

July 12, 2004

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County of Monterey, Planning and Building Inspection Department
2620 First Avenue,
Marina, CA 93933

Re: Comments on Draft Environmental Impact Report (DEIR) for the Proposed
Rancho San Juan Specific Plan and HYH Property Project; SCH No. 2002121142

Dear Therese Schmidt:

This comment letter on the Draft Environmental Impact Report (“DEIR”) for the proposed Rancho San Juan Specific Plan and HYH Property (hereinafter “RSJ Project” and “HYH Project” or collectively “the projects”) is submitted by LandWatch Monterey County. The mission of LandWatch Monterey County is to promote and inspire sound land use legislation at the city, county, and regional levels through grassroots community action. LandWatch and its members strongly believe that proper land use policies can prevent urban sprawl and promote infill development, with beneficial impacts on the local economy, environment, and social equity.

Our comments provide a detailed and explicit outline of the problems and inadequacies presented by the DEIR, including deficiencies under the California Environmental Quality Act (“CEQA”) (Pub. Res. Code §§ 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.). In addition, this letter provides preliminary comments on the Specific Plan and HYH project failure to comply with State planning laws.

The overarching defects in the DEIR are that it fails:

1. To provide information about the projects individually and collectively necessary to support adequate analysis of impacts.
2. To analyze adequately project-related and cumulative impacts.
3. To identify mitigation measures and alternatives necessary to support informed decision-making by the permitting agencies and the County.

For the most part, the DEIR’s failure is not due to a lack of information about the proposed projects. The DEIR simply fails to make use of the information contained in the Specific Plan to analyze project-related impacts. The Specific Plan contains detailed information about the Specific Plan project. For example, the Specific Plan describes the potential size of estate homes. The DEIR not only ignores this information, but overlooks the importance of it in terms of analyzing the impacts of estate homes located in the hills in excess of 28,000 square feet in size according to the lot standards. (These impacts include impacts related to grading, viewshed and

resources, and traffic). See the Specific Plan at 7-40, Estate Single Family Lot Standards.¹ This is but one example of the DEIR's failure to analyze the whole project. As a result, the DEIR barely scratches the surface of disclosing project-related impacts and fails to identify feasible mitigation measures and alternatives. A revised DEIR must be prepared which fully analyzes the impacts of all aspects of the proposed projects and project alternatives.

The Board of Supervisors has the responsibility to uphold the law. Considering a proposal of this magnitude before the facts are in would not only be illegal, it would also be a profound disservice to the citizens who will have to bear the consequences of any decision made. The public has a legal right to know how much these projects would actually cost in terms of air and water pollution and increased demand for public services. If it turns out that the price is too high, the County should reject the projects. Unfortunately, the DEIR fails to provide the information needed to make this determination.

I. THE PROJECTS CANNOT LEGALLY BE APPROVED

State law requires that the County have a legally adequate general plan, Gov't Code § 65300, and requires that individual projects be consistent with the general plan. See Leshner Communications, Inc. v. City of Walnut Creek, 52 Cal.3d 531 (1990). Any project approval that is made in the absence of a legally adequate general plan, where the project implicates an inadequacy of the general plan, is invalid at the time it is made. See Neighborhood Action Group v. County of Calaveras, 156 Cal.App.3d 1176 (1984). The proposed Draft General Plan Update has not been adopted. Thus, the 1982 Monterey County General Plan (hereinafter "1982 General Plan") comprises the general plan for the County unincorporated territory where the projects are located.

The 1982 Monterey County General Plan Circulation element is no longer adequate to support the Land Use element because of 22 years of largely unanticipated growth. Before the Project can be approved, the land use and circulation elements of the General Plan must be revised, at least as they affect and are affected by the Project area. The orderly and logical process to accomplish this is the General Plan Update, which the County should complete prior to approval of further large scale intensive land uses.

A general plan may "fall so far behind changing local conditions that the County will fail to fulfill an implied statutory duty to keep its general plan current." (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 792, citing *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259, 296, fn. 28.) "Local agencies must periodically review and revise their general plans as circumstances warrant . . ." (*Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal. 3d 553, 572.)

The consistency doctrine requires that a General Plan be internally consistent. (Gov. Code, section 65300.5.) Thus, in amending its General Plan to re-designate land uses, the County must ensure that the amendment is consistent with the other elements of the plan and that the General Plan as a whole remains internally consistent. Specifically, the circulation element must correlate with the land use element of a general plan so that growth does not impair circulation standards. (Gov. Code, section 65302, subd. (b); (*Concerned Citizens of Calaveras County v. Calaveras*

¹ Note: 28,000 s.f. is based on a minimum lot of 40,000 s.f. On larger lots, homes could be even larger in size.

County Board of Supervisors (1985) 166 Cal.App.3d 90, 99-103.)

When a general plan is inconsistent or inadequate due to a county's failure to keep it current, and there is a nexus between its inadequacies and inconsistencies and the geographic areas implicated in its proposed amendment, a court may require a general plan update before approval of zoning enactments. (*Garat v. City of Riverside, supra*, 2 Cal.App.4th at 299, 303.) For example, a general plan can be invalidated upon a showing that 1) changes in land use and adoption of community and specific plans resulted in traffic impacts, causing an inconsistency or a lack of correlation between circulation and land use elements, 2) those impacts required update of the general plan to avoid inconsistency, and 3) the inconsistency affects the geographic area affected by the proposed amendment. (*Id.* at 301.)

The recently abandoned general plan update process provides ample evidence that the circulation element is no longer correlated with the land use element and that the general plan must be updated to correct this lack of correlation. The traffic policies, implementation plans, improvements, and standards included in the current General Plan are inadequate to support the current intensity of land use. Furthermore, these inadequacies apply in the geographic area covered by the specific plan.

The *ad hoc* general plan amendments proposed for the Project cannot cure the lack of correlation between the land use and circulation element because they simply do not address the problem. The proposed general plan amendments purport only to address such General Plan inconsistencies as park sizes, industrial land designation, and building heights. (DEIR, 4-52.) The only proposed General Plan amendment to address traffic problems pertains only to interior circulation improvements, not regional traffic impacts. (DEIR, C-13.)

1. The Project Is Inconsistent With Existing General Plan Policies

Even if the Monterey County General Plan *were* adequate, the Project is not consistent with its policies and goals. Thus, it cannot be approved.

