LANDWATCH
MONTEREY COUNTY

October 21, 2026

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1441 Schilling Place South, 2nd Floor
Salinas, CA 93901

Via email: spencerc@countyofmonterey.gov

Re: Charolais Ranch Subdivision Project Draft EIR (PLN050692; SCH# 2022080684) — Water Supply and Groundwater

Dear Mr. Spencer:

LandWatch Monterey County submits the following comments on the Charolais Ranch Subdivision Project Draft EIR ("DEIR" or "EIR"). The project is inconsistent with the 1982 General Plan, so the County cannot make the findings required to approve the vesting tentative map. (Gov. Code, §§ 66473.5, 66474, subds. (a)–(b).) The DEIR also fails as an informational document in several respects and must be revised and recirculated before the County acts on the project. (Cal. Code Regs., tit. 14, § 15088.5 ("CEQA Guidelines" or "Guidelines").) Page citations in this letter without another source refer to the DEIR.

Water Supply

1. **The County cannot find the project consistent with applicable 1982 General Plan ("GP") Policies that bar pumping in excess of safe yield**

The Langley Area Subbasin is in overdraft of about 300 AFY. (DEIR, pp. 4.8-3, 4.8-14, 4.13-13.) The EIR admits that the project would reduce net groundwater recharge by 6.11 AFY[1].(DEIR, pp. 4.8-14, 4.8-22; see DEIR App. G Tables 7, 8, 9 [water balance].) The EIR concedes that the efficacy of mitigation measures HYD-2(a) and HYD-2(b) for this significant impact is uncertain (DEIR, pp. 4.8-19 to 4.8-21), and it concludes that the impact remains significant "due to the known condition of historic overdraft of the underlying groundwater basin and the uncertainty of groundwater supply availability due to the nature of the basin itself and its lack of study . . ." (DEIR, p. 4.8-15.) Thus, the EIR finds the project's recharge impact significant and unavoidable. (DEIR, p. 4.8-15.)

[1] The contention that the site would still have net positive recharge is irrelevant, because what matters is that the project would reduce that recharge by 6.11 AFY and would thus aggravate the overdraft condition. (See DEIR, pp. 4.8-14, 4.9-8.)

The EIR also finds that the project's conflict with the Groundwater Sustainability Plan would be significant and unavoidable, again due to the "known condition of historic overdraft of the underlying groundwater basin and the uncertainty of groundwater supply availability due to the nature of the basin itself and its lack of study." (DEIR, p. 4.8-21.)

Because the project would deepen the overdraft of an already overdrafted subbasin, the County cannot find it consistent with the following policies:

> **GP Policy 6.1.1.** "Increased use of groundwater shall be carefully managed, especially in areas known to have ground water overdrafting." (DEIR, p. 4.13-7.)
>
> **GP Policy 53.1.3.** "The County shall not allow water consuming development in areas which do not have proven adequate water supplies." (DEIR, pp. 4.9-10, 4.13-7.)
>
> **GP Policy 26.1.4.3.** "A standard tentative subdivision map and/or vesting tentative and/or Preliminary Project Review Subdivision map application for either a standard or minor subdivision shall not be approved until:
>
> > 1) The applicant provides evidence of an assured long-term water supply in terms of yield and quality for all lots which are to be created through subdivision. A recommendation on the water supply shall be made to the decision-making body by the County's Health Officer and the General Manager of the Water Resources Agency, or their respective designees.
> >
> > 2) The applicant provides proof that the water supply to serve the lots meets both the water quality and quantity standards as set forth in Title 22 of the California Code of Regulations, and Chapters 15.04 and 15.08 of the Monterey County Code subject to the review and recommendation by the County's Health Officer to the decision-making body." (DEIR, pp. 4.9-4, 4.9-10.)

These policies cannot be interpreted to permit development that increases an existing overdraft condition, yet the EIR treats the supply as assured as long as the project can keep pumping for 50 years, regardless of the admitted continuing 6.11 AFY impact on overdraft conditions in the subbasin.[2](See DEIR, pp. 4.9-7, 4.9-10, 4.13-13.)

The County denied the Heritage Oaks project, also located in the Langley Subbasin, for lack of a water supply in light of overdraft conditions, and the Superior Court upheld the denial. (Heritage Oaks, LLC v. County of Monterey, Monterey County Superior Court Case No. M109417, Order After Submission, Dec. 5, 2013.) The County and the court relied on the fact that the subbasin is in overdraft and the definition of "long term water supply (safe yield)" in the Monterey County Code:

[2] The fact that the net recharge would remain positive is irrelevant. The impact is the 6.11 AFY reduction in recharge.

