit development in designated floodplains to decrease the potential for property damage and loss of life from flooding and to avoid the need for engineered channels, channel improvements, and other flood control facilities. Require development to conform to federal flood-proofing standards and siting criteria to prevent flow obstruction

### **3. Why doesn't either the Board or the Art Jury simply deny the project right now?**

California law is clear that the Association must fairly apply its Governing Documents to all Members. The applicant is an Owner and is entitled to a full and fair review of its application. Per the Rancho Santa Fe Bylaws Article IV, Sections b and c, any approval given by the Board of Directors for any sub-division, realignment, variance, commercial or multiple residential structure, keeping of animals, or modification of Local Protective Restrictions of the Rancho Santa Fe Protective Covenant shall not be valid unless and until the Board shall have first, in addition to any Member approval that may be required by the Rancho Santa Fe Protective Covenant, (i) received the written advice of the Rancho Santa Fe Art Jury thereon, and (ii) had a hearing thereon at which Members shall have the right to speak.

#### **Protect the Covenant's Comments:**

Since 2003, at least 3 densification projects have been proposed for the 28.5 Acres on Calzada, and all 3 were rejected by the RSFA Board or Art Jury. As an example, in the fall of 2013, David Petree, the President and CEO of Silvergate, made a presentation to the RSFA Board on behalf of the Mabee heirs and AmeriCare, the parent company of Silvergate. It is indicated in the minutes of that board meeting the project was "a joint venture between Golden Eagle Management (a Mabee family company) and AmeriCare Health and Retirement. Mr. Petree initially proposed a 28-acre step-down housing project of 120 units that the RSFA Board ultimately rejected due to its excessive size and density, with the Board stating that, "this is not the type of development the community was looking for." (see RSFA Board mtg minutes, paragraph 15, dated Oct 3, 2013)

**If smaller 120 unit and 55+ unit projects, proposed by multiple developers, to include the current developer, can be rejected out-of-hand by the RSFA Board of Directors over the past 22 years, how does it make any sense that a 178 unit project, with even greater bulk, mass, height and density is tracking toward Art Jury approval now?**

#### **4. Why doesn't the project have to be confined to 2.86 acres per dwelling as regulated in Chapter 60.0706 Minimum Lot Size Areas Established?**

Chapter 60 of the Regulatory Code delineates minimum lot size and not dwelling units per acre. As such, the minimum lot size for the Silvergate project would be 2.86 acres. However, since the Class Use Designation for the property is C and L, under Class C, multiple residential units are permissible on each lot.

#### **Protect the Covenant's Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The County of San Diego GP has assigned a density of semi-rural 2 (SR-2) which allows for 1 dwelling unit per every 2 acres. The SR designations are slope dependent and density is reduced depending on the amount of slopes on a site. The minimum lot size further restricts development at 1 dwelling unit per every 2.86 acres.

However, in 2019, in an effort to accommodate senior housing, the zoning ordinance was amended to state the following:

#### **1265 GROUP RESIDENTIAL.**

The Group Residential use type refers to the residential occupancy of living units by persons who do not live together as a single housekeeping unit but have a common kitchen facility. Typical uses include occupancy of sorority houses, retirement homes or boarding houses. If in addition to the common kitchen facility, any living unit includes a separate kitchen, that living unit shall be counted as a dwelling unit in calculating density pursuant to Section 4115, unless the Group Residential use is restricted to occupancy by seniors through a mechanism approved by the Director of Planning & Development Services. Living units restricted by a grant deed for seniors may include a separate kitchen and shall not be counted as a dwelling unit in calculating density pursuant to Section 4115.

Any other use would be required to meet the 1 dwelling unit per 2.86 acres or the processing of a General Plan amendment.

**5. The County indicates the Silvergate lots are designated Rural Residential. Why isn't the Association enforcing those density restrictions?**

The Rancho Santa Fe Association zoning review and approval processes are separate and distinct from the County. All County requirements will need to be addressed when the applicant submits their plans to the County for review.

