



November 20, 2016

Jane Parker, Chair
Monterey County Board of Supervisors
168 West Alisal Street
Salinas, CA 93901

Subject: Rancho Canada Village Project

Dear Chair Parker and Members of the Board of Supervisors:

LandWatch Monterey County has participated in the Planning Commission hearings and reviewed the RDEIR and Draft Final RDEIR for the proposed project. The process for evaluating the Rancho Canada Village project suffers from significant flaws. These include the County's failure to:

- Require the applicant to file a new application when it was clear in 2014 the original project was no longer viable because of amendments to the Carmel Valley Master Plan establishing a cap on new units;
- Follow Title 21.91.010 governing regulations for amending the General Plan;
- Adopt the Development Evaluation System (DES), which applies to the project within 12 months of adoption of the General Plan;
- Follow the General Plan Policy identified in the DES that housing projects outside Community Areas or Rural Centers include at least 35% affordable housing;
- Require the project to include a mix of affordable housing as required by the General Plan and the County's Inclusionary Housing Ordinance;
- Implement General Plan Policy LU-2.15 requiring 25% affordable housing, including 5% Work Force housing;
- Find the project inconsistent with Carmel Valley Traffic policies; and
- Submit a Final RDEIR to the Planning Commission prior to its action instead of a **Draft** Final.

LandWatch Monterey County recommends the Board of Supervisors defer any decision on the proposed project until the procedural flaws and findings of fact are corrected.

Specific comments follow:

1. *New Application Required.* Based on the RDEIR and the applicant's comments to the Carmel Valley Land Use Advisory Committee, it is clear the project under consideration is the 130-unit project. The County finding that the 130-unit project is subject to the 2010 General Plan (RDEIR p. 2.1) supports this conclusion. This is further supported by the RDEIR's approach to evaluating the 130-unit project at the same level as the 281-unit project. Rather than requiring the applicant to file a new application and requiring preparation of a new EIR, the County supported a convoluted and cumbersome process by identifying the 130-unit project as a project alternative to the original project and preparing a RDEIR

2. *General Plan Amendment Required.* As identified in the RDEIR (p. 35-19), a General Plan Amendment is required to accommodate the 130-unit project since the project does not meet the 2010 General Plan requirement of 50% affordable housing. Title 21.91.010 of the Zoning Ordinance adopted in 2014 outlines very specific requirements for amending the General Plan. The procedures identified below were not followed. Applicable provisions follow:

21.91.010 - Purpose. The primary purpose of this Chapter is to set forth regulations governing amendments to the 2010 Monterey County General Plan and future comprehensive updates to the 2010 General Plan ("general plan"). Because the 2010 Monterey County General Plan is applicable only in the noncoastal, unincorporated area of the County, these regulations apply only to general plan amendments affecting the noncoastal unincorporated area of the County. These regulations are intended to maintain the overall integrity of the general plan, as may be periodically comprehensively updated, by requiring early assessment of proposed amendments, requiring comprehensive and cumulative review of proposed amendments, limiting the number of times each year the general plan may be amended, and by identifying the limited circumstances under which general plan amendments may be approved....

21.91.030 - Early assessment of proposed amendments.

A. No application for a general plan amendment shall proceed to hearing until completion of the early assessment process described in this Chapter.

B. The applicant must obtain an early assessment as part of either the pre application or application process.

C. The Director of Planning shall refer the pre-application or application to the applicable Land Use Advisory Committee(s) and other County advisory committees, as appropriate, for comments on the early assessment.

D. The Planning Commission shall provide an early assessment of each application for general plan amendment to determine the suitability of the request. The Planning Commission shall provide by a majority vote its early assessment as to whether the proposed project has the potential to meet the evaluation criteria set forth in Section 21.91.050 of this Chapter.

E. The early assessment by the Planning Commission shall not be construed as approval of the amendment or a guarantee of the ultimate outcome, nor shall a negative early assessment preclude the applicant from pursuing the general plan amendment. In addition to the early assessment process, all general plan amendments shall be subject to all appropriate environmental review and procedures required by law for consideration of general plan amendments.

F. The early assessment may be undertaken prior to environmental review under the California Environmental Quality Act (CEQA) based on the recognition that the early assessment is not a commitment to the general plan amendment and does not excuse preparation of environmental review as appropriate under CEQA.

G. Early assessment by the Planning Commission of applications for a general plan amendment may be undertaken at any time and as frequently as deemed appropriate by the Director of Planning.

21.91.040 - Comprehensive review.

