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# LandWatch Memo

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**To: Members of the GPU Refinement Group**

**From: Gary A. Patton**

**RE: Agenda For August 1, 2003 Meeting**

**Date: July 29, 2003**

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The purpose of this memorandum is to facilitate discussion of (and decisions about) key issues at the August 1, 2003 meeting of the Monterey County GPU Refinement Group. I want particularly to focus on the “purpose” of the group, its schedule, and how it is to operate. I do have a specific suggestion, found at the end of this memo.

Because the Refinement Group is so large, it is difficult for anyone to make an extended comment or presentation without seeming either to “hog the floor,” or to “bog things down.” On the other hand, if we want to make the Refinement Group effective, we do need to have a clear idea about the purpose of the group, and how it is to operate, and that will undoubtedly require some detailed and extended discussion. I hope, by outlining my thoughts in this memorandum, and by doing so in advance, that I can eliminate the need to speak as extensively at the meeting as I would otherwise have to, and can provide other members of the group with the best possible opportunity to understand the points I want to make—and hopefully to agree with them.

In summary, I believe that the Refinement Group must strictly adhere to the Board’s directions, as contained in the Minute Order documenting the motion adopted by the Board of Supervisors on June 24<sup>th</sup>. That means, among other things, that this is not the time to begin a discussion of the “policy issues” contained in the draft GPU, as the August 1<sup>st</sup> Agenda suggests that we do.

## **The “Purpose” of the Refinement Group Does Not Require “Clarification”**

The Board’s adopted motion clearly states the purpose of the group. Therefore, the purpose of the group does not require “clarification.”

“The purpose of this ‘refinement group’ is not to challenge the overall strategy and Guiding Objectives of the Plan, but to focus on specific policies where there is disagreement, and to seek to resolve them with specific recommendations for language modifications....(emphasis added).”

LandWatch does not believe that this group should attempt to redefine the mission established by the Board, and we’re unwilling to do so. The Board’s motion was very detailed, and is quite clear. The “purpose” of the group is explicitly stated above.

### **Our “Policy” Work Begins When The Public Review Draft of The GPU Is Published**

Item #5 in the motion explicitly says: “...the CAO will convene a refinement group to review me [sic] plan published according to directions #1 and #2 (emphasis added).”

Except for the typographical error, this direction is totally clear. Our work is to attempt to “refine” the document prepared by the staff in response to recommendations #1 and #2 of the Board’s motion. It is premature for the Refinement Group to attempt to work on “policy issues” until we have the appropriate policy document to work from. This is particularly true since the purpose of the group is to seek to resolve disagreements “with specific recommendations for language modifications...”

We can’t begin to consider specific “modifications” to policy language until we have the language we may modify. A number of groups have apparently chosen to work on policy issues in common (see the attached email from Brian Finegan of the 21<sup>st</sup> Century Solutions Group addressed to selected members of the Refinement Group). Mr. Finegan’s email notes a number of policy areas in which it is not yet clear what the language of the public review draft of the GPU will say. LandWatch urges the Refinement Group to focus on the specifics, as the Board directed. This means we need to have the public review draft from which to work—as the Board also directed.

### **Following The Board’s Direction Fits Into The Schedule Directed By The Board**

The Board’s motion says that “the work of the refinement group must be completed prior to the commencement of the hearings before the Planning Commission. An estimated time for the completion of this group’s work is the end of September with preparation of recommendations shortly thereafter (emphasis added).”

The end of September “estimate” might be accurate, if the public review draft of the GPU were released in July (as the Board may have thought that it would be). The suggested “schedule of meetings” distributed at the first meeting of the Refinement Group proposed seven meetings for the Refinement Group—one meeting each week for seven weeks. If the public review draft were available on August 1<sup>st</sup>, then the Refinement Group could complete a seven-week schedule of meetings prior to the end of September, consistent with the “estimate” in the Board’s motion.

In fact, however, the public review draft will probably not be available August 1<sup>st</sup>. That means that the “estimate” needs to change, to accord with the realities. With luck, the public review draft will be available on September 1<sup>st</sup>. However, the date it actually becomes available isn’t really that important, in terms of this group meeting the required schedule. The Board’s basic direction about the schedule is that the work of the group should start once there is a document prepared according to directions #1 and #2, and that this work “must be completed prior to the commencement of the hearings before the Planning Commission.”

*Whenever* the draft is released, it makes sense for the county to allow 60-days for public comment, prior to the beginning of Planning Commission hearings, and during that public review and comment period, which can also include the required CEQA comment period, this

Refinement Group can carry out its seven-week schedule, and can finish its work “prior to the commencement of the hearings before the Planning Commission.”