**Protect the Covenant's Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The County of San Diego Zoning Ordinance states the rural residential zone intent as the following:

**2180 INTENT.**

The provisions of Section 2180 through 2189, inclusive, shall be known as the RR Rural Residential Use Regulations. The RR Use Regulations are intended to create and enhance residential areas where agricultural use compatible with a dominant, permanent residential use is desired. Typically, the RR Use Regulations would be applied to rural or semi-rural areas where urban levels of service are not available and where large lots are desired. Various applications of the RR Use Regulations with appropriate development designators can create buffers between residential and agricultural uses, family or small farm areas, or large lot rural residential developments.

**The County does consider existing zoning, the intent and surrounding land uses when processing discretionary permits.**

## 6. Will Rancho Santa Fe lose its historic designation if this project is approved?

The Rancho Santa Fe Association does not have a historical register. Any impacts to historic designation would need to be addressed with the County of San Diego.

### **Protect the Covenant's comments:**

The Association's incorrect and incomplete response to this question reflects a lack of deep understanding of Rancho Santa Fe's designation as a Historic Planned Community and the protections this designation conveys.

### **Pursuant to the State's website, Rancho Santa Fe is a Historic Planned Community and was registered on 2/17/1989.**

[Conversely, Protect the Covenant is deeply appreciative of the vision of prior Rancho Santa Fe Boards' vision to seek out this special recognition from the State of California, and their persistence in the achievement of the final registration.](https://ohp.parks.ca.gov>ListedResources/Detail/982</a></p></div><div data-bbox=)

The California Office of Historic Preservation (OHP) administers federal and state mandated historic preservation programs to further the identification, evaluation, registration, and protection of California's irreplaceable resources.

### **SD County 5718 CRITERIA FOR SITE PLANS AND OTHER APPLICATIONS.**

The general criterion for review of site plans or other concurrent applications is that the **construction, alteration, demolition, or relocation of any building or structure or earth movement shall enhance to the maximum extent feasible, and not interfere with, detract from or degrade the historic, cultural, architectural or archaeological resource values of the designated landmark or district.** In applying this general criterion, the following specific criteria shall be evaluated when they are applicable.

- a. Compatibility of Use. The use proposed for a building, structure, or parcel of land shall be compatible with the uses predominating in the designated area.
- b. Compatibility of Design. All development demolitions, relocations, conversions, or other alterations occurring on designated landmark or district landmark properties shall be in keeping with the architectural

style and scale characterizing the period of history in which the structure was built, including the landscaping features, and/or the archaeological features which caused the property to be so designated as a district or landmark. Restoration efforts shall be in keeping with details, materials, textures, colors, and landscape features common to the period of history when the designated landmark or district was constructed. Where necessary, alternative building regulations shall be applied pursuant to part 8 of title 24 of the California Administrative Code, entitled "The Historic Building Code." The Secretary of the Interior's Standards for Historic Preservation Projects shall be the basis for historic design review.

## **7. Doesn't the historic designation of Rancho Santa Fe prevent these types of developments?**

The Association's governing documents do not regulate historical resources. Any prohibitions or considerations regarding historic designation are addressed at the County level during their project review.

### **Protect the Covenant's comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The County of San Diego Cultural Specialists will review and analyze any potential impacts of the proposed project. Furthermore, The Historic Site Board (HSB) is an advisory board to the decision makers of the County of San Diego. The HSB reviews historic resources (including archaeological resources) for landmarking, participation in the Mills Act, and conformance with the Secretary of Interior Standards.

(<https://www.sandiegocounty.gov/content/sdc/pds/4Historic/main.html>)

Perhaps the Membership would be better served if President Gamboa, the RSFA Board, Art Jury and Staff asked themselves:

- As a registered historic planned community, wouldn't it be wiser for the Association to consult with the State and County prior to making a recommendation on this project?
- Is the Ranch building department losing credibility by recommending projects that do not conform to State historic designation requirements and County standards?

