



April 16, 2018

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Subject: [River View Las Palmas Assisted Living Senior Facility Draft Subsequent EIR](#)

Dear Mr. Sidor:

The following comments supplement LandWatch's March 27, 2018 comments.

The project is inconsistent with General Plan policies that require a Development Evaluation System (DES).

The project is subject to the DES that applies to projects of five subdivisions or more, or projects with equivalent impacts (2010 Monterey County General Plan, LU 2-19). In earlier drafts of the DES, county staff defined "equivalency:"

"Equivalency" is when a project generates one or more of the following, based on multiplying standard outputs generated from a single family residence by 5:

- Water: 1.55 AF/year
- Wastewater: 1.55 AF/year
- Traffic: 49.5 daily trips or 18,067.5 trips per year

The project exceeds the water trigger at 11.36 AFY and the wastewater trigger at 13.53 AFY (12,070 gpd) and is therefore subject to the DES. Consistency with the DES should be addressed in the FEIR.

The County has not yet implemented General Plan Policy LU 1.19, which mandates preparation of a Development Evaluation System ("DES") "to provide a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity." The DES applies to this Project because it is not within a Community Area, Rural Center, or Affordable Housing Overlay district.

General Plan Policy LU 1.19 mandates that the County establish the DES "within 12 months of adopting this General Plan," i.e., by October 26, 2011. The DES is now *seven years* overdue. Planning staff did not bring the first workshop proposal for the DES to the Planning Commission until July 31, 2013. The Planning Commission did not review the proposal in detail. Instead,

based on a discussion led by Commissioners Diehl, Vandever, and Brown, the Commission provided direction to staff to return with specific comments to staff regarding the scope and content of the DES.

The DES is a mandatory requirement of the General Plan and a critical constraint on sprawl development. Projects subject to the DES cannot be approved until the County establishes the objective, systematic scoring system that Policy LU 1.19 requires. Accordingly, the County should not approve this Project until it implements its General Plan by establishing the DES and evaluating this Project with the DES.

Relevant provisions of the DES

The DES must be an objective and predictable scoring system to determine which projects may be approved. Thus, it must be “a pass-fail system and shall include a mechanism to quantitatively evaluate development in light of the policies of the General Plan and the implementing regulations, resources and infrastructure, and the overall quality of the development.”

The DES is required to include evaluation criteria, including but not limited to the following:

- a. Site Suitability
- b. Infrastructure
- c. Resource Management
- d. Proximity to a City, Community Area, or Rural Center
- e. Mix/Balance of uses including Affordable Housing consistent with the County Affordable/Workforce Housing Incentive Program adopted pursuant to the Monterey County Housing Element
- f. Environmental Impacts and Potential Mitigation
- g. Proximity to multiple modes of transportation
- h. Jobs-Housing balance within the community and between the community and surrounding areas
- i. Minimum passing score

Since the DES must be objective, quantitative, and predictable, and must create a pass-fail system with a minimum score, the County must devise a scoring system that implements at least the criteria enumerated in LU Policy 1.19.

The purpose of the DES is to avoid sprawl development and encourage development that meets General Plan aspirational goals.

LU 1.19 is an important form of mitigation to avoid impacts associated with sprawl development. The announced purpose of LU 1.19 was also to ensure that the Community Areas and Rural Centers remain the priority areas for growth and that only 20% of future growth occurs outside these designated growth areas. See, e.g., 2010 General Plan FEIR, Master Response 2.1.2.

When the Planning Commission reviewed and rejected staff’s initial version of the DES, they provided essential guidance that illuminated the purpose of the DES.

- The DES is not a device for determining whether a project is consistent with the General Plan. If a project is not consistent with the General Plan, it should not even be reviewed under the DES.
- The DES must be designed to screen out all but the exceptional projects that justify departing from the goal of focusing growth in Community Areas and Rural Centers.
- The DES must be designed to implement the General Plan goal to limit growth outside these areas 20% of overall growth.
- The DES must provide a pass/fail system, with a minimum passing score.
- The DES must provide objective criteria.
- Projects should be rewarded for meeting the General Plan's aspirational goals and exceeding its minimum standards.

The County should move to establish the DES promptly, and it should not deem applications complete or approve projects subject to the DES until it establishes the DES.

The County has a mandatory duty to establish a DES, and to do so timely, since LU Policy 1.19 states that it "shall be established within 12 months." Accordingly LandWatch asks that the County ensure that implementation of LU 1.19 be made a priority.

LU Policy 1.19 provides that the development projects subject to its provisions must meet the minimum passing score of a DES. Approval of such projects without scoring them through a DES, which must be established as a "systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments," would be inconsistent with the General Plan.

*In short, establishment of the DES is an essential prerequisite to approving projects subject to LU Policy 1.19. Until the County establishes a DES, approving a residential project of five or more units, or a development of equivalent traffic, water or wastewater intensity, outside a Community Area, Rural Center, or Affordable Housing overlay would be *ultra vires* because the County is powerless to issue permits that are inconsistent with the General Plan.*

Until the DES is established, LandWatch asks that the County refrain from deeming any development application for a project subject to LU 1.19 complete or from approving any such project.

Regards,



Michael DeLapa
Executive Director