



**LandWatch**  
monterey county

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February 3, 2004

Alana Knaster, Chief Assistant Director  
[Sent By Mail, Email, and FAX to 831-384-3261]  
Planning and Building Inspection Department  
County of Monterey  
2620 1st Avenue  
Marina, CA 93933

RE: Comments on DEIR for Proposed Sunridge Views Subdivision  
(PLN 990391)

Dear Alana Knaster:

LandWatch has reviewed the Draft Environmental Impact Report prepared on the proposed Sunridge Views Subdivision, dated December 8, 2003. We have the following comments:

1. As the DEIR says on Page S-1, Monterey County “requires proof of a sustainable water supply prior to approval of development projects.” LandWatch believes that it is unfortunate that the applicant for this proposed development project was allowed to and/or required to prepare a costly Environmental Impact Report for a proposed project that cannot legally be approved, consistent with the above requirement. Properly speaking, this comment goes to the decision on whether or not to approve the project, rather than constituting a comment on the DEIR itself. However, we want to highlight the fact that the Draft Environmental Impact Report clearly states that the legal requirements relating to water supply cannot be met by this proposed project. Please see Pages 1-23 and 1-24 (“...the proposed project would generate a water demand for which a long-term sustainable supply of water cannot be assured. Therefore, the proposed project would be inconsistent with this standard.”)
2. The DEIR also states that “the proposed project would result in the net addition of approximately 75 daily trips, including trips to two intersections that are currently at LOS F (Page S-2).” This is another reason that the proposed project must be denied.
3. Figure 5, on Page 1-15, shows the proposed layout of the ten parcels that would be created by the proposed subdivision. It is clear from this depiction of the tentative map that impacts might be reduced by a subdivision that would create a total of six parcels, with proposed lots 1, 2, 3, 4, and 5 being developable, and the sixth lot being a “remainder” lot, consisting of what are proposed to be lots 6, 7, 8, 9, and 10. The “remainder” lot, in this configuration, would contain a good deal of the land currently in agricultural production, and much of the land that is steep and visually significant. The Final EIR should consider an alternative that would provide for a permanent open space

easement over what would be the “remainder” parcel in this configuration, that would prevent future agricultural use, in connection with an approval of a subdivision that allowed development only on proposed lots 1, 2, 3, 4, and 5. This is different from the alternative actually studied in the DEIR, in that the alternative studied would maintain agricultural (as opposed to open space) uses.

4. On Page 1-19, the DEIR considers “Consistency with Local and Regional Plans.” The DEIR’s treatment of this subject begins by quoting language from Policy 26.1.18 of the existing Monterey County General Plan. That language indicates that the proposed project should be denied, because approval of the project would be inconsistent with those provisions in the current General Plan that state that “lack of services, utility, environmental and other constraints provide a valid reason for denial of a proposed project.” The DEIR continues its discussion, however, by saying that fees related to the need for both traffic and water improvements are proposed as mitigations, and that “payment of these fees would is [sic] considered by the County to mitigate the proposed projects effects to a less than significant level. The proposed project would be **consistent** with this policy.”

The language error contained in the DEIR is revealing. No existing policy of the County holds that payment of mitigation fees “is considered...to mitigate the proposed project.” So, the DEIR must be trying to say that such a fee payment “would be” considered an adequate mitigation by the County. This statement is presumptuous in the extreme. The DEIR cannot predict that Monterey County decision makers “would” decide that the payment of a fee is a sufficient mitigation measure. That is, in the most generous way of looking at it, a matter for the future exercise of County discretion. Furthermore, it is clear, as a matter of law, that the payment of a fee, in this situation, cannot be held to be a sufficient mitigation measure. The fact that a fee may be charged will not, in any way, lead to an actual mitigation of the identified water and traffic problems. All such a fee payment would accomplish would be to give the County some money, with no guarantee that this payment could or would finance water supply or road changes that would result in an actual mitigation. The Final EIR should note that existing policies mandate the denial of the project, and that there is no mitigation for this policy inconsistency.