"19.02.143 - Long term water supply (safe yield).

> Safe yield is the amount of water that can be extracted continuously from the basin or hydrologic sub-area without degrading water quality, or damaging the economical extraction of water, or producing unmitigable adverse environmental impacts."

The court rejected the relevance of the absolute amount of water in storage because what matters is the continuing decline in storage due to continuing overdraft, that is, pumping in excess of safe yield. The EIR makes the same error, characterizing the project's extraction as "a fraction (0.38 percent) of the groundwater in storage" beneath the site. (DEIR, p. 4.8-14.) The court also rejected the argument that the project would increase on-site recharge because there was substantial evidence to the contrary. Here, the record is stronger: the EIR itself admits that the project will reduce recharge. And while the EIR proposes mitigation, principally detention basins, it does not quantify the benefit of such facilities (DEIR, p. 4.8-14 ["the amount of recharge that will be achieved by the proposed retention basins is unknown"]) and admits that this mitigation is so uncertain that the recharge impact would remain significant and unavoidable. (DEIR, pp. 4.8-15, 4.8-19 to 4.8-21.)

In short, the EIR offers no evidence of how much recharge, if any, the detention basins would produce, or that any added on-site recharge would be a net gain to the subbasin rather than a relocation of recharge that already occurs downgradient. (See Comment 5.)

The Court of Appeal upheld the trial court decision. (Heritage Oaks, LLC v. County of Monterey, Sixth District Court of Appeal, H040682, Sep. 22, 2015, non-published opinion.) It identified the General Plan policies that the County found would be violated, including:

> GP Goal 53 — to promote adequate water service for all county needs
>
> GP Objective 53.1 — to achieve a sustained level of adequate water services
>
> GP Policy 53.1.3 — "The County shall not allow water consuming development in areas which do not have proven adequate water supplies."
>
> North County Area Plan Policy 6.1.4 — "New development shall be phased until a safe long-term yield of water supply can be demonstrated and maintained. Development levels that generate water demand exceeding safe yields of local aquifers shall only be allowed once additional water supplies are secured."
>
> North County Area Plan Policy 26.1.4.3 — "A subdivision map application shall not be approved until:
>
> > 1) The applicant provides evidence of an assured long term water supply in terms of yield and quality for all lots which are to be created through subdivision.

2) The applicant provides proof of an assured long term water supply in terms of yield and quality for all lots which are to be created through subdivision."

Although unpublished, the Heritage Oaks decision is powerful evidence of the County's interpretation of its 1982 General Plan policies.

Similarly, the County denied the map and entitlements for another North County subdivision, PLN080185 (Jehovah's Witnesses South Spanish Congregation), upholding an appeal challenging the lack of a sustainable water supply in an overdrafted basin. (County of Monterey, Signed Board Report, March 17, 2009, available at https://monterey.legistar.com/View.ashx?M=F&ID=2392787&GUID=4BDB2B5A-B114-4A05-A497-DBB9F5D040EE.)

In sum, under the County's own long-standing interpretation of these policies, the County cannot find this project consistent with the 1982 General Plan.

2. **The EIR does not analyze water rights, and the project lacks a secure right to appropriated groundwater.**

The EIR fails to evaluate the project's right to use groundwater.

The water would come from the Pajaro Sunny Mesa Community Services District (PSMCSD), a water supplier that appropriates groundwater to serve domestic users. (DEIR, pp. 2-6, 4.8-14; App. M.)

California water rights law bars new appropriation where a groundwater basin lacks a surplus. Appropriators are only entitled to divert and use water that is in "surplus" of the needs of all the overlying users in the basin. *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224, 1241. Surplus water is that quantity of groundwater in excess of the water needed to meet the present and future needs of all overlying users. *City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 291–293. If there is no surplus water within the groundwater basin, there is no water available for either existing or new appropriations. (*Corona Foothill Lemon Co. v. Lillibridge* (1937) 8 Cal.2d 522, 530–531.)

Generally, there is no surplus water available in an overdrafted or declining basin for present or for planned future appropriative uses. *(Phelan Piñon Hills Community Services Dist. v. California Water Service Co.* (2020) 58 Cal.App.5th 241, 267–270 & fn. 23; Wat. Code, § 10735, subd. (a) [defining long-term overdraft].) In *City of Santa Maria*, *supra*, 211 Cal.App.4th at 291–293, the court held that, on the commencement of overdraft, no surplus water is available for appropriation: "Overdraft commences whenever extractions increase, or the withdrawable maximum decreases, or both, to the point where the surplus ends. Thus, on the commencement of overdraft there is no surplus available for the acquisition or enlargement of appropriative rights." (Quoting *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 277–278.)