## **8. Do Article II and Paragraph 46 grant the Art Jury the authority to simply reject this project?**

As a design review committee, the Art Jury must follow the established procedures and conduct a proper review in adherence with the governing documents and the community standards. If the Art Jury's decision is based on bias against a particular group or owner, or if its decision is deemed to be arbitrary or capricious, the Association could be exposed to legal action and potential reversal of the decision by a court. Such an outcome could undermine the Association's land use authority and expose it to attorney's fees and other liabilities.

### **Protect the Covenant's Comments:**

Had the Association and Art Jury followed established, required procedures this project would never have passed staff review.

Smaller, less dense projects of 120 units and 55 units were both rejected after being fairly reviewed, the former by the RSFA Board of Directors and the latter by the Art Jury, as being excessively dense for the geographical location of Silvergate's four parcels and found to be out of character with "community standards" a little over a decade ago. The entire "block" where the proposed Silvergate project would be situated is zoned C and L. Every large property located within that block are either equestrian, including the historic Osuna Ranch, agricultural or open space. The only residential exceptions within this block are a sub-division of seven homes, which border the Silvergate properties, and a single-family residence bordering Osuna Ranch. All these residential properties are located on lots of over 2.86 acres per dwelling unit, per county and RSFA requirements.

A 178-unit rental property, which would exist as its own gated "community" within the community of RSF, to include multiple supporting commercial activities located on site, in no way comports with the Covenant's "community standards" and would be especially out of place in the rural, equestrian and agriculturally focused area of Rancho Santa Fe for which it is proposed.

## **9. What authority does the Board and the Association have over preventing traffic congestion in the Covenant?**

Most roadways throughout the Covenant are within the County Right-of-Way and are under the authority of the County. However, the Association maintains a positive relationship with the County and communicates concerns regarding traffic issues and safety.

### **Protect the Covenant's Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The County of San Diego traffic engineers will review the project conformance with SB743 in determining project impacts and mitigation measures. Mitigation measures may include road widening, intersection improvements and other improvements that may require eminent domain of surrounding parcels.

<https://www.sandiegocounty.gov/content/sdc/pds/SB743.html>

## **10. Did the Board alter the Class Use Designation of the property from "C and L" to "C"?**

On February 11, 2025, the Board unanimously voted to approve a resolution determining that the Class Use C designation currently ascribed to the subject property allows for the uses proposed by the applicant. The subject property remains classified under both C and L Class Use Designations as provided for in the original Covenant Acceptance Agreement. The Board Resolution did not alter the designations but rather clarified that Class C was appropriate for the proposed scope based on the project's characteristics. The rationale was detailed in the Resolution, available [here](#).

### **Protect the Covenant's Comments:**

When the RSFA Board adopted Resolution 2025-102, it declared the Silvergate project "meets Class C zoning use" requirements and directed the Art Jury to review it as a Class C residential project. However, two of the four parcels, remain unannexed and zoned as Rural Residential (SR-2) by the County. This leaves both the Board and the Art Jury in a compromised position as they are making zoning judgments on parcels of land over which neither have jurisdiction.

## **11. Did the Board disregard the L designation?**

The Board recognizes the property as having both C and L Class Use designations. Here, when a property has two Class Use designations, it means the property can legally be used for activities allowed under either of those classifications. It does not create a mandate to use both simultaneously. Since the subject property currently holds C and L Class Use designation, it can be used as either a Class Use C property or a Class Use L property. In addition, the subject property can be used for both Class Use C and L purposes. It should be noted that there are a number of other properties in the Covenant that have multiple Class Use designations and there has never been a requirement that projects contain elements under each Class Use. This is consistent with municipal zoning regulations as well.

### **Protect the Covenant's Comments:**

The C and L Class Use designations are problematic for this project because the L designation is commercial, whereas a logical reading of C is that it is intended as residential, except for properties within the commercial core in the Village.

