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Re: La Tourette Subdivision Draft EIR (SCH# 1995123048)

Dear Ms. Quenga:

LandWatch Monterey County submits the following comments on the La Tourette Subdivision Draft EIR.

1. Water supply

The water supply analysis admits that the project's consumptive use of groundwater would be a significant impact but for proposed mitigation and the benefits of the Salinas Valley Water Project.

The non-cumulative water balance analysis admits that its geographic scope is limited to the "hydrological system of interest," i.e., "the groundwater system in the immediate project vicinity." (La Tourette Subdivision DEIR, App. K, p. 3.) In fact, the water balance analysis is confined to the 47.8-acre site itself. In particular, Questa evaluates surface runoff, evapotranspiration, rainfall, recharge, and wastewater percolation only for the project site itself. (App K, pp. 3-6.) CEQA requires the analysis to consider off-site impacts of the project.

After assessing only the on-site water balance, the DEIR proposes mitigation calling for detaining some portion of the stormwater runoff in an on-site detention basin so that it percolates on-site. In effect, the proposal is to divert stormwater that would otherwise contribute to off-site recharge so that the EIR can claim a positive on-site water balance after mitigation. The EIR fails to consider the project's impacts to the off-site recharge benefit from pre-development runoff, i.e., the predevelopment recharge benefit to the aquifer that does not underlie the site itself. In effect, the

mitigation robs Peter to pay La Tourette, but the EIR's non-cumulative analysis simply ignores the offsite effects of the proposed mitigation.

The analysis of cumulative impacts admits that the project would contribute to cumulative water supply impacts in the North Monterey County hydrogeologic area, which is already in overdraft condition. (DEIR, p. 5-12.) The cumulative analysis, echoing the earlier analysis of whether the project's water supply is sustainable¹, finds the project's contribution to the overdraft in the North Monterey County hydrogeologic area would be less than a considerable contribution to a significant cumulative impact because, it claims, the Salinas Valley Water Project "provides long-term management and protection of groundwater resources with the objective of attaining a balanced groundwater basin." (DEIR, p. 5-12, emphasis added.) The DEIR claims that the Salinas Valley Water Project has in fact attained the objective of a balanced groundwater basin because it goes on to claim that "[p]roperties within Zone 2C benefit from management efforts as there is [sic, "are"] sustainable long-term groundwater resources." (Id.) This is not true.

In its most recent comprehensive study of the effectiveness of its existing suite of groundwater management projects, including the Salinas Valley Water project, the County concludes that Zone 2C is not in hydrological balance. (Salinas Valley Groundwater Basin Investigation, June 2023, available at <https://monterey.legistar.com/View.ashx?M=F&ID=13239962&GUID=E1F0EC08-B828-4CF7-9DB8-8C3678603A20>.)

That study came about in response to litigation challenging the County's previous conclusions about the water balance in Zone 2C. The 2010 General Plan EIR found that cumulative water supply impacts to Zone 2C would not be significant and that there was a rebuttable presumption of a long-term sustainable water supply in Zone 2C. These findings were based on certain assumptions regarding water demand, including the assumption that total water demand would decline through 2030. In response to litigation challenging these findings, the County agreed to revise its General Plan Policy PS-3.1 to require the County to undertake a study of Zone 2C in order to reconsider the EIR's assumptions and to reconsider the continuing presumption of a long-term sustainable water supply in Zone 2C.

The County's study of Zone 2C, completed in 2023 and presented to the Board of Supervisors in August 2024, finds that, contrary to the General Plan EIR's assumption, water use in Zone 2C has actually increased.

¹ The DEIR's analysis of whether there is a sustainable water supply for the project (DEIR, pp. 4.15-19 to 4.15-20) is not framed as a CEQA analysis because it is concerned not with the project's impacts on the environment, but with the impact of the environment on the project. Whether the project itself has a sustainable supply – and it does not – is not a CEQA concern and it is clearly not the same question as whether the project's water use causes or contributes to significant impacts.

More recent data compiled in this study suggest that contrary to the EIR, total water demands have actually increased since the EIR was completed.

(Salinas Valley Groundwater Basin Investigation, June 2023, p. 1, available at <https://monterey.legistar.com/View.ashx?M=F&ID=13239962&GUID=E1F0EC08-B828-4CF7-9DB8-8C3678603A20>.)