Here, there is no surplus water in the Langley Subbasin because, as the EIR admits, it is in overdraft. Because the subbasin has no surplus, PSMCSD's pumping to serve the project would rest on a junior appropriative claim that would be subject to curtailment in any adjudication. A supply that depends on such a claim is not an "assured long-term water supply" under Policy 26.1.4.3. At a minimum, the project lacks a legally secure water supply.

3. **The EIR is inadequate because it fails to identify alternative water supplies.**

CEQA requires that where the planned water supply is uncertain, the EIR identify alternative water supplies and assess their environmental impacts:

> "Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies." *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 432.

Because the project lacks secure groundwater rights and because, as planned, it is inconsistent with General Plan policies, its water supply is at best uncertain. The supply is also uncertain because it is contingent on a discretionary LAFCO annexation that the applicant will not pursue until after tentative map approval. (DEIR, pp. 2-6, 4.13-1.)

The EIR is inadequate because, despite the uncertainty of the proposed water supply, it fails to discuss alternative water supplies and their impacts.

4. **The cumulative analysis of water supply impacts does not meet CEQA's requirements because it relies on the impermissible ratio theory.**

In cumulative analysis, the relevant question is not whether the project's impact is relatively small, but whether it is a considerable contribution *in light of the severity of cumulative conditions*. (*Communities for a Better Environment v. California Resources Agency* ("*CBE v. CRA*") (2002) 103 Cal.App.4th 98, 120 ["the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant"], disapproved on another ground in *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.) Thus, an EIR may not conclude a cumulative impact is insignificant merely because the project's individual contribution to an unacceptable existing condition is relatively small. (*Kings County Farm Bureau v. City of Hanford* ("*Kings County*") (1990) 221 Cal.App.3d 692, 720 [rejecting ratio theory]; *Los Angeles Unified School Dist. v. City of Los Angeles* ("*LAUSD*") (1997) 58 Cal.App.4th 1019, 1025–1026.) Even an "individually minor" impact may nevertheless be "cumulatively considerable." (*CBE v. CRA*, *supra*, 103 Cal.App.4th at 120; *see also* Guidelines, §§ 15355(b), 15065(a)(3); *LAUSD*, *supra*, 58 Cal.App.4th at 1024–25.)

Here the EIR admits that there is a significant cumulative impact from cumulative development pressure on the aquifer. (DEIR, p. 4.8-22.) The question is whether the EIR correctly concludes that the project's reduction in recharge is not a considerable contribution to an admittedly significant cumulative impact.

First, if the non-cumulative impact is significant, that impact *must* constitute a considerable contribution to an admittedly significant cumulative impact. It would turn cumulative impact analysis on its head to find that a project's impact is *by itself* significant but somehow does not even meet the threshold for an "individually minor" contribution to a significant cumulative impact. Because the EIR admits the non-cumulative impact is by itself significant, it cannot support a finding that this impact is not a considerable contribution to an admittedly significant cumulative impact.

Second, the cumulative analysis relies on the legally impermissible "ratio theory." Here, the project would cause a 6.11 AFY reduction in net recharge to an overdrafted aquifer. The EIR dismisses this as less than cumulatively considerable because it is a small fraction of the Langley sustainable yield of 800 AFY. (DEIR, p. 4.8-22.) Dismissing that contribution because it is small relative to total yield is precisely the ratio theory *Kings County* rejected. (*Kings County*, *supra*, 221 Cal.App.3d at p. 720.) Furthermore, even if the ratio theory were permissible, the EIR uses the wrong baseline. Measured against the relevant baseline, i.e., the 300 AFY overdraft that constitutes the significant cumulative impact, the project would add about 2 percent to the annual deficit.

5. **The cumulative analysis of water supply impacts does not meet CEQA's requirements because it relies on admittedly uncertain mitigation**

First, the analysis assumes a proposed detention basin for on-site recharge required by mitigation measure HYD-2(a) would reduce cumulative effects to a level that is not cumulatively considerable by increasing groundwater recharge and, together with HYD-2(b), decreasing total project water demand (DEIR, p. 4.8-22). However, the EIR admits in its non-cumulative analysis that, "due to the known condition of historic overdraft of the underlying groundwater basin and the uncertainty of groundwater supply availability due to the nature of the basin itself and its lack of study," mitigation measure HYD-2(a) is so uncertain that the non-cumulative impact remains significant and unavoidable. (DEIR, pp. 4.8-15, 4.8-21; see id. at pp. 4.8-19 to 4.8-20 ["the efficacy of both mitigation measures is uncertain"].) The same mitigation that is so uncertain that the EIR deems the non-cumulative impact unavoidably significant cannot be found certain enough to avoid cumulative impact. (See Guidelines, § 15130, subd. (a)(3) [contribution is less than cumulatively considerable only where project implements or funds its fair share of mitigation "designed to alleviate the cumulative impact"]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116–1119 [mitigation of uncertain efficacy for groundwater impacts inadequate].)

