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November 18, 2003

Mayor Ila Mettee-McCutchon
[Sent By Email and FAX: 831-384-9148]
City of Marina, Marina City Hall
211 Hillcrest Avenue
Marina, CA 93933

RE: Proposed Marina Heights Development

Dear Mayor Mettee-McCutchon and Council Members:

On Tuesday, November 18, 2003, the City Council will consider the proposed Marina Heights Development Project. To approve the project, the City Council must agree to make numerous changes to the City's General Plan. It must "sign off" on the Final Environmental Impact Report prepared for the project, and it must, of course, approve the Specific Plan for the proposed development.

LandWatch Monterey County does not believe that the proposed project represents the best use of the public land upon which the project is proposed. LandWatch also does not believe that the Final EIR fully complies with the California Environmental Quality Act. Finally, we note that the proposed development would require numerous and highly significant changes to the City's recently-adopted General Plan. As a matter of good land use planning, the City should require developers to follow the City's Plan, instead of changing the City's Plan to benefit the developers.

LandWatch urges the City Council to require an adequate Environmental Impact Report, and to require a project redesign that will be consistent with the Marina General Plan, and that will maximize benefits to the citizens and residents of Marina.

This Project Is Proposed on Public Land – And That Changes Everything

The Marina Heights project is not a typical development project. In this case, the *public owns the land*. This changes (or should change) everything.

In the case of a typical development, local government acts as a "regulator" of land use. Its basic job is to make sure that proposed developments are consistent with the public interest. In carrying out that responsibility, local officials typically defer to what the developer-landowner suggests. It does make some sense to let a developer-landowner use his land in the way he wants, as long as basic public policy requirements are met.

In this case, the City of Marina is not simply a “regulator.” Thanks to an amazingly generous gift from the federal government, the City Council will become the actual “owner” of the land. This means that the Council shouldn’t be reviewing this proposal as though it were a typical development project. Instead, the Council should be deciding how this valuable public land can best be used to achieve benefits for the citizens and residents of Marina. The fact that the public will shortly own the land on which this development is proposed makes this development different. At least it should.

The City, however, is not acting as if it were the landowner. If it were, the plans would reflect the provisions of the Marina General Plan, which is the official statement by the City of what sort of land uses it wants. Furthermore, the process would have reflected an effort to hear from the citizens and residents of Marina prior to preparation of the specific plan. This plan for the development of public land should have been designed by local residents. In fact, the proposed specific plan was prepared by and for the Los Angeles-based developer (and not by and for the citizens and residents of Marina). Its provisions reflect that. Its greenbelt provisions have not been used, creatively, as local citizens and residents have asked, with the result that an existing neighborhood has been unnecessarily impacted by a proposed new road. Trees are unmercifully sacrificed, despite citizen and resident concern, and a potential high school site is made impractical, despite the urgings of local school officials. Many important provisions of the Marina General Plan have been bypassed. Not least important, 80% of the new homes proposed will be targeted to buyers who can afford a house costing \$500,000 or more. This is not typical of Marina’s citizens and residents, so the main benefits of this public land development will go to the Los Angeles-based developer and to out of City homebuyers.

If Marina wanted to be creative, and truly maximize the public benefit of the public land upon which Marina Heights is proposed, it could:

- Retain the land, and allow development on long term land leases, which would help produce long term affordability. This is what Stanford University and CSUMB have done on their lands, and it definitely works.
- Hold all or part of their lands and allow housing development to proceed in conjunction with new business developments within Marina. The City, for example, could tell businesses they desire to attract to the MBEST and the City’s industrial center that if they located there the City of Marina would make lands within the proposed Marina Heights development available for residential developments that would directly meet the housing needs of the new business. This is a way to attract new business, and to make a “jobs-housing balance” a reality.
- Rehabilitate the existing homes (now slated for demolition), and rent them out, producing a very significant income stream for the city. This strategy could be paired with the strategy of holding land for developments that stimulate new business development.

There are other strategies possible, as well. The key to all of them is recognizing that the Fort Ord lands are different because the public owns these lands. To turn these lands into a typical “development project” is to miss an historic opportunity.