Generally, a project must be consistent with the applicable general plan. (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183 [203 Cal.Rptr. 401].) Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." (*Families Unafraid to Uphold Rural El Dorado County v Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1336 ("FUTURE"), citations and internal quotations omitted, emphasis added.) Where a project conflicts with a single general plan policy, its approval may be reversed. (*San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *FUTURE, supra*, 62 Cal.App.4th at 1341 (project inconsistent with one land use policy).)

A specific plan must be consistent with a general plan. (Gov. Code, section 65454.) A specific plan must support a general plan; thus, revisions to a specific plan that frustrate general plan policies, even without direct conflicts, will be found inconsistent. (*Napa Citizens v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 379 [110 Cal.Rptr.2d 579].)

The Project is fundamentally inconsistent with a number of Monterey County General Plan

policies. For example, the Project would cause a substantial increase in regional traffic that would not be fully mitigated by improvements to Highway 101 and impacted regional arterials. Thus, the Project fails to meet transportation related General Plan Goals 37 (promote safe, effective, and economical transportation system that will service existing and future land uses), 38 (minimize negative impacts of transportation in the County), and 39 (provide for a road and highway network to meet the needs of existing and anticipated movements of people and commodities). The Project is also inconsistent with Greater Salinas Area Plan Goal 20.1.5.1 (discourage scattered development to reduce commute emissions). The Project is inconsistent with RSJ ADC Development Guideline 2 (specific plan shall include phasing of development, transportation improvements, and other traffic mitigation for Highway 101 and adjacent arterial roadways), Guideline 5 (development which has any significant unmitigated impacts *shall not commence* until the Highway 101 bypass construction date has been set), and Guideline 58 (arterial roadways *will be developed at the outset* of the project).

Under Specific Plan Alternatives 2 and 4e, even with a deferred and unspecified fair share funding program, the DEIR admits that the availability of supplemental funding or other limitations may prevent the County from constructing the improvements necessary to mitigate the Project impacts on its roads and intersections in 2010 and 2020. Thus, “the improvements may not be available concurrent with need or completed at all” and intersection impacts are considered significant even after mitigation. (DEIR 5.2-26, 29, 30.) Impacts on regional highways in 2010 and 2020 would also remain significant because there is no adopted programmatic development traffic Impact Fee Program and the existing *ad hoc* fee program cannot mitigate impacts. (DEIR 5.2-29 to 31.)

Similarly, for the HYH Property Project, The DEIR acknowledges that availability of supplemental funding or other limitations may prevent the County from constructing the improvements necessary to mitigate traffic impacts and thus “the improvements may not be available concurrent with need or completed at all.” (DEIR 5.2-35.) The HYH Property Project’s impacts on highways in 2010 and 2020 would also remain significant due to the lack of a programmatic development traffic Impact Fee Program. (DEIR 5.2-36.)

Monterey County General Plan Goals 37, 38, and 39 are intended to ensure that the County’s circulation system supports its land use. These provisions are not simply a wise choice by the County; they are mandated by the statutory requirement that the circulation element correlate with the land use element of a general plan. (Gov. Code, section 65302, subd. (b).) This effectively requires the circulation element to set forth service standards as well as proposals respecting changes in roadway demand caused by changes in land use. The correlation requirement is intended to prevent the land use element from permitting growth without adequate proposals for addressing circulation needs. (*Concerned Citizens of Calaveras County v. Calaveras County Board of Supervisors* (1985) 166 Cal.App.3d 90, 99-103 [212 Cal.Rptr. 273].) In *Concerned Citizens of Calaveras County* the court held that achieving the mandatory correlation of the circulation and land use elements required that a county actually identify funding sources and a real plan to address the state highway system before allowing additional growth:

“We conclude that the general plan cannot identify substantial problems that will emerge with its state highway system, further report that no known funding sources are available

for improvements necessary to remedy the problems, and achieve statutorily mandated correlation with its land use element (which provides for substantial population increases) simply by stating that the county will ask other agencies of government for money.” (*Id.* at 103.)

The facile consistency analysis in Appendix C of the DEIR² obscures the bleak fact that the Project will cause significant unmitigated regional traffic impacts that cannot be reconciled with General Plan goals. The consistency analysis recites the Specific Plan requirements for roadway improvements and traffic mitigation facilities, “as identified in the Environmental Impact Report.” (DEIR, p. C-13.) However, the consistency analysis does *not* mention that the DEIR admits that the facilities it identifies will *not* meet the General Plan goals.

In *Napa Citizens v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 379 [110 Cal.Rptr.2d 579], the court held that the consistency doctrine required “more than that the Updated Specific Plan recite goals and policies that are consistent with those set forth in the County’s General Plan.” (*Id.* at 379.) Instead, the specific plan was required *actually to mitigate* impacts that would frustrate general plan goals, goals which were very similar to Monterey County General Plan Goals 37, 38, and 39:

“If the Updated Specific Plan will frustrate the General Plan’s goals and policies, it is inconsistent with the County’s General Plan *unless it also includes definite affirmative commitments to mitigate the adverse effect or effects.*” (*Id.*, emphasis added.)

This required more than a recitation that the County would “work towards improving roadways;” it required a “binding commitment . . . to alleviate the impact the Project will have on traffic” (*Id.* at 380.) There is simply no such binding commitment here.

The 1982 General Plan is inadequate in numerous respects that are implicated by the projects, including, but not limited to the following:

- The circulation element in the 1982 General Plan is out of date and is no longer adequate to support planned and approved land uses (no longer correlated with the land use element), including at Rancho San Juan. Even with an extensive list of planned improvements for the projects, the DEIR concludes that project-related and cumulative traffic impacts will be significant.
- The 1982 General Plan lacks adequate information concerning water supply and conservation for the County. In fact, the 1982 General Plan fails to include any analysis that indicates how planned land uses at Rancho San Juan will be served by a realistic water supply, in view of today’s known conditions.

Therefore, the applicable General Plan does not comprise a legally adequate plan for County and the projects are inconsistent with the General Plan. As a result, consideration of the proposed project is premature because the County lacks a general plan on which to base approval of the

² An EIR must discuss any inconsistencies between the proposed Project and applicable general plans and regional plans. (CEQA Guidelines § 15125(d).) This discussion is mandatory under CEQA. The inadequacy of the consistency analysis is itself a reason that the DEIR must be revised and recirculated.

projects.