## **12. Has the Association undertaken any impact studies, including land use, traffic, hydrology/floodplain, wildfire evacuation, utilities, environmental review?**

The Rancho Santa Fe Association does not regulate traffic, hydrology, wildfire evacuations, utilities or environmental impacts. As for all projects, the community relies upon the County for review and enforcement of these restrictions under their rules and regulations. The Association does not have authority over County land-use decisions.

### **Protect the Covenant's Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant.**

The HOA should not be setting precedence by “approving” a project of this size and density until it has been thoroughly analyzed by the County or at least HOA planners and CEQA specialists. The impact from this proposed project directly affects the surrounding community and those impacts should be publicly disclosed, reviewed and commented on prior to a project decision. The HOA should defer its decision until at least one County project iteration has been made public.

### **13. Why isn't the Board making legal opinions available to the membership?**

The legal opinions provided by Association counsel represent privileged information. The Board has a fiduciary duty to the entire membership. There is currently the threat of legal action being brought by a group of members regarding this project. By sharing opinions, attorney-client privilege could potentially be waived and put the Association at legal risk from multiple parties. The Board voted on a Resolution that includes the rationale detailing the appropriateness of the subject property's class use designation relative to the proposed use. The Resolution is available [here](#).

#### **Protect the Covenant's comments:**

For more than 2 years the Board met in private session regarding matters that were not privileged nor confidential. There was no legal action pending or threatened, and no legal action has been brought to date. While the Davis Stirling Open Meeting Act provides for an HOA board to meet in closed session to consider matters pertaining to pending or threatened litigation, it specifically does not allow for a board to meet in closed session when considering general, business-related legal issues and opinions, such as those regarding the proper determinations of land usage.

Prior to the adoption of Resolution 2025-102 on February 11, 2025, when the board determined the “appropriate land class” use for the proposed Silvergate project, there were no prior open meeting discussions regarding how the board arrived at the conclusions contained within the Resolution on which it intended to vote, nor were there any attorney work products, other than the Resolution itself, provided to Covenant members for review or consideration prior to the board vote on the Resolution.

As a matter of fact and record, the only “public” conversation held by the RSFA Board regarding the appropriate land class use for the Silvergate project, the largest development project ever considered for Rancho Santa Fe, occurred during that Special Board Meeting of February 11<sup>th</sup> of 2025 and lasted a total of less than 12 minutes.

This very brief sequence of events begs the question; how many hours did members of the board - or the board in its entirety – spend in closed session with staff and attorneys developing the rationale used in the Board’s attempt to justify the land use class designated in Resolution 2025-102?

**It is clear from the brevity of the Special Board meeting of February 12<sup>th</sup>, 2025, and the perfunctory conduct of the board during that meeting – which lacked any cross conversation or debate between board members, that the conclusion of the fate of Resolution 2025-102 was pre-determined during the numerous, behind closed doors discussions held prior to the meeting, which was in clear violation of the Davis Stirling Open Meeting Act.**

**14. Can this process start with a member vote before continuing through the Art Jury and Board reviews?**

No. The Governing Documents do not provide for membership vote at this stage of the review process. The Board cannot impose different procedural processes than provided for in the Governing Documents. As described in the Rancho Santa Fe Association Bylaws (Article IV, Section 6), the Art Jury provides the Board with written advice prior to Board review. Since the application includes annexation of two non-covenant parcels, should a written petition signed by 100 members be received within 30 days following Board approval, the matter would be subject to a vote of the membership at that point. Please note that this is a complicated project that has not reached the Board-review stage. If other aspects of the project trigger special approval or review requirements, they will be addressed appropriately.

**Protect the Covenant Comments:**

The response above is factually incorrect. The Protective Covenant requires that non-covenant property be Annexed, so that both the RSFA BOD and Art Jury have jurisdiction over the property, prior to the consideration of a project on the property. This requirement is detailed in the Protective Covenant in three places and is also addressed in the RSFA Amended and Restated Articles of Incorporation, relevant passages. (See language from our Governing documents excerpts in our response to Question # 1 above.)

