



February 10, 2015

Monterey County Planning Commission  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Dear Planning Commissioners and Planning Staff:

The following is LandWatch Monterey County's preliminary comments on the proposed Development Evaluation System, which will fulfill GPU 2010 Land Use policy 1.19. We hope these comments aid in the discussion and are helpful during the workshop. Thank you for the opportunity to be involved throughout the development of this important ordinance.

## **I. Agricultural exemption is inappropriate**

- A. Option 2 (ag-specific DES) is preferable to Option 1 (exemption of subdivisions for exclusive agricultural purposes)
- B. The plain language of LU 1.19 does not provide for exemption of any subdivision.
- C. Contrary to the staff report, Policy AG 3.3, containing an exception from certain enumerated GP Policies afforded to Routine and Ongoing Agricultural Activities ("ROAA"), actually demonstrates that agriculture should not be exempt from LU 1.19. First, LU 1.19 is not listed as one of the policies from which ROAA is exempt, and the list of policies from which agriculture is exempted should be understood to be exhaustive. Second, the illustrative list of activities in Policy AG 3.3 that may be considered ROAA does not include subdivision. The final list of ROAA activities still needs to be set out in an ordinance, but that ordinance is not likely to include subdivision because subdivision of land is completely unlike the illustrative activities.
- D. There is no reason in LU 1.19 that a separate DES system cannot be applied to agriculture land. In particular, there is no reason that a distinct DES that is specific to land designated or zoned agriculture could not be deemed "consistent" as required by LU 1.19. The point of the requirement that the DES be consistent is to ensure that objective standards are applied to each application – but it is

reasonable to apply different standards to land zoned agriculture that is subdivided for agricultural purposes.

E. Only by setting up an ag-specific DES can there be a mechanism to ensure that the proposed criteria for the qualifying “subdivisions for exclusive agricultural purposes” are actually applied and enforced.

F. LU 1.19 is intended to stop sprawl. Contrary to the staff report, stopping sprawl clearly does protect agricultural land and was so intended.

G. The ag-specific DES under Option 2 is not inconsistent with the provision in Policy LU 3.2 that provides that the policies in the Agriculture Element govern land use in areas designated for agriculture. Agriculture Element aspirational policies can and should be used to articulate the criteria for permitting subdivisions for exclusive agricultural purposes.

## **II. Provisions applicable to agricultural subdivisions**

A. The Option 2 ag-specific DES should apply only to subdivisions, and to all subdivisions, on agriculturally designated or zoned land. If a subdivision involves a rezone or GPA that changes agricultural designation, the normal DES should apply.

B. Criteria to define “subdivisions for exclusive agricultural purposes” must be developed. The term itself is too vague to apply. We suggest that it be defined with reference to a list of agricultural purposes.

C. Criteria are required to define “minimization” of the conversion of ag land under Policy AG 1.7. For example, the maximum residential area footprint should be defined and there should be a requirement that it be located on the least productive areas consistent with other policy constraints (e.g., slope development). These criteria should be in an ag-specific DES.

D. We agree that any special treatment of “subdivisions for exclusive agricultural purposes,” including the Option 2 ag-specific DES, should apply only where there is an existing agricultural use on the property. But that ag use should be a longstanding use, e.g., 10 years, in order to prevent gaming the system, e.g., by grazing an area for a year in order to get the right to subdivide it.

E. Criteria for no intensification of water use should at minimum specify that there will be no increase in water use on the property and that there be no credit offered in this determination for the replacement of agricultural use with residential use.

F. Additional aspiration policies relevant to preservation of agriculture should be included in an Option 2 DES and there should be a point based system. For example, points should be awarded for:

1. Williamson contracts;
2. Easements or deed restrictions that prevent future non-agricultural uses;
3. Deed restrictions banning residential development for any purpose other than farmworker or farm-owner housing.