Moreover, the projects are inconsistent with numerous County policies and ordinances. Specifically, the DEIR states:

“Implementation of the proposed Specific Plan would require an amendment to the adopted General Plan to reconcile differences between the Specific Plan and various goals and objectives of the adopted General Plan and/or the proposed General Plan including substandard community park size, insufficient industrial area, and inconsistent building lot coverage and building height. Other local discretionary actions include an amendment to the water transfer ordinance, approval of the Specific Plan, and establishment of a Community Service District (see Table 4.4-1 in the Project Description for more detail).” DEIR at 1-2.

In view of the fact that no such changes have occurred, or are specifically proposed in connection with the projects, it would be impossible, legally, to approve the projects as proposed. In addition, the projects are inconsistent with numerous other policies of the 1982 General Plan, including, but not limited to the following:

- Natural Resources Goal 1: The project does not retain the character and natural beauty of Monterey County. To the contrary, the DEIR finds that the projects will result in significant and unavoidable impacts to landform alteration and visual quality.
- Natural Resources Goal 5: The project will not enhance water supplies in the County and to the contrary results in significant unavoidable impacts to groundwater.
- Natural Resources Goal 7 and Goal 11: The project protects open space in highly fragmented pattern not conducive to preserving the diversity and extent of the County’s native vegetation.
- Environmental Constraints Goal 21: The DEIR fails to demonstrate that the project will not harm groundwater quality and in fact contains inconsistent information about the nature of impacts from the golf course.
- Area Development Goal 26 and related policies: The DEIR fails to demonstrate that the projects will be served with adequate services and facilities and to the contrary finds that numerous traffic impacts will be significant and unavoidable.

Many more inconsistencies exist between policies of the applicable General Plan and the proposed projects. It is not job of commentors on this DEIR fully to analyze consistency of the proposed projects with the applicable General Plan, nor to evaluate the legal sufficiency of the General Plan. The analysis contained in the DEIR (Appendices) is merely copied from the Specific Plan. The County should retain outside Counsel to provide a full analysis of project consistency with the General Plan and an evaluation of the legal adequacy of the 1982 General Plan. This information should be provided to the Board of Supervisors in advance of any action

on the projects. If the County fails to provide this analysis, LandWatch will be supplementing these comments with a full review of the adequacy of the General Plan and Specific Plan.

Finally, the projects together will result in at least 39 project-related direct and cumulative impacts, including impacts to traffic, air quality and biological resources. For this reason alone, the projects cannot be legally approved, and should be denied.

II. THE DEIR IS INADEQUATE UNDER CEQA

The DEIR is inadequate. An EIR must provide enough analysis and detail about environmental impacts to enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines § 15151; Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). Under the law, the lead agency must make a good faith effort to fully disclose the environmental impacts of the project. This requirement cannot be met unless the project is adequately described and existing setting information is complete. See County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 199 (1977). Both the public and decision-makers need to fully understand the implications of the choices presented by the project, mitigation measures, and alternatives. See Laurel Heights Improvement Ass'n v. Regents of University of California (Laurel Heights I), 6 Cal.4th 1112, 1123 (1988). The DEIR fails to provide sufficient information to enable informed decision-making by the County, the public, and the permitting agencies.

The DEIR is intended to cover all necessary approvals for the HYH project, including a vesting tentative map. Many of the most significant impacts on this property will be irreversible after rough grading has occurred. Thus, detailed information concerning project level impacts must be provided at this stage of project consideration so that the County, the agencies and the public can fully understand the impacts of the proposed project and alternatives. Deferral of information concerning project-related and cumulative impacts, mitigation measures and alternatives is improper and unacceptable given the types of activities and irreversible environmental harm that will result from the initial approval of the project by the Board of Supervisors.

A. The DEIR Fails to Adequately Describe the Project and Project Setting

The DEIR fails to describe the project and its setting accurately and completely. It omits key project features that have the potential to result in significant impacts even though some of those features are described in the Specific Plan text and maps. The CEQA Guidelines define “project” as “the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately” CEQA Guidelines § 15378. Among other components, an EIR’s project description must contain a “general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.” CEQA Guidelines § 15124(c). As the Court of Appeal has noted, “The defined project and not some other project must be the EIR’s bona fide subject.” County of Inyo, 71 Cal.App.3d at 185. An accurate and complete project description is indispensable because, “[a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the

proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” Id. at 192. It does no good from the standpoint of an adequate EIR to have information in the Specific Plan that is not the subject of analysis in the DEIR.

The DEIR also fails to provide an adequate description of the setting for the project. Such a failure is fatal under CEQA. CEQA and the CEQA Guidelines mandate that an EIR include a description of “the physical environmental conditions in the vicinity of the project . . . from both a local and a regional perspective . . . Knowledge of the regional setting is critical to the assessment of environmental impacts.” CEQA Guidelines §§ 15125(a) and (c). This requirement derives from the principle that without an adequate description of the project’s local and regional context, the EIR, and thus the decision-makers and the public who rely on the EIR, cannot accurately assess the potentially significant impacts of the proposed project.

Additionally, the DEIR fails to describe accurately and completely the environmental setting impacted by the project. Accordingly, potentially significant environmental impacts cannot be adequately analyzed or addressed by the DEIR and, for this reason, the DEIR is fatally deficient under CEQA. Specific defects in the project description and setting include, but are not limited to the following:

First, the project objectives for the HYH Property are improperly narrow in their scope. A project’s goals and objectives may not be defined so narrowly as to preclude all environmentally superior alternatives. Objectives for the HYH Property are described in the DEIR and include:

- To develop an 18-hole golf course including a clubhouse facility and overnight accommodations for guests;
- To develop a wastewater treatment facility to serve the HYH Property development and provide for expansion to serve the overall Specific Plan area.

This objective and other objectives are improper in that they narrowly define the project so as to preclude consideration of feasible alternatives that would attain the legitimate goals of the County General Plan and applicable community plan. For example, the HYH Project objectives do not take into account recent studies showing that residential communities that provide for natural open space, such as trails or parks, are more desirable than golf courses. Moreover, development of a wastewater treatment facility is an implementation element of the proposed project, and is improperly listed in Project objectives. An appropriate objective would be to require the timely provision of all essential public services and facilities for the project. By identifying the development of a wastewater treatment plan as a Project objective, feasible project alternatives are precluded. A revised DEIR must include appropriate objectives which do not have the effect of limiting the range of alternatives analyzed for the projects.