Second, the EIR presents no evidence to support a finding that increasing on-site recharge by detaining run-off would actually avoid the 6.11 AFY decrease in basin-wide recharge. In particular, the EIR offers no evidence that any increase in on-site recharge would not simply be at the expense

of reduced *off-site* recharge as the run-off flows past the site and becomes available to percolate elsewhere in the subbasin.

The EIR identifies "infiltration from smaller tributaries" as a main source of recharge to the subbasin (DEIR, p. 4.8-3), and it acknowledges that site drainage flows to Pesante Creek and San Miguel Canyon Creek (DEIR, p. 4.8-2). It also states that the detention facilities would discharge to the same drainages and swales that collect site runoff today. (DEIR, pp. 4.8-17, 4.8-18.) Yet the EIR never estimates how much of the site's existing runoff already percolates to the subbasin below the site, and thus how much of any added on-site recharge would be a net gain to the subbasin rather than a relocation of recharge that already occurs.

6. **The water balance analysis and the local impact analysis fail to include pumping for the well's 298 off-site connections**

The analysis of water balance (App. G, Tables 7–9) and the analysis of local drawdown (App. G, section 15 and Table 5, referencing pumping from Table 2) assume the well will only be pumped to support the project's 26 units. However, the EIR's hydrogeologic evaluation indicates that the well will be used to support 298 connections for the water district. (App. G, p. 7.) The EIR itself acknowledges that the existing well would be made "available for use and interconnection within the PSMCSD Normco service area," and it relies on the well's 50-year pumping rate exceeding "PSMCSD's average day demand." (DEIR, p. 4.13-13.) The Will Serve letter provides that the well and its infrastructure will be interconnected and deeded to the water district. (Appendix M.) Pumping for more than ten times as many connections as the analysis assumes would cause greater drawdown at nearby wells and may cause a larger draw on the subbasin. The analysis, and the project description on which it rests, are therefore inadequate. (See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192–193 ["An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR"]; Guidelines, §§ 15124, 15378, subd. (a).)

7. **Mitigation is inadequate because it is impermissibly deferred and does not demonstrably benefit the aquifer rather than just the project's own well**

HYD-2(a) calls for detention basins or other strategies, including an unspecified "[f]inancial contribution to GSP-identified recharge projects," to recharge 6.11 AFY, but it defers the formulation of the recharge method until approval of initial grading permits. (DEIR, p. 4.8-15.) There are three errors here.

First, where mitigation is uncertain, its formulation may not be deferred. Yet the EIR admits that this mitigation is so uncertain that the impact remains significant and unavoidable. The measure's numeric target does not cure the problem: a performance standard justifies deferral only where the EIR identifies actions that "can feasibly achieve that performance standard," and here the EIR concedes that the efficacy of the measure is uncertain. (Guidelines, § 15126.4, subd. (a)(1)(B); DEIR,

pp. 4.8-19 to 4.8-21; see *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280–281; *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 855–858.)

Second, as explained in Comment 5, there is no evidence that detaining run-off would increase recharge to the subbasin rather than merely relocate recharge that already occurs downgradient. Nor does the option of a "[f]inancial contribution to GSP-identified recharge projects" fill the gap: the measure identifies no project, amount, schedule, or commitment that any such project will be built. (DEIR, p. 4.8-15; see *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140–141 [fee-based mitigation must be part of a reasonable plan of actual mitigation].) And by the EIR's own estimate, rooftop rainwater harvesting, rain gardens, and graywater systems could achieve at most 1.94 AFY. (DEIR, p. 4.8-15.)

Third, the only drainage design in the record is a 2007 study. It sizes detention to release flows at the 10-year undeveloped rate, which is intended for flood control, not recharge (DEIR, pp. 4.8-16 to 4.8-18, 4.13-11; DEIR App. I). Nothing in that study assesses recharge effects. The EIR states that the detention facilities would be required to meet water quality and waste discharge requirements, not to meet a recharge specification. (DEIR, p. 4.13-11.) Furthermore, it provides that "[n]o stormwater facilities beyond those identified in Section 2, *Project Description*, would be required." (Id.)