The presumption of a long-term sustainable water supply in the 2010 General Plan EIR was also predicated on the assumption that groundwater levels would stop falling and that seawater intrusion would stop advancing, based on the efficacy of the Salinas Valley Water Project and other water supply projects. However, the County's recent study of Zone 2C finds that, contrary to that assumption, groundwater levels continue to decline, especially in the northern aquifers:

The result of greater than projected water demands is that more groundwater is being pumped than assumed in the EIR and General Plan, contributing to groundwater level decline and seawater intrusion. Groundwater levels have declined more on average in the Zone 2C Subareas closest to the coast (Eastside and Pressure Subareas) than in the Zone 2C Subareas further inland (Forebay and Upper Valley Subareas). All 4 of these Subareas experienced groundwater declines during and after the recent drought periods from 2012 to 2016 and from 2020 to 2021, with groundwater levels recovering after the 2012 to 2016 drought in the Forebay and Upper Valley, and groundwater levels not fully recovering in the Pressure or Eastside Subareas.

(Id. at 2.) For purposes of this study, the project area is included in the Eastside subarea.² (Id. at 10.) The study finds that groundwater levels have declined 57.5 feet in this subarea from 1944 to 2021. (Id. at 104.) This trend continues: groundwater levels have declined 6.2 feet since the General Plan EIR was prepared, i.e., from 2010 to 2021.

The study also finds that seawater intrusion will not be halted and “is projected to impact approximately 210 to 240 acres/year from 2020 to 2030, which is similar to the average rate of 283 acres/year from 2011 to 2020.” (Id. at 2.)

In sum, the County has already concluded that Zone 2C does not have a long-term sustainable water supply despite the Salinas Valley Water Project.

² Monterey County Water Resources Agency defines various “subareas” that are not identical to the subbasins defined by the Department of Water Resources. (Id. at 18.) The project site is in DWR's Langley Subbasin and MCWRA's Eastside Subarea.

Furthermore, the Salinas Valley Groundwater Basin Groundwater Sustainability Agency (SVGBGSA) concluded in 2022 that the Langley Area Subbasin, which includes the project site and the North Monterey hydrogeologic area, is not in balance. The GSA's Groundwater Sustainability Plan (GSP) shows that the Langley Area Subbasin has been in annual overdraft averaging 300 AFY from 1980 to 2016. (SVGBGSA, Langley Area Subbasin GSP, January 2022, p. 6-23, Table 6-8, available at https://svbgsa.org/wp-content/uploads/2022/04/Whole-GSP_Langley-Report-Only-20220414.pdf.) The GSP projects that this 300 AFY overdraft will continue through 2070 under existing conditions. (Id., p. 6-31, Table 6-15.)

Thus, both the County's and the GSA's current studies contradict the DEIR's claim that there is a long-term sustainable water supply in the project area. The DEIR's conclusion to the contrary in its cumulative impact analysis is in error. So too is the DEIR in error in concluding that the project would be consistent with General Plan Policies requiring a long-term sustainable water supply. (DEIR, p. 4.10-13.)

2. Biological resources

The DEIR relies on conservation easements to mitigate biological resource impacts. (DEIR, MM Blo-1a [deed restrictions required], MM BIO-2b and BIO-2c [Restoration and Management Plan required], MM BIO-7a [quantification, avoidance, and mitigation of chaparral required].)

The actual acreage of impacted sensitive marine chaparral and the required mitigation ratios make the mitigation uncertain and may make it infeasible. Impact BIO-7 admits that the project would destroy "approximately" 3.6 acres of marine chaparral habitat and that "approximately" 5 acres would be preserved. However, the EIR admits that quantification of chaparral will not be final until Mitigation Measures BIO-2a and BIO-7a are completed. (DEIR, p. 4.3-29 ["impacts to special-status plant species and maritime chaparral shall be quantified based on the results of focused special-status plant surveys conducted in accordance with Mitigation Measure BIO-2a and habitat surveys conducted in accordance with Mitigation Measure BIO-7a."] Thus, there can be no confidence that the estimates of affected marine chaparral acreage are accurate.