Second, the DEIR fails to describe and analyze the whole project. The Specific Plan provides that “[t]wo Future Development/Interim Agricultural areas, comprised of 565.5 acres, would be established, the largest in the eastern portion of the Specific Plan area, and the other in the northwestern portion. Development of these areas would depend on additional sources of water supply as groundwater is currently considered insufficient to accommodate more than the development intensity included in the proposed Specific Plan. Interim agricultural use of the

large Future Development/Interim Agricultural area is allowed.” DEIR at 4-4. The DEIR also states: “The Future Development/Interim Agriculture areas could be developed for urban use provided an amendment to the Specific Plan is granted.” DEIR at 4-19. Development of this area in the future as urban is foreseeable and a “worst-case scenario” could have been included in the analysis of potential impacts in the DEIR – either related to the project or potential cumulative development under the General Plan. The DEIR does not include such an analysis. Contrary to the Specific Plan and DEIR’s approach, the Court’s have clarified that an EIR must examine a project’s potential to impact the environment, even if the development may not materialize. Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d263, 279, 282. A revised DEIR must include analyses of the impacts associated with the full potential buildout of the whole Specific Plan area.

Third, the DEIR fails to include adequate information concerning grading necessary to construct the project as proposed. The DEIR states that cut and fill “is anticipated to be balanced on site,” but fails to provide adequate illustrations and information to document this statement. DEIR at 4-28. It is clear from the mitigation measures for the Specific Plan that the analysis of potential impacts associated with cut and fill is far from complete. Specifically, both measures, MM 5.8-1a and 5.8-1b required further investigations to determine the specific characteristics and capabilities of underlying soils and potential geologic hazards. The problem with deferring this information is that the statement that cut and fill is anticipated to be balanced on site is not supported by any evidence in the record. Neither the DEIR nor Appendix I, Geologic, hydrogeologic and Geotechnical Assessment Report contain information sufficient to ascertain whether cut and fill can be balanced on site. Moreover, MM 5.8-1b makes clear that there may be a need for additional remedial and contour grading. If cut materials must be exported and fill imported because on-site materials are not adequate, significant additional impacts will occur, including, but not limited to: traffic associated with hauling; growth inducement depending upon the nature of disposal sites; impacts to biological resources and impacts to air quality among other impacts.

The provision of this information in a revised DEIR is particularly important for development in the hilly areas within in the Specific Plan area. For example, the DEIR states that “[t]he HYH Property contains *little* flat land...” Emphasis added. DEIR at 5.8-11. Elsewhere the DEIR appears to contradict this statement: “Due to the relatively flat topography, the potential for landslides is considered low.” DEIR at 5.8-8. Neither the Appendix nor the DEIR provide sufficient information about the project site’s geology to support the conclusions reached that before and after mitigation, project impacts will be less than significant.

Clearly, the information in the DEIR is subject to major revision as adequate information about site geology is developed in the future pursuant to mitigation measures. Thus, the DEIR fails to provide sufficient information at this point on which to base informed decisions concerning site grading, landform alteration, potential need for off-site fill and the like. Please respond to the following questions in the response document:

- How reliable is the estimate of cut and fill for the projects? The DEIR estimates movement of 5.6 million cubic yards for the project, “depending on final development plans.” DEIR at 4-28. Specifically, how much fill is needed for the Specific Plan total and separately for the HYH Property? Is on-site fill available

and suitable for this purpose? What studies have been done to determine suitability of on-site materials for the development? If additional information about the site's soil and landslide conditions is needed to determine this, it should be provided in a revised DEIR, rather than following approval of the project and a development agreement. Also, please break out the total cut and fill for the Specific Plan total and for just the HYH Property.

- Have the soils been adequately tested to be sure that on-site soil is adequate for fill purposes? If the answer is yes, please point to this information in the DEIR, or provide it in the response document. If not, please provide information documenting the statement that soils will not be required to be hauled off-site for disposal or on-site for fill.
- What are the size of cuts and fills in feet? There are limited grading cross sections in the Visual analysis section of the DEIR, but they do not provide a complete picture of the grading needed for the projects. Additional cross sections should be included in a revised DEIR or in the Final responses to comments illustrating all cuts and fills over 25 feet in depth/height. A revised visual analysis, including simulations after mass grading, should be prepared based on these graphics.
- How much grading is associated with each major project feature – e.g. roads, detention and retention facilities, water treatment facility, water storage and conveyance facilities and grading for housing, etc. This information can be provided in a table and illustrated on a map to indicate which areas of the project site and project features involve the most grading. That type of information is needed if informed decision-making is to occur concerning how to reduce or eliminate the significant impacts associated with major grading.
- Where will spoils sites be located, if any? Will these sites result in any impacts to agricultural or biological resources?
- What is the estimated extent of grading required to remediate the potential landslides on the HYH Property? Please provide additional information concerning the likely worst case grading plan needed to render these areas safe for residential development.
- Please indicate on a site plan those proposed lots on the HYH Property that coincide with slopes over 25% and 30% as well as areas containing landslides. The figures do not overlay lot information with presence of geologic constraints as they should to assist in informed decision-making. Is it possible to relocate or retire these lots to avoid extensive remediation? What resources will be impacted in the course of fully remediating landslides? If there are no landslides on within the Specific Plan area, please identify the definitive study that states this is the case.
- Please describe the likely geotechnical problems (e.g. additional landslides, other hazards) that will be more specifically identified when additional reports are

submitted? If so, shouldn't this information be presented prior to the certification of the EIR and project approval? If not, why should the public be reassured that this information will not lead to additional significant impacts?

- How will the homeowners association fund monitoring on-site geologic conditions in perpetuity? How much will this cost per year? Who will pay for any down-stream geotechnical problems that occur from faulty grading? What amount of cash reserves are typically held by homeowners associations for this purpose?

Fourth, according to the DEIR, the project will require major general plan amendments and in order to be consistent with the County's 1982 General Plan.

The DEIR fails to include a complete description of these amendments required for project approval. Preparation of a revised and clarified section concerning general plan and zoning consistency is warranted. A revised project description must include any required text changes to these documents needed for conformity, as well as detailed maps comparing current zoning and general plan land uses with proposed zoning and land uses. A revised analysis must state whether any of the proposed zone or general plan amendments will result in significant impacts (e.g. related to changes in land use, precedent for growth beyond the project, etc.). The consistency "analysis" included in Appendix C fails to provide adequate information concerning conforming amendments and map changes. Specifically, the consistency discussion in the DEIR contains simplistic and conclusory statements, instead of analysis, concerning project consistency with the general plan.

In addition, the analysis should include a defense of why the 1982 General Plan is legally adequate given its dated information about population, traffic and the like and given the general plan amendments that have occurred since it was adopted. The latter should be listed and described. For example, has an analysis been completed that demonstrates the 1982 General Plan circulation element is still correlated with planned and approved land uses? If not, one should be completed and reference in the Final EIR.