HYD-2(b) requires "reclaimed water for landscaping" (DEIR, p. 4.8-15), but there is no reclaimed water source. The project would rely on individual septic systems and leach fields, and the EIR identifies no recycled water supply. (DEIR, p. 2-6.) This mitigation is not feasible and is clearly uncertain. (See Guidelines, § 15126.4, subd. (a)(2); *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260–1261.)

For these reasons, the County cannot find the project consistent with the 1982 General Plan, and the DEIR's water supply and groundwater analysis must be revised and recirculated before the County considers the project. (See Guidelines, § 15088.5.)

Biological Resources

8. **The biological footprint is known for the roads but not for homes**

The biologist quantified road impacts in 2007; about 6 acres of grassland, 2.4 acres of oak woodland, 0.2 acre of chaparral and 0.1 acre of coastal scrub (App. C, Zander 2007 pp. 1-3). The DEIR carries none of these numbers into its text. Neither the DIER nor the appendices quantify chaparral, oak woodland or listed-plant habitat lost on the 26 lots, where most of the loss will occur. The DEIR also drops the biologist's own recommendations to cap envelopes at 0.33 acres on nine lots and to place residual lot areas under easement. The EIR fails to provide a project description adequate to support analysis. In particular, it fails to provide "relevant specifics" of the "changes induced in population distribution." (CEQA Guidelines, § 15126.2, subd. (a).)

9. **The biological studies were not conducted timely or during the right season**

CEQA requires assessing conditions at the time the NOP is released. (CEQA Guidelines §15125, 15126.2, subd. (a).) The project NOP was issued in 2022, but Biological Resource Assessments were done between 2006 and 2016. (DEIR 4.3-1.) While a reconnaissance survey was completed by Rincon in September 2022, it appears to have been only one day, September 2, 2022, and it was conducted in the wrong season for an accurate assessment. (DEIR 4.3-1 - 4.3-5.) The Applicant's own biologist said in 2013 that a late-season visit could not confirm spineflower, Yadon's piperia or the wetlands, and that spring surveys "would be prudent" (App. C Zander 2013 pp. 1-2).

10. **The oak tree count is inconsistent, and the DEIR contradicts its own FMP.**

The project description says it contains about 8,500 trees (p. 2-1). The Forest Management Plan ("FMP") counted 8,787 oaks and estimated removal of 475 (215 for roads, 260 for homes), about 5.4 percent (App. D, FMP pp. 4–5). The Initial Study uses the number of 260 (App. A, IS p. 2). Section 4.15 adopts the 260 number but says the open space holds "the majority of the existing over 3,500 oak trees" (p. 4.15-2). Section 4.3 calls lot-level removals "an unknown number" (p. 4.3-27). The FMP's 260 counts only trees inside building and septic envelopes. It assumes a 50-foot "greenbelt" (FMP p. 13), not the 100-foot defensible space now required, so it undercounts fuel-modification losses. The environmental setting must be adequately described to conduct an analysis of the project's impacts. (CEQA Guidelines, § 15126.2, subd. (a).)

11. **The mitigation for BIO-5 is inconsistent with itself.**

The impact statement and Table ES-1 assign BIO-1(c) (pp. ES-19, 4.3-2), while the text below the impact lists BIO-2(b) and BIO-2(c) (pp. 4.3-27 to 4.3-28). Neither addresses oak replacement ratios. The FMP itself is inconsistent: it recommends 40 percent replacement (FMP p. 6), while its 2016 update calls for "1:1 replacement consistent with the existing mitigation requirements in the FMP" (App. D, Vaughan 2016). This mitigation is not clearly defined and therefore not enforceable. (CEQA Guidelines, § 15126.4, subd. (a)(2).)

12. **The EIR fails to adequately identify, analyze, and mitigate the impacts of building envelopes**

An EIR must describe the project and its setting with enough precision to support meaningful analysis (Guidelines 15124, 15125, 15151), and it cannot ignore data in its own record. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185; *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502; *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918.) The EIR must analyze impacts sufficiently to determine their significance. (CEQA Guidelines, § 15126.2) Mitigation must be certain and its formulation should not be deferred without justification and only if binding performance specifications are imposed. (CEQA Guidelines, § 15126.2; see, e.g., *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260; *King & Gardiner Farms v. County of Kern* (2020) 45 Cal.App.5th 814.)

The EIR fails to adequately identify and analyze the impacts of the building envelopes. The appendices confirm that building envelopes are drawn on the vesting tentative map. The drainage

study assigns each lot's envelope to a drainage area (App. I, pp. 1–2). The FMP and the biologist evaluated them lot by lot. But the envelopes are described as approximate, they are never quantified, and the DEIR never overlays them on the resources they affect.