If the Board and the Art Jury had followed the requirements of the Protective Covenant as written, the question of Annexation, which would provide the required jurisdictional authority for the RSFA Board and Art Jury to act on the Silvergate project, would have been determined prior to the Art Jury ever considering the project.

The bottom line; if the Board had implemented the Annexation process as required and in correct sequence, i.e. BEFORE the Art Jury took the project under consideration, it would have provided Covenant Membership an opportunity to vote on whether or not this project is appropriate in its proposed location.

**NOTE: For the sake of brevity, the next two questions (15 & 16) are answered together.**

**15. Why isn't the Association making the Applicant annex the two external parcels before it goes before the Art Jury?**

There is no rule or regulation that requires an applicant to submit for an annexation before consideration of a project. The project is currently under the design review stage. Review of the design is predicated on the applicant's assertion that they intend to annex the two external parcels associated with the project. As part of the annexation process, the Art Jury determines any conditions required for approval of the annexation. In the past, the Art Jury conditions of approval have included design changes required to ensure properties being accepted into the Covenant achieve an appropriate aesthetic standard. Paragraph 171, Section 5 of the Protective Covenant states, is "...the Art Jury shall be given full jurisdiction over all lands and property over which the Association may at any time have jurisdiction."

**16. Can the Art Jury review the project when there are parcels that have not been annexed to the Covenant yet?**

Yes. There is nothing in the Governing Documents that prevents the Association from reviewing a project where part or all of the subject property has not been annexed yet. It is not uncommon for the Art Jury to review improvements on a Building Site (and require design modifications) as a condition of annexation. The majority of the land upon which Silvergate is proposed is already subject to the Governing Documents, but as discussed above, the final approval of the project is contingent on successfully annexing the remaining parcels into the Association.

**Protect the Covenant Comments to Questions 15 and 16:**

The answers provided above by the Association are false and the last sentence in response to question # 15 is taken out of context. The Protective Covenant requires that non-covenant property be Annexed, so that both the RSFA BOD and Art Jury have jurisdiction over the property, prior to the consideration of a project on any property. The requirement is detailed in the Protective Covenant in three places and is also addressed in the Rancho Santa Fe Association's Amended and Restated Articles of Incorporation. (See language from our Governing documents excerpts contained in our response to Question # 1 above.)

**If the Board and the Art Jury had followed the requirements of the Protective Covenant as specified, the question of Annexation, which would have provided the required Jurisdictional authority for the RSFA Board and Art Jury to act on the Silvergate project, would have been determined prior to the Art Jury ever considering the project, and whether it is appropriate, in its proposed location, for Rancho Santa Fe.**

It should be noted that there have been instances of the Art Jury considering properties preceding a vote for annexation. Most of these cases pertained to pre-existing homes and structures on properties within or adjoining the boundaries of the Covenant of Rancho Santa Fe, who's owners requested guidance from the Art Jury regarding what changes were required for their structure(s), landscaping or property, to make their property acceptable for annexation. A number of these cases occurred following the Association's commitment to install a fiber optic communications system through the Ranch.

Those exceptions aside, **never has the Art Jury taken on a project the size, density and complexity of Silvergate under consideration at the inception of the planning process, over which it did not have full jurisdictional authority.** Should the end of the planning process arrive, and Silvergate leadership decides they don't want to put the two non-Covenant pieces of property up for annexation, will Silvergate then reimburse the Association for all of the staff time and materials expended for what would become an aborted planning project?

**There is no justification for the Board and Art Jury's continuing violation of our Governing documents at present or going forward.**

If our Governing documents need to be amended, then let the Board propose the amendment(s) to the membership for a vote. Otherwise, both the Board and the Art Jury and the RSFA staff, are bound to follow our Governing documents as written.