In short, a revised project description must respond to the following questions: What are the specific General Plan text and map changes required to support findings of project consistency? Will any of these changes result in inconsistencies between the zoning and the General Plan? Please provide detailed text changes in a revised DEIR. Will any of these changes result in additional significant impacts, and if not, why not?

Fifth, the DEIR lacks a complete description of proposed uses at the project site. Specifically, the DEIR fails to describe key aspects of the proposed project. A revised project description must include complete information concerning:

- 1) Specific recreation uses proposed for open spaces and parks. For example, what are the specific recreation uses proposed for open space and park lands? Will proposed trails impact any sensitive resources? How many visitors, and car trips, are expected to be generated by open space and recreational uses? Were these trips included in the analysis of traffic for the project? If so, how many total trips were assumed for these uses? What trip generation factors were used for recreation uses (by use/peak period/total)? It appears from the Specific Plan that a comprehensive trail system will

- be forthcoming. Specific Plan at 9-42. Yet, the impacts of this plan are not disclosed in the DEIR.
- 2) Specific uses for the “open space” lands and impacts of those uses. The Specific Plan notes that “[n]o grading may occur in the OS designated areas except for that necessary to construct the improvements, mitigations and enhancements allowed under this plan. Specific Plan at 9-42. The DEIR fails to identify all such uses or to analyze their impacts on open space resources.
 - 3) The size of the proposed residential estates? These estates will be located on hillsides...DEIR at 4-4. It appears from the Specific Plan that such homes may be in excess of 28,000 s.f. in size. Such homes and ancillary structures would significantly impact viewsheds and general traffic trips in excess of that assumed in the DEIR. Specific Plan at 7-40.
 - 4) The size of homes in the low density category on the HYH Property? Again, these homes will be located in the hillsides. DEIR at 4-8.
 - 5) The grading standards and hillside preservation standards for the estate areas? The DEIR implies there will be such standards, but fails to state what they are. DEIR at 4-4.
 - 6) The nature of the industrial uses? The DEIR states that “a pretreatment plant may be needed in the Employment Center for industrial wastewater.” DEIR at 4-15.
 - 7) A detailed description of necessary retention and detention basins? The DEIR states that “[l]arge detention basins may also be integrated into recreational areas to allow for groundwater recharge over large surface areas.” DEIR at 4-28. Are these mapped or describe and analyzed in the DEIR? What will be the impact of these basins on habitat lands? Agricultural lands? Water quality?
 - 8) The cost of the new homes and whether they are expected to serve a local need or regional need for housing?
 - 9) The number of second units that could be built under County and State law? Were traffic trips from these additional units, if any, included in the traffic analysis? If not, a revised analysis may be required.
 - 10) The number and location of churches, which like schools, can generate significant traffic and noise.
 - 11) The number and location of fast-food and other specific commercial uses that have the potential to generate significant peak-period traffic and “nuisance impacts.” (e.g. trash, etc.). To the extent that some types of commercial uses generate unacceptable levels of traffic (e.g. fast food establishments), the Specific Plan can prohibit those uses. To the extent they are permitted, the impacts of these uses must be analyzed in the DEIR.
 - 12) A graphic illustrating those lots and project features located in terrain which will require retaining walls, fill (and amount of fill or height of foundations), or other features to mitigate potential impacts from site geologic conditions. Where are retaining walls likely to be located? A revised visual analysis should include these project features and analyze their impacts.
 - 13) A graphic identifying building envelopes on each lot within the HYH Property. Again, because this project includes a vesting tract map, it is inappropriate to postpone disclosure of this information. Based on this graphic, new information about the level of impacts associated with site coverage and grading should be developed.

- 14) The *specific means by which* the project will ensure that no hazardous materials/pollutants reach any wetlands, riparian areas and groundwater from the golf course or other landscaped areas. This information must include how the mechanisms will be funded in perpetuity, how water quality will be monitored and by whom, as well as other details of the program. If the Regional Water Quality Control Board staff are involved in the monitoring program, a letter should be included in the Final EIR from the Board stating that they have the funding and staff time available for such continuous monitoring and reporting. If an independent firm will be used, it is imperative that they be accountable to the County, the Regional Board *and the public*, and that their monitoring and reporting efforts be independent of the development interests (e.g. a program be established that is bonded so that it can be done in perpetuity and as determined necessary by the County and the independent experts).
- 15) Additional details concerning best management practices and other methods to control pollution from the Projects and specific project features such as the golf course.
- 16) Engineering and operational details of the wastewater treatment plant. This plant is part of the proposed projects and must be fully analyzed in the DEIR.
- 17) Engineering and operational details of water wells, storage and conveyance. Again, the impacts of these facilities must be fully analyzed in the DEIR.
- 18) Again, a revised DEIR or FEIR should also include a large color graphic that clearly numbers each lot so that commentors and decision-makers can readily refer to lots that should be relocated or eliminated due to impacts and/or site constraints. All graphic information concerning site constraints and resources should be keyed to this map.

This information is relevant to a number of impact analyses including, but not limited to: demand for services, traffic, jobs-housing balance, growth inducement, water quality among other issues. A revised project description must include this information.

Sixth, the project description fails to provide an adequate description of project-related and cumulative construction activities. The DEIR project description fails to include any information about: a) the duration and total extent of grading activities; b) amount and types of construction equipment for each phase; c) number of construction employees; d) total construction trips, including trips related to equipment, hauling and employee trips; e) location of staging areas and spoils sites; and f) cumulative project construction phasing and activities. Without a description of these activities and phasing, the DEIR cannot adequately identify and analyze environmental impacts to air and water quality, impacts to biological resources, and other impacts associated with construction worker traffic, truck traffic, grading emissions, construction noise and dust. An example of the level of information provided in the DEIR is as follows:

“Construction erosion and sedimentation would occur in the event proper drainage control measures are not undertaken (e.g. sandbags, brow ditches, and interim landscaping).” DEIR at 5.9-13.

This type of vague statement is the equivalent of saying “just trust us.” The point of an EIR is to provide the information about potential impacts and specific mitigation so that the decision

makers, the public and permitting agencies can decide for themselves whether the information is sufficient to support informed decision-making. Detailed information about construction activities and phasing must be added to a revised project description and the potential new impacts analyzed in a revised DEIR.