### **III. General comments on the DES proposed for non-agricultural uses**

A. The staff report states that a project may be approved even if it fails the DES. This interpretation is at odds with LU 1.19 provisions for a “pass-fail” system and for the definition of a “minimum passing score.”

B. The staff report does not present evidence that the proposed point system would incentivize the kind of development that the County actually wants. It would be helpful to see some examples of some actual developments, including developments that have been controversial, scored using the proposed system.

C. The proposed point system appears to permit gaming. For example:

1. A distant isolated subdivision would pass if it simply undergrounds 2 miles of phone lines;
2. A distant isolated subdivision could pass by providing a 5,000 sf daycare facility and a 5,000 sf fitness center, or just by providing 10,000 sf of park space;
3. A rural sprawl subdivision would get 1/3 of the needed points simply by being surrounded by low density residential uses on three sides.

D. The provision of metrics in terms of absolute values rather than percentages creates a large-project bias. For example, it would be easier for a large isolated sprawl sub division project to generate points for inclusion of community facilities or job creation. The purpose of LU 1.19 is to prevent sprawl, not to create incentives for large multi-purpose projects or mini-specific plans in places not designated for growth.

E. Points should be subtracted for non-fulfillment of aspirational policies. Otherwise projects may qualify simply by cherry picking a few criteria.

### **IV. Comments on the specific criteria**

A. Cluster development

1. Preservation of open space within a project is not necessarily smart growth. The objective should be to reward concentrated development

adjacent to or proximate to growth areas, not to create more projects that sprinkle residential lots over a large previously undeveloped area.

B. Infill development

1. Awarding 30 points for a project that has low density residential use on three sides would encourage more sprawling low density residential use. More points should be awarded to MDR and HDR infill and no points to LDR infill.

C. Recycling

1. Credit should only be given for permanent (not construction) recycling and some method to enforce this should be required before points are awarded.

D. Vehicle Miles Traveled (VMT) reduction

1. Business as usual (baseline) conditions must be defined. For example, is the VMT baseline going to be based on the average VMT for all projects, including urban projects, or is it going to be the “business as usual” VMT for a project in the proposed location? If the latter, then points would be awarded for distant projects with high VMT as long as there were some measures that reduced the VMT from some inflated baseline.

2. VMT reductions must be enforceable if any points are awarded.

3. Examples are critical here. What kinds of projects would be rewarded?

E. Undergrounding utilities

1. The points awarded are excessive. Two miles of telephone cable buried by the roadside would permit any project. The use of the absolute measure (100 lineal feet) creates a large-project bias. And furthermore, what exactly does undergrounding utilities have to do with smart growth?

F. Community resources

1. Crediting 10 points for 1,000 sf of community services, including parks, would encourage large isolated projects. Just meeting the existing requirement for park space would qualify large subdivision projects.

G. Water resources

1. The proposed 10 points for every 0.5 acre feet of water reused is unclear. Is this per year? Is the requirement a per capita or per household

requirement? If not, then a large isolated golf-course project that recycles 5 acre feet of water would qualify on that basis alone.

H. Voluntary reduction of density

1. Smart growth is typically dense growth. The proposal to credit projects from density reductions goes in the wrong direction.

I. Mixed use

1. The reference to “2c above” must be an error. 2c concerns undergrounding utilities.

J. Environmental impacts

1. The use of CEQA findings of significant unavoidable impacts is too course a filter. LandWatch would like a more nuanced approach to environmental impacts. For example, regardless of the CEQA significance, we’d like penalties for loss of trees or loss of farmland.

K. Proximity to transportation

1. Crediting points for proximity to rail is laudable but essentially irrelevant given the scarcity of rail connections in Monterey County.

2. Points must be awarded and subtracted for proximity and distance to transit, including bus service, which is the relevant form of mass transit in the County.

L. Jobs/housing balance

1. The only points awarded are for job creation, which is essentially double counted. More jobs without housing will aggravate the balance. The criteria should be revised to credit the creation of housing located proximate to jobs.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy L. White". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Amy L. White  
Executive Director