Where the record says envelopes are identified:

- "Future residences would be constructed within the building envelopes identified on the proposed site plan" (p. 4.5-16; same language at p. 4.9-7).
- "Building and septic envelopes have been approximated for each parcel" and "preliminary home sites and septic locations have been situated in the most open areas" (App. D, FMP p. 3).
- The biologist assumed "an approximately 0.33-acre building envelope at a minimum; the entire lot in some cases" would be lost (App. C, Zander 2007 p. 1).
- All proposed building envelopes are completely outside of areas of 30% slopes" (p. 4.9-8), and no jurisdictional wetlands occur within them (p. 4.3-24).

What is missing:

- Neither the DEIR nor any appendix states the total area of envelopes, driveways, leach fields or defensible-space zones. The biologist's worst case ("the entire lot in some cases") is about 58 acres of lots (57.973 acres per the tentative map; App. D, VTM sheet 1).
- Road impacts are quantified in the 2007 addendum, but lot impacts to chaparral, oak woodland and listed-plant occurrences are described only by lot number. The DEIR defers acreage to the BMMP after approval (p. 4.3-22).
- The biologist's envelope limits were not adopted**.** Zander recommended final envelopes "determined in the field in consultation with a qualified biologist and limited to the minimum feasible size (e.g. 0.33-acre) on Lots 1, 4, 6, 11, 16, 17, 23, 25 & 26." Zander also recommended that residual lot areas with native habitat be placed under "conservation easements or deed restrictions" (App. C, Zander 2007 p. 6). The DEIR adopts neither. BIO-2(a) places easements only on the three open-space parcels (p. 4.3-22). BIO-1(b) moves envelopes only "where and if feasible" (p. 4.3-17).
- The FMP treats building and septic envelopes together (FMP p. 3). The DEIR never says whether leach fields fall inside the envelopes.

The biological study area is "approximately 27.45 acres of the 131-acre parcel, which excludes the proposed open space areas" (p. 4.3-2). Nothing in the appendices produces that figure. The lots alone total 57.973 acres (App. D, VTM sheet 1).

The impacts that matter most are lot-level and their analysis and mitigation are improperly deferred. Homes follow over 20 to 30 years, with completion "in 2058 or later" (p. ES-3). The EIR concedes that "additional impacts may occur due to changes in population density, location, and species of special-status plants" over that span (p. 4.3-16). Later lot-level review is possible but will

likely lean on this EIR. The impact of required fuel modification is an unanalyzed impact**.** California Public Resources Code section 4291 requires 100 feet of defensible space in an SRA, and W-2 relies on it (p. 4.14-18). The FMP's tree estimate assumes a 50-foot greenbelt (App. D, FMP p. 13). Zander's chaparral analysis addresses building footprints, not clearance rings. The 100-foot clearance requirement alone could affect well over 15 acres, some of it spilling into open space. Guidelines 15126.4(a)(1)(D) requires discussion of a mitigation measure's own effects.

Wildfire

13. **The wildfire findings under Gov. Code 66474.02 rest on an unanalyzed road network**

The main road, Charolais Ranch Road, runs about 2,860 feet by the tentative map's stationing and ends in a cul-de-sac. The only second exit is an emergency lane that crosses a neighbor's property for about 380 feet to reach Cunha Lane (App. D, VTM sheet 1; App. C, Zander 2016 p. 1). If that lane does not count as a second point of access for residents, the interior road exceeds the state deadend limit.

The DEIR analyzes none of this. The exit via Cunha Lane is described as "for emergency purposes only" (pp. 2-4, 2-6). It runs from the cul-de-sac about 200 feet southwest, 100 feet along the property line, then about 380 feet across the adjacent property to Cunha Lane. It is 12 feet wide with 2-foot shoulders, has retaining walls on the neighboring parcel and a 24-foot turnout, and is mostly surfaced with "permeable grass paving" (App. C, Zander 2016 p. 1). The DEIR does not say how access is restricted or whether an easement over the neighbor's parcel exists. Only Pesante Road and US 101 are named as evacuation routes (p. 4.15-5; App. A, IS p. 27). No route maps, capacity or clearance times appear anywhere.

The fire review is dated and inconsistently attributed. It is a 2015 review credited to the North County Fire Protection District in one place and to the Monterey County Fire Department in another (pp. 4.11-12, 4.14-16). It predates the 2023 FHSZ remapping and the April 2023 Fire Safe Regulations.