Finally, in addition to project description information, the DEIR fails to provide all of the setting information necessary to support an adequate analysis of project and cumulative impacts. Setting information missing from the DEIR, which must be included in a revised DEIR includes, but is not limited to, the list below. A revised DEIR should include this information and identify any new significant or more severe impacts as a result of its inclusion.

- a) Detailed information concerning underlying soils characteristics for the entire site. The setting information fails to provide sufficient information to adequately characterize potentially significant impacts of landslides, erosion and sedimentation as a result of site development. Specifically, a revised setting section must include information sufficient to adequately characterize underlying materials and evaluate potential impacts. Absent this information, the true extent of impacts cannot be ascertained. It is not appropriate to postpone the completion of this work because a major portion of this project, the HYH Property, will receive a vested right upon approval. Based on this information additional mitigation and or project redesign to remove and/or relocate lots and other project features may be warranted to avoid significant erosion and other impacts associated with grading and site remediation.
- b) Sufficiently detailed information about slopes and site elevation. Please include a new and more detailed graphics illustrating slopes/site elevations for all areas subject to mass grading *before and after* project grading and project development.
- c) Setting information for biological resources, including wildlife corridors, vernal pools and other habitat for a sufficiently large geographic study area including all similar habitat areas in the region. The DEIR fails to include an adequate regional description of resources related to an adequate map of such resources.
- d) A complete list of cumulative projects for an adequate geographic study area. However, no information is provided about the total amount and location of development assumed in the cumulative analysis. Nor is a map included indicating where major projects are located. Information about their status is also lacking. Questions that need to be addressed include: What are the respective cumulative study areas for each impact (e.g. for Air Quality, Traffic, Biological resources, etc.)? This response should include both maps and project lists if they differ. Other questions related to the cumulative analysis include: What is the exact number of dwelling units and non-residential uses/square footage used in the cumulative analyses for the County, the Monterey cities? Traffic trips for each use/ownership should also be included in a table. If the assumptions for cumulative development vary by impact, breakdowns for each impact (e.g. air quality, traffic, etc., should be provided. Were there assumptions made about total acres of grading? If so, how many acres were considered in the analysis? What about total water use? Sewage generation? These assumptions should be provided in a revised description of the cumulative setting.
- e) The current and projected unmet demand for affordable housing in the region as a result of planned, approved and foreseeable developments.
- f) Information concerning the number of existing and planned “estate homes,” similar to

those proposed by the project, in the region, the number of unsold units and the market for new units. Market study and other housing demand information should be provided to support the demand for this type of housing product.

- g) Information concerning the number of existing and planned golf courses in the region. Market study information should be provided to support the demand for another golf course on this site. Market information should also be provided indicating the potential marketability of housing without a golf course, but with additional open space.
- h) Detailed information about any and all road improvements needed to serve the project and cumulative projects.
- i) Complete information about the extent of the floodplain and flooding and development that could be impacted by flooding.
- j) The location and size of the proposed off-site water tank. DEIR at 4-32.
- k) Other setting information necessary to support thorough analyses of project-related and cumulative impacts, including but not limited to a complete description of current and projected phasing for major highway and other infrastructure improvements in the region.

The significance of this missing information is such that the preparation of a revised DEIR is warranted.

B. The DEIR's Analysis of Environmental Impacts is Inadequate

The DEIR's analysis of environmental impacts fails to provide the necessary facts and analysis to allow the County, the agencies and the public to make an informed decision concerning the project, mitigation measures and project alternatives. Without such detail, the DEIR is deficient under CEQA. The role of the EIR is to make manifest a fundamental goal of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." Laurel Heights I, 6 Cal.4th at 1123. To do this, an EIR must contain facts and analysis, not merely bare conclusions. See Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990). Any conclusion regarding the significance of an environmental impact not based on analysis of the relevant facts fails to achieve CEQA's basic informational goal.

As set forth below, the DEIR is riddled with conclusory statements regarding environmental impacts, unsupported by facts and necessary analysis. Furthermore, the DEIR attempts to defer disclosure of key project components and analysis of environmental impacts to a later date. As discussed below, such deferral is not an option. CEQA mandates that environmental impacts be identified and analyzed in the EIR, not at a later date. See Sundstom v. County of Mendocino, 202 Cal.App.3d 296 (1988) (holding that a negative declaration was invalid when county approved a project while postponing the resolution of uncertainties regarding environmental impacts to a later date). It is particularly important that the DEIR reveal all significant impacts since the project approval for the HYH Property will result in a vested right for development.

1. The DEIR's Analysis of Air Quality and Traffic Impacts Is Inadequate and Incomplete

The DEIR correctly notes that the project will contribute to both significant and unavoidable construction-period air pollutants and air pollutant emissions from direct and cumulative motor vehicle emissions as well as significant traffic impacts. Even though these impacts are

characterized as significant and unavoidable, it does not excuse the DEIR from providing current and complete information about air pollution sources and traffic impacts. For example, the DEIR fails to adequately describe construction activities, and therefore, fails to transparently and fully describe all air quality and traffic impacts associated with construction activities. Appendix H describes the considerable information that was not available for review and analysis in the DEIR:

“At this time, specific construction information for the project is not available. Development of the HYH Property portion of the Project would occur first beginning as soon as possible after the approval of the project and lasting approximately 5 years...It is not known when the remainder of the property would be developed.” Appendix H at 11.

Contrary to this statement, the Specific Plan appears to contain a very detailed phasing plan, including Table 10, which describes development of key components of the major infrastructure to serve the project. Yet, this information was apparently not included in the DEIR's limited analyses of construction impacts. If it was included in the analysis of construction related air and traffic impacts, please indicate how it was. Revised tables should provide air quality emissions for both construction and operation periods broken out by major project feature (e.g. wastewater treatment plant; schools, etc.). Similarly, a revised traffic analysis must include a detailed analysis of construction impacts over the 20-year construction period. Moreover, since information is lacking concerning the amount of grading necessary for project implementation (see above comments), specific sources of cut and fill material and the like, it is also probable that the air quality and traffic analyses underestimate the potential impacts of project implementation related to moving dirt to elevate the site, remediate landslides and other grading activities.

The analysis of air quality impacts omits analysis of diesel exhaust emissions. Such emissions have been linked with acute and chronic health risks. Given the scale of the project, and the duration of construction activities involving diesel fuel, a risk assessment should be included in the revised DEIR as well as a full analysis of air quality impacts associated with diesel.