LandWatch urges the Refinement Group to adhere to the Board’s direction, and to set up a schedule for policy discussion that commences upon release of the public review draft of the GPU, and that is completed prior to the commencement of hearings before the Planning Commission.

### **We Need To Be Realistic About The Date When Final GPU Action Will Occur**

Participants in the GPU process will remember that the Board said, earlier this year, that it would complete work on the GPU, and take final action, prior to December 31<sup>st</sup> of this year. In fact, once the Board decided on a six week period of “workshops,” to review the document that the staff produced pursuant to the Board’s directions in November of last year, it was clear to anyone knowledgeable about the process that this deadline would not, probably, be met. It is now obvious that the December 31<sup>st</sup> deadline will almost certainly not be met (with or without a Refinement Group review). Initially, staff must produce an internally-consistent and complete redraft of the GPU, which completely meets the requirements of the State’s General Plan law (this is what the June 24<sup>th</sup> motion directs). The staff must also produce a new Draft EIR on the document. Then, the Draft EIR must be circulated for at least 45-days. Then, responses to comments must be prepared and compiled. The Planning Commission must carry out at least one public hearing, and so must the Board, which must have an opportunity to consider a Final EIR when it acts. When you add up all the time involved, even assuming the most rapid efforts possible, it is virtually certain that a December 31<sup>st</sup> deadline is unachievable.

LandWatch suggests that we deal in realities, instead of illusions. Final action on the GPU is now likely to take place sometime during the first half of 2004. Therefore, let’s follow the Board’s directive, which gives the Refinement Group the best possible chance of doing something constructive. Again, that means that we commence our policy work when we have the public review draft available from which to work.

### **We May Be “Raring To Go,” But Do We Actually Want To Get Somewhere?**

LandWatch anticipates that there will be objections to the idea of following the Board’s direction—on the basis that the GPU process has already taken way too long, and that we need to get started as soon as possible. We join those frustrated by delay. As participants in the GPU process will recall, LandWatch has consistently testified against delay, while other Refinement Group members (the 21<sup>st</sup> Century Solutions Group, for example) have consistently asked for more delay.

LandWatch continues to want the GPU process to proceed with the utmost expedition—but we are also realistic about that process. As outlined above, once the Board decided to hold six weeks of “workshops” on the April “Preliminary Draft” (to which we objected), it became clear that the final decision on the GPU would take place next year (and most likely after the March Primary Elections).

The issue, now, is not about the “process” per se, which will almost certainly go into next year, but about the Refinement Group. Will “speed” help make the group successful, or will it make the group less effective in achieving its purpose? If we stick to the purpose that the Board has given us, to seek to resolve disagreements with “specific recommendations for language modifications,” then it is clear that taking the time necessary to let everyone work from the public review draft of the GPU will enhance the possibility of success.

### **We Need To Take Some Policy Items “Off The Table”**

LandWatch believes that it does make sense to have some policy-related discussions prior to the release of the public review draft of the GPU. However, these discussions should particularly be about what is “off the table,” even more than what is going to be “on” the table.

The Board’s motion was explicit:

“The purpose of this ‘refinement group’ is not to challenge the overall strategy and Guiding Objectives of the Plan, but to focus on specific policies where there is disagreement, and to seek to resolve them with specific recommendations for language modifications . . . . (emphasis added).”

In his introductory comments elaborating on the motion he was about to make, Supervisor Calcagno explicitly said “I do want to get more agreement within the community on General Plan policies. However, I believe that the overall strategy for the General Plan and the Guiding Objectives provide a framework for these discussions. I do know that the 40-acre minimum, for example is contentious. But, we have already made decisions about minimum parcel size requirements. So, I believe the Plan with the recommend minimum parcel size requirements should be publicly reviewed and debated under the applicable environmental and planning laws.”

In other words, while the 40-acre minimum may be “open for comment” as part of the normal process, it’s not appropriate for the Refinement Group. LandWatch does not believe that there is any possibility of “consensus” about the 40-acre minimum, and so that should be taken “off the table” now. The list of policies advanced by the 21<sup>st</sup> Century Solutions Group, for those groups apparently working collaboratively, contains a number of items where consensus is likely to be impossible, including the 40-acre minimum.

LandWatch suggests that we should take policy items “off the table” when it is clear that consensus is not going to be possible, since the purpose of the group is to seek to resolve disagreements. If there is no hope of doing that, in a particular case (as with the 40-acre minimum), then all the participants in the Refinement Group would better utilize the time available by focusing on the policy areas where it may be possible to reach agreement.