- A. Each application for general plan amendment shall be reviewed in the context of all other current applications for amendments to the 2010 Monterey County General Plan and previously approved amendments to the 2010 Monterey County General Plan, for the purpose of providing a comprehensive and cumulative analysis of the proposed general plan amendment.
- B. RMA planning staff shall prepare the comprehensive and cumulative analysis. The analysis shall include but not be limited to a single map that depicts the location of all proposed and approved amendments to the 2010 Monterey County General Plan maps.
- C. The comprehensive and cumulative analysis shall be presented to the Planning Commission and Board of Supervisors as part of their consideration of each proposed general plan amendment.

21.91.050 - Evaluation criteria.

The decision to approve a general plan amendment remains in the discretion of the Board of Supervisors in accordance with state law. If the Board of Supervisors in its discretion chooses to approve an amendment to the general plan, the amendment must at a minimum satisfy the following criteria in addition to any other relevant considerations:

- 1. The amendment is not in conflict with the goals, objectives, and policies of the general plan that are not proposed for amendment; and
- 2. The applicant demonstrates, based on substantial evidence, one or more of the following:
 - a. There is a demonstrable error or oversight in the adopted general plan; or
 - b. There is a clear change of facts or circumstances; or
 - c. The amendment better carries out the overall goals and policies of the general plan.

- 3. *The project is subject Development Evaluation System (DES):* The 2010 General Plan policy follows:

LU-1.19 Community Areas, Rural Centers and Affordable Housing Overlay districts are the top priority for development in the unincorporated areas of the County. Outside of those areas, a Development Evaluation System shall be established 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 system shall 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. Evaluation criteria shall include but are not limited to:

- 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

Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or Rural Center:

1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units to be considered.

2) If the project is designed with at least 15% farmworker inclusionary housing, the minimum requirement may be reduced to 30% total.

This Development Evaluation System shall be established within 12 months of adopting this General Plan. (Emphasis added)

While County Planning staff has prepared numerous drafts of the DES, no system has been adopted to-date.

4. *Affordable Housing Requirement of DES not Met.* As noted above, the DES requires “Residential development shall incorporate the following minimum requirements for developments in Rural Centers prior to the preparation of an Infrastructure and Financing Study, or outside of a Community Area or Rural Center: 1) 35% affordable/Workforce housing (25% inclusionary; 10% Workforce) for projects of five or more units to be considered.” The project, which includes 20% affordable housing, is inconsistent with the policy and thus cannot be approved.
5. *Project is Inconsistent with the County’s Inclusionary Housing Ordinance.* In response to our comments on the RDEIR, the Final Draft RDEIR finds it inconsistent with the County’s Inclusionary Housing Ordinance because it does not include a mix of affordable housing units.
6. *Project is Inconsistent with General Plan Policy LU-2.13.* The policy states:

The County shall assure consistent application of an Affordable Housing Ordinance that requires 25% of new housing units be affordable to very low, low, moderate, and workforce income households. The Affordable Housing Ordinance shall include the following minimum requirements:

- a) 6% of the units affordable to very low-income households
- b) 6% of the units affordable to low-income households
- c) 8% of the units affordable to moderate-income households
- d) 5% of the units affordable Workforce I income households

Not only does the project fail to include a mix of affordable housing as required by the County’s Inclusionary Housing Ordinance, it does not meet the 25% requirement or include Workforce I

housing.

7. *Inconsistent with Carmel Valley Master Plan (CVMP) Policy CV-2.17.* In our letter on the RDEIR we found the project inconsistent with the CVMP Policy CV-2.17 requiring maintenance of LOS on segments of Carmel Valley Road. While acknowledging the project would exceed thresholds on Segments 1 to 7 and 11 and 12, the Response to Comments in the Draft Final RDEIR finds the project consistent with the policy since an EIR was prepared for the project. In effect, this strained interpretation of the policy intended to manage Carmel Valley traffic would permit the County to deny approval of small projects for which no EIR is prepared but permit approval of large projects for which EIRs are prepared. Such an interpretation is absurd as a matter of policy. Furthermore, such an interpretation violates the requirements that circulation policies be consistent with land use policies because it permits land uses that are not supported by transportation systems.
8. *Final RDEIR Not Available to Planning Commission Prior to Making a Recommendation.* The Planning Commission had only 6 days to review the **Draft** of a Final RDEIR. Failure to provide a Final document to the Commission deprived the Commission of the opportunity to review it prior to making a recommendation and the public the opportunity to comment on a completed document.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized and cursive, with the first name "Michael" and last name "DeLapa" clearly visible.

Michael DeLapa
Interim Executive Director