14. **The EIR fails to adequately address the impact of the project on evacuation for the entire neighborhood**

The EIR concedes that the project will slow evacuation for the entire neighborhood. Impact W-1 admits the project "would incrementally increase traffic congestion, which could result in delays on evacuation routes." But it then concludes less than significant based solely on code compliance and the 2015 fire review (pp. 4.14-15 to 4.14-16).

The record gives several reasons this conclusion lacks substantial evidence:

- The first stretch of the evacuation route on Pesante Road narrows to "approximately 20 feet wide east of Cross Road" (p. 4.11-2), and the site entrance is east of Cross

Road. Every main-entrance evacuee uses that segment before reaching the Cross Road choice point.

- The 101 approach has a stop sign. The westbound Pesante Road approach to US 101 is stop-controlled, and US 101 between Pesante Road and Russell-Espinosa Road will be operating at LOS F (pp. 4.11-2, 4.11-9).
- A school is located on the evacuation route. Prunedale Elementary is on Pesante Road about 0.6 mile west (pp. 3-1, 4.11-2).
- There will be a cumulative load on the same road. The following planned subdivisions are all on Pesante Road: La Tourette (19 lots), Cathrein Estates (28 units) and Moonglow Estates (15 units) (pp. 3-2 to 3-4). The wildfire cumulative analysis ignores them (p. 4.14-20).
- The EIR concedes that the project "would exacerbate the existing fire risk" through added people and fragmented vegetation (pp. 4.14-6, 4.14-16), citing the Attorney General's 2022 guidance, which calls for evacuation analysis in this setting.

The EIR must evaluate the project's effect on those sharing the same evacuation route as a potentially significant impact. The evacuation route is constrained by the factors named above, and additional information is missing that would enable evaluation of the surrounding roadways and numbers of residents who would share the evacuation route. The state regulations establishing a minimum width and shoulder for new roads are arguably designed to facilitate an efficient evacuation, and neither Cunha Lane nor Pesante Road appear to meet those minimums.

15. **The EIR does not comply with County policies regarding 30% slope restrictions**

The DEIR fails to acknowledge that the 1982 General Plan Policy 26.1.10 prohibits development on slopes over 30% unless one of two specific exceptions apply:

> 26.1.10 The County shall prohibit development on slopes greater than 30%. It is the general policy of the County to require dedication of scenic easement on a slope of 30% or greater. Upon application, an exception to allow development on slopes of 30% or greater may be granted at a noticed public hearing by the approving authority for discretionary permits or by the Planning Commission for building and grading permits. The exception may be granted if one or both of the following findings are made, based upon substantial evidence:
>
> A) there is no alternative which would allow development to occur on slopes of less than 30%; or,
>
> B) the proposed development better achieves the resource protection objectives and policies contained in the Monterey County General Plan, accompanying Area Plans and Land Use Plans, and all applicable master plans."

The access road crosses slopes over 30 percent (p. 4.9-8). The FMP says the entry road was re-routed "to maintain a 15% grade with occasional steeper pitches" (App. D, FMP p. 3). An

exception requires a finding that "there is no alternative" (p. 4.1-5), and the EIR offers no evidence for it.

Additionally, the North County Area Plan Policy 36.0.4 has a slope-density formula. The EIR never performs the calculation required by the Policy (pp. 4.9-10 to 4.9-11).

Traffic

16. **The EIR fails to propose mitigation for VMT impacts**

VMT impacts are significant and deemed unavoidable because the EIR claims that no feasible mitigation is available. (p. 4.11-11.) The EIR claims that off-site VMT mitigation is not available merely because one program, the California Statewide Vehicle Miles Traveled Mitigation Program, "has not been fully established." (Id.) Not so.

First, the California Statewide Vehicle Miles Traveled Mitigation Program has been established. On June 30, 2026, the Office of Land Use and Climate Innovation released the Statewide Vehicle Miles Traveled (VMT) Mitigation Program Guidance, developed to support the implementation of the VMT mitigation program established under Assembly Bill 130 (2025). (See LCI website at https://lci.ca.gov/newsroom/news/2026/new-assembly-bill-ab-130-statewide-vehicle-miles-traveled-vmt-mitigation-program-guidance-now-published/.) Using this guidance the County may determine appropriate mitigation contributions and where to invest them to achieve effective VMT reductions. (Id.) Money may be contributed to the Transit-Oriented Development Program established under AB 130 beginning on or before July 1, 2026. (Public Resources Code, § 21080.44(b)(2).) Because feasible mitigation is available, the County cannot find the VMT impact unavoidable. (Pub. Resources Code, §§ 21002, 21081, subd. (a).)