### **We Need A Procedure That Focuses Our Discussion on Specific Language**

The Board’s direction is for the Refinement Group to seek to resolve disagreements “with specific recommendations for language modifications.” To achieve that objective, I believe that our discussion needs to focus on specific language. If we all sit around a large table and make

general statements, lots of time will be taken, and few specific results will be achieved. I think that the Refinement Group needs to establish a procedure to identify issues to discuss, and then to make sure that specific proposals are made, in writing, and presented to all participants in advance of the meeting at which the proposal is to be discussed. As indicated in the adopted Guidelines, any modification of a specific proposal, through group discussion, should come back for final review at the next meeting.

In order to make this system work, we will need to plan a schedule that allocates time very specifically to a limited number of topics we agree are likely to be fruitful, so that we don't end up with lots of speeches, and little concrete progress. While I don't believe that the Refinement Group can begin policy discussions until we have the public review draft of the GPU from which to work, I do think we can establish a schedule in advance, so that when we have that document, we can expeditiously move ahead.

### **Where Does The Refinement Group “Fit In” To The GPU Process?**

It is worth noting that the Board's June 24<sup>th</sup> motion did more than establish a “Refinement Group.” In effect, it outlined the basic GPU process that is legally required under state law, and then added a Refinement Group effort as an adjunct activity. The motion is absolutely clear that the Refinement Group is to feed into the regular process (as established in directions #1 - #4), and is not expected to supplant that process. This is important, and should help to “lighten the burden” that we may think has been placed upon this group.

What the Board motion means is that the Board expects to utilize the normal, legal process to make its decisions on the GPU, aided by any consensus recommendations that this Refinement Group can make. I think it is quite possible for the Refinement Group to find agreement on a number of issues, but there will undoubtedly continue to be sharp differences of opinion on key policy matters (the 40-acre minimum is just one example). We should all be realistic about this, and appreciate what the Board has asked us to do.

The Board has not asked us to resolve all the possible controversies and differences. It assumes that these will be resolved through the “normal” process, ultimately by decisions made by the Board of Supervisors. However, the Board *has* asked this Refinement Group to see if it's possible to find a consensus on issues where that is possible.

If we can't find consensus, that's not the end of the world, but if we can, that's great. That's the spirit of the Board's motion. Seen in this context, we don't need to put too much “stress” upon this Refinement Group. We can assume that there will be another way to resolve differences, if we can't do it here. Ultimately, the burden really isn't on us. It's on the Board of Supervisors. And of course, that's the way it's supposed to be.

### **A Specific Suggestion**

I have a specific proposal for the Refinement Group, to resolve a number of the issues implicit in the Agenda for the August 1<sup>st</sup> meeting. I recommend that the Refinement Group agree (pursuant to its adopted Guidelines):

1. That the “purpose” of the Refinement Group is established by the Board’s motion.
2. That the Refinement Group will not seek to resolve policy matters until the release of the public review draft of the GPU, consistent with the Board’s motion.
3. That the Refinement Group will establish a procedure for decision making that (1) identifies policy issues that should be “off the table,” where the group agrees that consensus is unlikely; (2) identifies policy issues that the group thinks may be susceptible to a consensus agreement; and (3) requires specific proposals to be prepared in advance of policy discussion, so that all discussion will focus on specific language, not generalities.
4. That once the Refinement Group has taken the procedural steps necessary to allow the group to operate according to the above understandings, the group will adjourn its schedule until the public review draft of the GPU is released for public comment.

cc: Members, Board of Supervisors  
Other Interested Persons

## **Attachment – Email From Brian Finegan To Selected Refinement Group Members**

**Subject:** Grouping of Refinement Committee Issues

**Date:** Tue, 29 Jul 2003 11:20:36 -0700

**From:** Brian Finegan <[brian@bfinegan.com](mailto:brian@bfinegan.com)>

**To:** Mike Johnston <[mike890@charter.net](mailto:mike890@charter.net)>, Tom Carvey <[TomCarvey@cs.com](mailto:TomCarvey@cs.com)>, Sheryl McKenzie <[gad@mcarr.com](mailto:gad@mcarr.com)>, Rene Boskoff <[rene.boskoff@marriott.com](mailto:rene.boskoff@marriott.com)>, Nancy Isakson <[nisakson@mbay.net](mailto:nisakson@mbay.net)>, Luann Meador <[luann@ventanawines.com](mailto:luann@ventanawines.com)>, Kurt Gollnick <[kurt@scheidvineyards.com](mailto:kurt@scheidvineyards.com)>, Juan Uranga <[juranga@cca-viva.org](mailto:juranga@cca-viva.org)>, John Narigi <[john@MontereyPlazaHotel.com](mailto:john@MontereyPlazaHotel.com)>, Jay Brown <[BROWN1375@aol.com](mailto:BROWN1375@aol.com)>, Bob Perkins <[mocofb@redshift.com](mailto:mocofb@redshift.com)>, Alfred Diaz-Infante <[admin@chispahousing.org](mailto:admin@chispahousing.org)>, Gwen Miller <[gwen@svbe.com](mailto:gwen@svbe.com)>