It is not too late to do something different. The Option Agreement that LandWatch commented upon about a year ago was drafted to turn public land into a “typical development project.” We urged the City not to sign that Agreement—but it did. Nonetheless, the Option Agreement does

provide that there is no limit on the discretion of the City in the entitlement and approval process [Sec. 3.2.3]. That means that the City can require the Marina Heights project to be redesigned and restructured—which is what we recommend.

The City Council Should Follow The Existing General Plan

The Marina General Plan was adopted in 2001, making it “recent.” It is not old. It is not outmoded. It was specifically designed to guide city development on Fort Ord. The City Council should follow the Marina General Plan, not change its basic provisions to benefit the developer. Here are just a few of the key changes that the City Council is being asked to make:

- The General Plan requires higher densities than are proposed by the developer. As the EIR points out, following the General Plan would allow the City to maintain more open space, and to provide more school and recreational areas. It would also allow the City to provide for a future urban reserve. All of these advantages will be lost if the City Council agrees to modify the existing General Plan density requirements. The developer is touting this development as “new urbanism.” It is practically the opposite! Reducing General Plan densities to allow for a more sprawling design is bad planning, and the opposite of the principles of “New Urbanism” and “Traditional Neighborhood Design.” The Council should stick with its existing General Plan.
- The General Plan requires that new developments facilitate “public transit and [a] pedestrian oriented community.” The developer wants to be excused from this General Plan requirement. The Council should stick with its existing General Plan.
- The General Plan requires the provision of affordable housing within each new development—but this developer wants to be excused from that requirement. It is unconscionable that the City of Marina would allow the construction of 1,050 new homes—and not require that even one of those homes be affordable by a person with an average or below average income. There is absolutely NO genuinely “affordable housing” in this development. The only housing required is housing directed to persons with above average incomes, and of course 80% of the homes will be for the extremely wealthy. The City Council should stick with its existing General Plan.
- The General Plan sets a standard for park and recreation space—and this developer wants to be excused from that requirement. The City Council should stick with its existing General Plan.
- The General Plan specifies that community development “shall be allocated and phased in a manner than enhances local employment and economic opportunities,” and it further requires a “jobs-housing balance.” These are key provisions of the General Plan, and the developer wants to be excused from complying. There is no reason why the City can’t tie new home sales to new business and economic development, as called for in the General Plan. By discarding this provision, the City will turn Marina Heights into a typical, large-lot residential subdivision, catering to upper income home buyers who will have no specific connection to Marina, and whose home purchase will provide no new impetus to job development in the city. The City Council should stick with its existing General Plan.
- The General Plan and the principles of “New Urbanism” require that large new residential developments incorporate some associated commercial development. This

developer wants to be excused from this requirement. The City Council should stick with its existing General Plan.

The Final EIR is Not Adequate

The California Environmental Quality Act (CEQA) requires that the Council insist upon the preparation of a Final EIR that fully satisfies the requirements of state law. In this case, the Final EIR does not adequately respond to many of the comments filed in response to the Draft EIR. Traffic impacts, specifically, have not been properly analyzed. School impacts have been discounted, as have impacts on the natural vegetation and other conditions of the site.

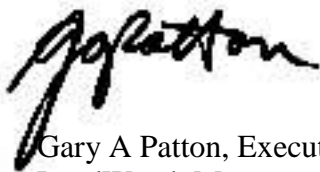
Other Concerns – And Conclusion

LandWatch believes that the Council should require that the project be redesigned to maximize public benefits, and to reflect the provisions of the existing Marina General Plan. In addition, we hope the Council will pay attention to the following concerns:

- The specific plan should be modified to honor the request from Pueblo Del Mar and the Housing Authority to locate townhouses adjacent to the existing Pueblo Del Mar facility.
- The specific plan should be modified to restore an adequate and functional high school site.
- The Council should require a legal analysis of the propriety of proceeding with a project that will result, essentially, at the “sale” of a public asset at what appears to be a “below market” price. This is particularly important in light of the lawsuit filed against the City of Seaside, with respect to the Seaside Highlands development, since the Judge found, in that case, that there was a significant probability that the City Council had not properly represented the citizens, in making what amounted to a “below market” sale.

Thank you for considering our comments on this very important matter.

Very truly yours,



Gary A Patton, Executive Director
LandWatch Monterey County

cc: Cypress Marina Heights, L.P.
Interested Persons