Another major deficiency is the lack of analysis of the *direct project-related impacts* on air quality and traffic. Traffic impacts are analyzed as cumulative impacts and therefore traffic-related air quality impacts are presented for cumulative conditions only. The DEIR also fails to assign realistic trip generation to each project component. Although the Specific Plan provides substantial detail concerning types of land uses proposed, there is insufficient information in the DEIR and Traffic Appendix concerning trip generation by land use. Also, certain land uses, which tend to generate significant trips, including big box stores and fast food restaurants are not called out for analysis. If these are permitted uses in the Specific Plan area, the additional impacts they generate must be analyzed. A revised DEIR must include detailed information matching all proposed land uses and trip generation rates so that the assumptions underlying the analysis are transparent. Similarly, information about trip distribution and vehicle assignment is omitted and must be provided in a revised DEIR. All together, these omissions likely result in the DEIR underestimating the traffic and air quality impacts of the project.

The cumulative analyses for both traffic and air quality is inadequate because the geographic study area is too small to account for all significant cumulative impacts. A revised DEIR must

extend the study area for cumulative impacts to include the area from Coyote Valley, San Jose to and including Salinas and the Monterey Peninsula, unless a marketing study is presented that supports a smaller radius for employment to home trips.

Development trends in the region -- which projects such as HYH in particular will perpetuate -- include the construction of high-end homes serving a “Bay area and beyond” market and an increasing reliance on more remote areas for affordable workforce housing. These trends, which the project contributes to, must be evaluated in terms of the air quality implications over the short- and long-term. If these trends continue and are not addressed by “smarter” planning, commutes both to high end homes and employee residences will increase, with a resulting increase in traffic and air pollution. The DEIR lacks any analysis of these likely “trend” impacts. Nor does the DEIR suggest feasible mitigation measures to address these potentially significant impacts, including, but not limited to: 1) modified General Plan land use designations to require housing to meet local unmet needs; and 2) General Plan policies requiring “infill” projects be development “first” before greenfield development. What pages in the DEIR *analyze* the air quality, traffic and other impacts associated with increasingly longer commute patterns? Where is the analysis of the project, local and regional jobs-housing ratio and related environmental impacts? What is the documentation for the assumptions regarding internal trips? (e.g. “The percentage of internal trips calculated by the travel demand model was estimated to be 25 percent of non-educational uses and 80 percent for school related trips.” Appendix H at 3-7.)

The Air Quality section also fails to provide information concerning the feasibility of mitigation measures that are identified in the DEIR and fails to identify numerous feasible mitigation measures. Omitted measures include, but are not limited to: limiting grading to 8.8 acres per day or grading and excavation to 2.2 acres per day to reduce PM10 emissions; prohibiting land uses that generate high trip rates, including big box stores, drive-through establishments and fast food restaurants; and increasing densities overall and clustering development to improve the chances for transit; provision of transit options; among other measures.

In addition, a number of planned roadway improvements are assumed in the analysis of traffic impacts and therefore air quality impacts. These improvements are not proposed as part of the project, *but are assumed to be constructed with or without the project*. Revised traffic and air quality analyses should be completed, which do not include any transportation improvements for which funding is not certain. A list of improvements and funding sources should be included in a revised DEIR as well.

Finally, alternatives should be directed at mitigating significant traffic and related air pollution impacts of the project. For example, a truly mixed use, compact development alternative with a range of housing affordability mixed with services and offices should be designed and contrasted with the project in terms of both traffic generation and air pollution. In addition, an infill alternative, which directs growth into existing cities and their SOIs should be evaluated. See Alternatives Section of this Letter.

Finally, please respond to the following questions:

- What is the breakdown of trips related to construction workers and equipment and for cumulative conditions? Where is this analysis in the DEIR? Trips related to

future construction phases (project-related and cumulative) appear not to have been considered. Therefore, total trips, traffic and air quality impacts appear to be underestimated. A revised analysis must be based on a full accounting for new trips generated by all phases and components of the project including construction and “operations.”

- How will the project support transit? The DEIR fails to disclose that the project’s proposed land use pattern would likely not support sound transportation management practices because of its location, low density and contribution to the suburban sprawl pattern in the region. As a result, the project will perpetuate the exclusive use of automobiles for transportation, the very practice that has contributed to the traffic and air quality problems that are so acute in the area. The DEIR fails to adequately disclose how this pattern of development will continue to frustrate alternatives to the car for transportation.
- When does each of the needed improvements need to be completed for acceptable levels of service to be maintained? What is the corresponding timing of raising sufficient impact fees for each improvement? Can the project proceed in advance of needed improvements being in place? If so, under what circumstances? What will be the interim conditions before such improvements are in place and operational? How long will these interim conditions be allowed to exist?
- What are the specific cumulative impacts of needed roadway improvements? The numerous roadway and intersection/interchange improvements related to the project will have both direct and indirect impacts on traffic, grading, air quality, biological resources, water quality and more. Diagrams of each improvement, total amount of grading, cut and fill and other information should be added to a revised analysis of the impacts of these needed improvements.
- How much will the Specific Plan generate in traffic mitigation fees? How will those fees be used – (please be project specific)? Will there still be a gap in needed funding to complete traffic improvements necessary to maintain adequate traffic levels of service? The DEIR states that there is no adopted fee program in place and that fees are adopted on an ad hoc basis. DEIR at 5.2-30-31. The DEIR should disclose likely “ad hoc” fees for the Specific Plan or postpone action on the Plan until an adequate fee program that has been subject to public review is adopted.
- The DEIR states that the HYH Property will generate \$16,017,310 in mitigation fees for traffic improvements. The DEIR also states that availability of supplemental funding or other limitations may constrain the ability of the County to implement the improvements in Table 5.2-8. Again, a revised analysis of both traffic and air quality impacts must be completed based on the likely inability of the County to construct needed traffic improvements in a timely manner to serve the project and cumulative development.

Finally, a revised analysis must include setting information about existing transit service in the

area, including, but not limited to: types of transit; routes; headways; capacity and plans for expanded service in the region, County and at the site.