**CC:** Jeff Davi <[jeffdavi@agdavi.com](mailto:jeffdavi@agdavi.com)>

Attached please find a grouping of issues by broad category. The numbers for each issue are the numbers on the 21<sup>st</sup> Century Solutions Discussion Issues list. Following up on last evening's e-mail from the county, each of us now needs to identify issues for your group, identify the specific policy or groups of policies that are of concern, and be prepared to describe the problem with the policy or policies and how it affects your group's interests.

Brian

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### **KEY:**

**Bold** items are priority issues.

*Italic* items are issues that lend themselves to easy resolution.

Underlined items are referenced in Board of Supervisors Direction for Changes to April 2003 Draft General Plan (May-June 2003)

## **REFINEMENT GROUP – ISSUES**

### **A. Circulation Policies**

3. *Circulation improvement priorities. (C)*
4. **Road level of service (LOS).** (LU, C, PS)
23. Prohibition of county funding for rural road improvements. (C)
34. “Traffic shed” as regulatory tool. (C)

### **B. Water Policies**

16. **Service standards in rural areas.** (LU, PS)
26. Discretionary permits for individual private wells. (PS)

42. Proof of legal water rights. (PS)

46. **Water management policies- legal review. (PS)**

### **C. Affordable Housing Policies**

1. **City growth areas and growth boundaries. (LU)**

2. **Planning standards for cities. (LU)**

14. **Affordable housing in Rural Centers. (LU, H)**

15. **Design criteria, densities and uses in Community Areas. (LU)**

21. Practicality and feasibility of 100% affordable overlay. (LU, H)

27. Standards for caretaker units. (LU, H)

32. Required support for infrastructure financing. (LU)

### **D. Wine Industry Policies**

11. **Slope restrictions. (LU, ERME, AG)**

24. *Ag support facilities definition and policies. (LU, AG)*

28. Discretionary permits for agricultural activities. (LU, AG)

33. Cottage industry definition for wineries. (LU, AG)

38. Use permits for cultivation. (LU, ERME, AG)

41. Prohibition of off-road vehicles. (ERME)

45. *Allowance of farming in Rural Lands. (LU)*

### **E. Policies Restricting Agriculture**

7. **Routine - on-going agricultural practices. (LU, ERME, AG, AD)**

8. **Vegetation policies-“natural plant communities.” (ERME, AG)**

11. **Slope restrictions. (LU, ERME, AG)**

13. **Residences accessory to agricultural use. (LU, H)**

18. *Restrictions of family member lots. (LU, AG)*

20. Agricultural buffers (LU, AG)

24. *Ag support facilities definition and policies. (LU, AG)*

25. *Accessory on-site farm equipment storage. (LU, AG)*

28. Discretionary permits for agricultural activities. (LU, AG)

- 37. Greenhouse regulations. (LU, AG)
- 38. Use permits for cultivation. (LU, ERME, AG)
- 41. *Prohibition of off-road vehicles. (ERME)*
- 45. *Allowance of farming in Rural Lands. (LU)*

#### **F. Clustering/TDR Policies**

- 5. **Clustering regulations.** (LU, AG, AD)
- 6. **Transfer of development rights (TDRs).** (LU, AG, AD)
- 29. Use and promotion of conservation easements. (LU, ERME)

#### **G. Restrictions on Property Rights**

- 10. **40-acre minimum parcel size in all rural areas.** (LU)
- 17. **Required findings for lot line adjustments.** (LU)
- 19. House size limitations (LU)
- 22. *Pipeline projects. (LU, AD)*
- 27. Standards for caretaker and second units. (LU, H)
- 39. *Flood plain regulations. (HS)*

#### **H. Aesthetics Policies**

- 9. **Scenic viewshed policies- invisibility standard.** (ERME)
- 12. **Ridgeline development policies.** (ERME)
- 35. Tree removal regulations. (ERME)

#### **I. Non-Conforming Use Policies**

- 30. Minimum parcel size for non-conforming lots. (LU)
- 31. Expansion and modification of non-conforming uses. (LU)

#### **J. Miscellaneous Policies**

- 49. Issues identified in attached Executive Summary of Mintier Report