Compounding this uncertainty, the DEIR fails to provide any mapping of the developed areas and conservation easement areas. Chapter 3 provides a table purporting to identify the conservation easement acreage for each parcel (DEIR, Table 3-1), but it does not provide any mapping that would enable decision makers or the public to compare the development and easement areas to the habitat mapping shown in Figure 4.3-1. The DEIR states the "conservation easements include the areas that have been identified as scenic easements as identified in Chapter 3, and discussed in further detail in Section 4.1 Aesthetics." (DEIR, p. 4.3-6, fn 2.) But the scenic easement areas are not mapped either.

It appears that the DEIR simply omitted this map since elsewhere the EIR references a Figure 3-9: “the Proposed Project includes conservation/scenic easements which would preserve natural space within the Project site (see Figure 3-9).” (DEIR, p. 5-5.) There is no Figure 3-9 in the DEIR.

Without knowing the location of building sites and conservation easement areas, there is no way to determine the nature and extent of the disturbance to sensitive habitat. The omission of this critical information requires recirculation of the draft EIR.

For example, it is not clear whether and how loss of marine chaparral could be mitigated. Mitigation measure BIO-7a provides that for the 3.6 acres of maritime chaparral that cannot be avoided, the only mitigation would be Mitigation Measure BIO-2c, requiring a “long-term Conservation Easement Habitat Management and Enhancement Plan for the conservation easement areas.” (DEIR, pp. 4.3-38, 4.3-30.) Mitigation Measure BIO-2b requires no net loss of maritime chaparral, and it requires mitigation be satisfied through the conservation easements, i.e., on-site. This would presumably require compensation for the “approximately” 3.6 acres of lost chaparral by preservation and restoration of chaparral in the conservation easements. MM BIO-2b states that preservation would be required at a 2:1 ratio and restoration at a 1:1 ratio. (DEIR, p. 4.3-29.) There is no evidence that maritime chaparral could be established at these ratios in these areas, which are now occupied by other vegetation types.³ The absence of mapping makes this even more uncertain.

Furthermore, the notion that the “no net loss” requirement in MM BIO-2b could be implemented through preservation rather than restoration simply makes no sense, even at a 2:1 ratio. If there are 5 acres of chaparral in the conservation areas and the EIR proposes to give the project mitigation credit at a 2:1 ratio for the loss of 2.5 acres of chaparral destroyed, there would still be a net loss of 2.5 acres of chaparral. The only way the no net loss requirement can be implemented is by establishing new chaparral acreage in the conservation areas for all 3.6 acres of lost chaparral. Preservation is of no assistance if the criteria for mitigation is no net loss.

Vegetation management will be required for wildfire mitigation and utility corridors. (DEIR, p. 4.3-24 [MM BIO-1a].) The EIR fails to provide sufficient information about this vegetation removal to evaluate its impacts to biological resources, or, for that matter, to evaluate the sufficiency of wildfire risk mitigation. The proposed Mitigation Measure BIO-2c for impact to special status species calls for a Conservation Easement Habitat Management and Enhancement Plan. But mitigation defers until after project approval the provision of any “specificity of measures for

³ If there are only 5 acres of chaparral in the conservation areas, at most 2.5 of the 3.6 lost acres could be mitigated by preservation at a 2:1 ratio. The remaining 1.1 acre of lost chaparral would have to be mitigated by establishing new chaparral. There is no evidence that there is a suitable site for this.

vegetation removal to reduce wildfire risk in accordance with local and state policies, including, but not limited to, measures to avoid removal of special-status plant species or loss of maritime chaparral and oak woodland habitat to the extent feasible.” The “specificity” should be provided now to enable decision makers and the public to determine if mitigation is in fact “feasible.” Indeed, the DEIR provides no definition of, or criteria for, what is feasible.

In its wildfire hazard analysis, the DEIR states that vegetation must be removed within 100 feet of any structure to comply with state and local defensible space mandates. (DEIR, p. 4.8-9.) It is unclear whether preservation of species will give way to wildfire risk suppression or whether wildfire risk mitigation will give way to protection of species. The EIR fails to present sufficient evidence that both are feasible. Evidence of feasibility would require mapping of planned vegetation removal against the maps of special status species and sensitive habitat locations. Once again, however, without mapping of conservation areas, the building locations around which 100 feet of vegetation management will be required, and the utility corridors it is impossible for decision makers or the public to assess the impacts of fuel management or the feasibility of mitigation.