## **17. Would the development impact the dark sky environment of Rancho Santa Fe?**

The project is subject to the Art Jury's design review as well as Association regulations, which require the project to maintain the "dark sky" standard of the community as defined in Chapter 14, Exterior Lighting Regulation.

### **Protect the Covenant Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

Dark skies and light impact will be thoroughly reviewed by the County in accordance with the dark skies ordinance. Light pollution is very possible with a project of this size.

[https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/Dark\\_Skies\\_Guidelines](https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/Dark_Skies_Guidelines)

## **18. Would the Silvergate facility introduce noise pollution to the area?**

The Rancho Santa Fe Association does not regulate noise pollution. The community relies on the County for review and enforcement of noise pollution.

### **Protect the Covenant Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

Noise impacts will be thoroughly analyzed by the County as part of the CEQA review. The noise impact sources may include construction trucks, grading, road traffic, machinery, drilling, construction, ongoing noise generated from site post construction. In addition, noise is addressed in our Regulations as nuisance.

**19. Why is this project able to be built within a designated flood zone area?**

The Rancho Santa Fe Association does not designate or regulate construction in flood zone areas. The community would need to rely upon the County or other appropriate agencies for review and enforcement of flood zone area restrictions.

**Protect the Covenant Comments: Commentary and details provided by Protect the Covenant's San Diego County planning consultant**

The county flood control district will review and analyze impacts to the flood plain, the surrounding properties and water quality. If any modification to the floodplain or floodway is proposed, it is possible that a LOMR/CLOMR will be required to be processed by the Army Core of Engineers.

<https://www.sdcfcd.org>

**20. Silvergate proposes that 5% of the Covenant's population will live on less than 0.5% of the property in the Covenant. Why is the Board allowing for this level of density?**

At present, the application is undergoing the design review process with the Art Jury. Here, the proposed project density may fluctuate as a result. Under the Protective Covenant, a Class Use C designation allows for up to 50% lot coverage of the subject property. Under its current design iteration, the applicant proposes approximately 23% lot coverage.

**Protect the Covenant's Response:**

Density does not equate to lot coverage. The Rancho Santa Fe website indicates the Ranch has a population of 4,300 residents spread across its 10 square miles of real estate, which equates to 430 residents per square mile. Before it added the 20 “memory care” units earlier this summer, Silvergate’s website indicated, as it still does, that about 200 residents will live there. Figuring one additional person per 20 new Memory Care units, brings Silvergate’s total population to about 220 residents who’ll ultimately live within the confines of Silvergate’s 28.6 acres or .049 square miles, which yields a population density of 4,906 residents per square mile. This equates to a density of over 11 times the average density of the entirety of the Rancho Santa Fe community.

**Irrespective of what the Art Jury is inclined to allow as “a percentage of lot coverage”, the fact remains that Silvergate’s population, excluding a robust staff, will account for at least 5% of the total population of Rancho Santa Fe living on the corner of the busiest intersection in the Ranch.**

**21. Do Silvergate residents qualify for access to the Golf Club, Tennis Club or Association amenities?**

No. As proposed, Silvergate residents would not be Building Site Owners, and thus would not qualify for membership in Association clubs. As tenants, they would be entitled access to most other Association amenities, the same as any other non-owner resident. For individual Clubs, some residents may maintain Former Resident status, which may be subject to change.

**Protect the Covenant Response:**

While Silvergate leadership speaks about the plethora of senior Covenant Members of the Ranch who are eligible, some purported to be almost standing in line, to live at their rental community for seniors, until such time as individuals put money down and have a contract with Silvergate, nothing is assured.

**At the end of the day, if this project is ever ready for occupancy, those who show up with checkbook in hand will get priority. Money, not any allegiance to Covenant members, will talk. Finally, repeating the RSFA response above, “none of Silvergate’s residents would be Building Site Owners and thus would not qualify for membership in Association clubs”.**