5. LandWatch also wants to note that the current Monterey County General Plan, adopted in 1982, is not only chronologically out of date, but is now internally inconsistent and legally inadequate. This fact has been noted by the County itself. The County must make a finding of General Plan consistency to be able to approve the proposed Sunridge Views subdivision, and it is not able to do that in view of the inadequacy of the County’s existing General Plan. While this comment may be most properly understood as a comment relevant to the decision on whether or not to approve the project, the Final EIR should examine the legal sufficiency of the current County General Plan, in connection with its examination of the “consistency” of the project with local and regional plan policies.
6. On Page 1-23, the DEIR again states that the payment of a water mitigation fee will “mitigate” the fact that current County policy says that “new development shall be phased so that the existing water supplies are not committed beyond their safe long term yields.” Because the project would commit a currently overdrafted aquifer to supply water for new residences, it would make the existing situation worse, not better. Current agricultural uses, if in fact they are as described in the DEIR, are much more “interruptible” than water services needed for human habitation.

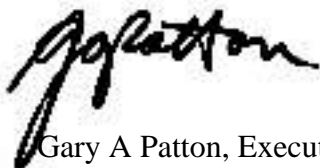
7. The last paragraph of Page 1-23 properly outlines the facts, and the current policies. It then claims, with no basis or analysis, that “requiring a payment of a fee to the Monterey County Water Resources Agency would reduce this impact to a less than significant level.” If there is a basis for this statement, which LandWatch does not believe there is, or could be, the Final EIR must much more specifically indicate how the mere payment of a fee, by this one project, will lead to a solution of the problem. Absent real mitigation, current policies mandate denial of the project. Requiring a project proponent to pay money, but allowing the impact to continue, is not a “mitigation” of the impact.
8. Same comment with respect to the paragraph titled, “Consistency Analysis” on Page 1-24.
9. Page 1-28 notes that the County Code says that ridgeline development will not be permitted unless there is “no alternative location...which would allow a reasonable development without the potential for ridgeline development.” The “mitigation” proposed in the DEIR does not meet the standard set in the County Code. The Final EIR should recommend a mitigation that is consistent with this policy (elimination of the building sites that have “the potential for ridgeline development”).
10. Section 2.3, focusing on “Hydrology and Water Quality,” largely outlines the current situation, and notes that the proposed project is essentially inconsistent with the current policies adopted to address the existing groundwater overdraft. The only proper conclusion, from a review of these materials, is that the subject project must be denied. The actual arrival of imported water, discussed on Page 2-41, is highly problematic. Unless and until that water has arrived, and the current overdraft situation has been reversed, no “fee” payment will actually mitigate the hydrological problems outlined in the DEIR.
11. LandWatch questions (as does the Sierra Club in its separate letter, which is incorporated here by reference) the water supply calculations and analysis which begin on Page 2-47 of the DEIR. LandWatch further notes that no proposed condition will prohibit future agricultural cultivation on the parcels created. In view of this, the calculations in the DEIR, even if accurate, are irrelevant. Finally, as noted earlier, substituting water uses necessary to sustain human habitation, in exchange for agricultural uses, which can be suspended during times of drought, actually creates a worse, not a better situation for the overdrafted aquifer.
12. The DEIR indicates that construction of the proposed project will make a bad traffic problem worse. The “mitigation fee” proposed, as in the case of the “water mitigation fee” will not actually solve the existing traffic problem. In view of this, the project must be denied. The Final EIR, if it wishes to maintain that some sort of fee payment will “mitigate” the admitted traffic impacts of the proposed project, must demonstrate how the fee payment will actually result in a reduction or elimination of the traffic problems that currently exist, and that would be exacerbated by the proposed project.

In conclusion, LandWatch Monterey County believes that this project should be denied, and that the Planning Commission was right, on December 13, 2000, to recommend denial based on the clear inconsistency of the proposed project with the North County Land Use Plan/Local Coastal Program. It is regrettable that the Board of Supervisors reversed this decision, and put the applicant to the significant expense of preparing an EIR for a project that cannot legally be approved. The Draft EIR, however, does reveal that this is the case, and the attempt of the DEIR

to avoid this fact, by allowing fee payments to serve as “mitigation” for the County’s anticipated violation of its own planning policies, is ultimately unavailing.

Thank you for taking our comments into consideration as this project proceeds further in the planning process.

Respectfully submitted,

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

Gary A Patton, Executive Director  
LandWatch Monterey County

cc: Monterey County Board of Supervisors  
Monterey County Planning Commission