Failure to map building locations and conservation easements also makes it impossible for decision makers or the public to assess impacts to wildlife corridors. The DEIR claims the conservation easements will suffice:

Development of the Project site is not expected to significantly interfere with the movement or migration patterns of other wildlife due to the designation of building/septic envelopes and conservation easements, which will retain vegetation corridors throughout the subdivision that wildlife can move through. In addition, the remaining open space areas will connect with adjacent similar habitats that surround most of the site.

(DEIR, pp. 4.3-38 to 4.3-39.) Once again, it is impossible to determine or verify the presence and dimensions of wildlife corridors or their connectivity with adjacent habitat because the DEIR fails to map building sites or conservation areas. The dimensions of wildlife corridors are critical to their efficacy. Any conclusion that corridor impacts are less than significant requires some mapping of the actual conservation areas.

The discussion of impacts to special status plans claims that it “conservatively assumes total habitat loss associated with the subdivision improvement construction areas and future residential development of the identified building and septic envelopes...” (DEIR, p. 4.3-28.) Once again, the DEIR fails to inform the public and decision makers where building sites will be located.

Finally, the analyses of biological resource impacts are rendered even more uncertain by the instability of the project description. Mitigation proposed for septic system contamination calls for altering the number of lots, the lot layouts, and the septic leach fields. (DEIR, p. 4.14-15.) The DEIR does not map these changes or identify building sites and conservation areas after this mitigation, and it provides no discussion of the effect of this mitigation on wildlife corridors between lots, loss of chaparral, wildfire fuel management, or special status species. CEQA requires that an EIR discuss the effects of mitigation measures themselves.

The biological resources analysis must be revised and recirculated to address these omissions.

3. Wildfire risk

The project would add dozens of additional evacuees in the event of a wildfire. The DEIR contends that “[t]he Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.” (DEIR, P. 4.8-10.) This conclusion is unsupported because the DEIR provides no analysis of cumulative emergency congestion on egress routes including King Road and Pesante Road. (See map at DEIR Figure 4.8-1.) Cumulative analysis of hazards considers only hazardous materials and does not consider cumulative impact on evacuation. (DEIR, p. 5-8) Cumulative analysis of impacts to fire services considers only emergency access, not egress:

Nor would the increase in persons negatively impact response times of emergency service providers. The Project would comply with all applicable fire and building safety codes and would include road improvements to ensure adequate emergency access. Development projects in the North County area would also be required to comply with fire and safety codes and adapt design to enable adequate emergency access. **Therefore, the Proposed Project would not result in a cumulatively considerable impact. No mitigation measures are necessary.**

(DEIR, p. 5-10, underlining added.) The cumulative impact discussion provides no actual analysis of impacts to emergency access or egress. (DEIR, pp. 5-11 to 5-12). The non-cumulative analysis considers only emergency access, not egress. (DEIR, p. 4.13-28.)

The transportation analysis provides LOS calculations, but these are based on peak hour traffic, not emergency conditions. (DEIR, pp. 4.13-15 to 4.13-25.) The segment of North King Road servicing the project site is already at LOD D at the AM peak (DEIR, pp. 4.13-22 to 4.13-23.) Pesante Canyon Road from North King Road to Highway 101 is also at LOS D during the AM peak. (Id.) Evacuation traffic congestion would potentially be much higher than AM peak congestion since all residents and vehicles would leave simultaneously.

The DEIR finds that there would be no significant impact to the project's occupants from fire hazards based on building codes and vegetation clearance requirements. (DEIR, p. 4.8-14.) This analysis fails to consider impacts to project neighbors from evacuation congestion exacerbated by adding 19 new residences.

Furthermore, the discussion of wildfire risk provides no analysis and proposes no mitigation for increased risk of wildfire ignition caused by locating 19 new residences in a high fire risk area. A primary source of wildfire ignition risk is human presence.

The wildfire analysis must be revised and recirculated to address these omissions.

4. Greenhouse Gas

The DEIR admits that the project would have significant and unmitigated VMT impacts. (DEIR, p. 4.13-26.) Three quarters of the project's GHG emissions are attributed to mobile sources, i.e, VMT. (DEIR, Appendix B, p. 32, Table 8.) In light of the clear relation of unmitigated VMT impacts and the project's GHG footprint, the DEIR must find that GHG impacts are also significant and propose all feasible mitigation.

For all of the reasons set out above, the County must revise and recirculate an adequate draft EIR.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized and cursive.

Michael DeLapa
Executive Director