Second, AB 130 does not require local agencies to direct VMT mitigation contributions to the statewide Transit-Oriented Development Program, so the County may direct the project's contribution to local VMT-reducing projects, including off-site programs. So, even if the statewide Transit-Oriented Development Program had not been established, local agencies need not use VMT mitigation contributions only to fund that program. A lead agency may instead mitigate VMT "by helping to fund or otherwise facilitating vehicle miles traveled-efficient affordable housing or related infrastructure projects . .." (Public Resources Code, § 21080.44(b)(1)(A).) The highest priority for investing VMT mitigation contributions is funding affordable housing projects. (Health & Saf. Code, § 53560.) The rationale for this mitigation is that provision of affordable housing in location efficient areas reduces VMT.

AB 130 is clear that local agencies retain discretion to devise appropriate mitigation, including funding affordable housing or other off-site mitigation programs.. For example, the statute provides that it "shall not preclude the lead agency's use of other mitigation strategies, including, but not limited to, transportation demand management, transit improvements, active transportation infrastructure, road diets, or utilizing local or regional mitigation banks and exchanges." (Public Resources Code, § 21080.44(b)(1)(B).) There is no requirement that these kinds

of programs be implemented to reduce VMT from the development project itself; the mitigation may be equally valuable if it reduces VMT generated elsewhere. Thus, the County must consider off-site VMT reduction even if that reduction does not reduce VMT from the project vehicles themselves. Off-site VMT reductions could include any number of VMT reduction strategies, including subsidies to location efficient affordable housing.

Furthermore, the statute is clear that contributions to the statewide fund are only one option: "a project applicant may use the Transit-Oriented Development Implementation Fund as one optional strategy to mitigate a significant transportation impact under this division. The ultimate use of this mitigation option is subject to the discretion of the lead agency that retains full authority to determine the sufficiency of any proposed mitigation consistent with this division." (Public Resources Code, § 21080.44(b)(3).)

In sum, contrary to the EIR, off-site VMT mitigation is feasible. The County can and should use the AB 130 methodology to determine appropriate VMT mitigation contributions. The County can then use those contributions to subsidize one or more affordable housing projects in location efficient areas. An obvious area for subsidy would be the Monterey Peninsula communities lacking affordable housing but proximate to low-wage jobs held by members of lower-income households. Subsidies to affordable housing in these areas would materially reduce VMT.

17. **The EIR fails to demonstrate compliance with County traffic policies**

Although Level of Service "(LOS") is no longer a permissible CEQA significance threshold, the County's LOS policies are binding on the project. GP Policies 37.2.1 and 39.1.4 require acceptable levels of service on all roads and highways (p. 4.11-6). The EIR states that the County's LOS objective is Level C (p. 4.11-6). US 101 near Pesante operates at LOS F (p. 4.11-9). Specifically, 39.1.4 states that "new development shall be located where there is existing road and highway capacity, or where adequate road and highway capacity shall be provided." The EIR's response to this issue is that payment of mitigation fees to TAMC and CalTrans is considered to be adequate mitigation by those agencies, but the County sets a different standard and that standard applies to the project.

The traffic studies are also old: the traffic study is an administrative draft from 2016 (App. J), and the VMT memo is from 2022 using 2015 model data (App. L).

At-grade US 101 safety is not analyzed (pp. 4.11-11 to 4.11-12). The EIR also does not analyze safety at the US 101 intersection that project traffic must use (pp. 4.11-11 to 4.11-12). Westbound Pesante Road meets US 101 at a stop-controlled, at-grade intersection, where drivers must enter a highway operating at LOS F (pp. 4.11-2, 4.11-9). SB 743 removed congestion as a CEQA impact, but it did not remove the question whether a project substantially increases hazards at a dangerous intersection. (CEQA Guidelines, App. G, § XVII(c).) The EIR should analyze collision history and gap availability at this intersection with project and cumulative Pesante Road traffic, and identify any needed fair-share improvements.

Conclusion

The project is inconsistent with the 1982 General Plan's water supply, slope, and traffic policies, so the County cannot make the findings required to approve the vesting tentative map. Its groundwater supply depends on appropriative pumping from an overdrafted subbasin that has no surplus to appropriate. The DEIR fails to adequately analyze or mitigate the project's impacts on water supply, biological resources, wildfire evacuation, and transportation; it relies on outdated studies; and it contradicts itself on key facts. The County should deny the project as proposed. At a minimum, it must revise the DEIR to address these deficiencies and recirculate it for public review before acting on the project.

Regards,

Michael DeLapa
Executive Director