2. The DEIR Fails to Analyze Land Use and Planning Impacts Adequately

The DEIR fails to describe all relevant policies and plans, and fails to evaluate the consistency of the project with each policy. Moreover, as noted above, the DEIR's conclusions concerning project consistency with a number of General Plan policies is inaccurate or unsupported by sufficient evidence. A mere statement of consistency is not sufficient to support statements of consistency between the project and a number of policies. A revised DEIR must respond to the following questions:

- What are the specific inconsistencies between the project as proposed and the various applicable General Plan maps, diagrams and policies? Maps, which provide cross-hatching to indicate inconsistencies between the proposed project and current General Plan, and more detailed analysis in a table form, should be used to respond to this request. In cases where the text refers to mitigation measures or policies necessary for consistency, the text should be revised to include the reasons why the measure or policy results in consistency.
- What are *all* of the general plan amendments (goal, policy, map, other) required for project approval at this time?
- What was the study area used to determine cumulative land use impacts? What projects and total development assumptions were used in the analysis? Does the analysis include the general plans and projects in adjacent cities and unincorporated areas? If not, why not?
- How is the project consistent with applicable plans, policies and regulations of all responsible agencies? A consistency table should be provided in a revised DEIR which includes this information.

Once a complete list of amendments to plans, regulations and ordinances is assembled, an analysis should be done concerning the precedent of these amendments for additional development in the County. For example, some of the amendments may result in growth inducement as a result of relaxing current rules about where development should go and under what circumstances it should be permitted (e.g. groundwater withdrawal; scale and density of development; development in advance of traffic improvements and other needed services, etc.).

3. The DEIR Fails to Analyze Adequately Impacts to Hydrology, Drainage, and Water Quality and Flooding

Pollution carried by storm water and urban runoff is the largest source of contamination to surface water both in California and nationwide. Construction sites, in particular, have been identified as significant dischargers of polluted storm water, involving high concentrations of silt and turbidity, as well as oil and grease, trash, sewage, and other chemicals used in construction

activities and equipment maintenance. Despite this well-known and well-documented problem, the DEIR fails to adequately describe project-related and cumulative construction activities and on-site and off-site drainage “improvements,” both of which could impact the water quality of the area.

Moreover, the DEIR fails to describe in sufficient detail the types and amounts of contaminants the project will generate. The DEIR therefore takes an illegal approach to water quality impact analysis. Typical water quality analyses prepared for environmental documents would describe existing water quality in a project’s watershed, identify the estimated total daily loads of sediment and other pollutants from the projects into the watershed, and determine whether the projects’ pollutant contribution would substantially degrade water quality. Rather than perform an analysis of impacts to water quality that would result from the construction and operation of the projects, the DEIR relies on mitigation measures to minimize and avoid undisclosed impacts. Examples of the DEIR’s treatment of characterizing impacts is as follows:

“Development of the property would generate a variety of sources of urban runoff, which if not controlled, would significantly reduce water quality. Major sources of urban runoff include parking lots associated with proposed commercial and business park uses as well as pesticides and fertilizers associated with the proposed golf course.”

“Parking lots and roadways would impact water quality by allowing automobile products (e.g. motor oil, copper used in brake linings, antifreeze and gasoline) to accumulate on impermeable surfaces and be picked up in first flush rainfall events.”

Landscape maintenance on the golf course would pose one of the greatest sources of urban pollutants due to the amount of herbicides, pesticides and fertilizers used to maintain the greens and fairways.” DEIR at 5.9-12

Similarly, there is no quantification of erosion and sedimentation related to site development. Nor are potentially hazardous materials associated with the industrial uses permitted by the Specific Plan adequately identified or quantified. Details are also lacking in the mitigation measures.

Yet, the DEIR concludes that impacts will be less than significant across the board with mitigation because of a highly engineered system to control drainage and water pollutants. Specific information about the drainage and water quality features and how they will be maintained and monitored over the long-term (including information about the cost of maintenance and monitoring) is essential to determine: 1) whether the extent of drainage alterations is an acceptable project feature; 2), whether the proposed system of drainage features will actually be a viable system over the long-term, and effectively mitigate significant impacts to the natural drainage system; and 3) what impacts the system will have on the environment.

The DEIR also fails to analyze adequately the potential impacts associated with flooding and mitigation for flooding. The first mention of the potential for flooding in the Specific Plan area is in the discussion of potential impacts. DEIR at 5.9-7. According to the DEIR:

“Any proposed residential structures located within the 100-year floodplain shall be

elevated to a minimum of one foot above the basic flood elevation and shall be constructed in accordance with Chapter 16.16 of the Monterey County Code. Any commercial structures located within the 100-year floodplain shall be elevated to base flood elevation, at a minimum and shall be constructed in accordance with Chapter 16.16 of the Monterey County Code. There shall be no encroachments to the floodway portion of the 100-year floodplain.” DEIR at 5.9-7.

The DEIR does state there is flooding downstream from the area currently. DEIR at 5.9-10. However there is no analysis concerning how the development of structures within the floodplain could impede or redirect flood flows, such that additional areas could be inundated.” A revised analysis must include:

- 1) The boundaries of the 100-year floodplain. It is not adequate to defer disclosure and analysis of this information until the projects are approved. The HYH Project will be “vested” upon Board approval of the Projects.
- 2) A revised analysis of the potential impacts of new fill, utilities and structures taking into consideration elevating structures within these areas subject to flooding.
- 3) A revised analysis of potential impacts associated with alteration of existing drainages in order to develop the project.
- 4) An analysis of how site alterations to drainage, fill, etc., may affect water quality.
- 5) Other information necessary to support a thorough analysis of project-related impacts and mitigation related to hydrology, drainage and water quality.

The best way to ensure that water quality is maintained is reduce overall site coverage. A second way to ensure that water quality is not compromised is to delete golf courses from the project. For both of these reasons, we urge that a revised DEIR give serious consideration to additional alternatives, including, but not limited to: an infill first alternative which directs new growth to meet needs into infill areas, and a truly clustered alternative which significantly reduces the “footprint” of this project and a no-golf course alternative.

Questions concerning hydrology, drainage, and water quality that should be responded to in a revised DEIR or FEIR include, but are not limited to:

- What are the specific measures that will ensure no increase in turbidity, sedimentation or other pollutant loads into tributaries and creeks?
- What are the estimated total daily loads of sediment and other pollutants from this project and cumulative development? Please provide this information for all pollutants generated by site development and post development operations of the development and golf course.
- What are the water quality impacts of the golf course? What specific quantities of potential pollutants will be used to maintain the course? What potential pollutants are required to maintain the golf course – rodenticides, pesticides – in what amounts? Where will these materials be stored? Is there a plan for accidental releases?

- What are the cumulative water quality impacts of all cumulative development? Please quantify and identify an adequate study area for this analysis.
- How will water quality measures be paid for 20 years from now and beyond? Is a bond required? If so, how much is the bond? Who will undertake the monitoring and reporting? If water quality is impacted by the project, what steps will be taken to remediate the impact?

It should also be noted that the DEIR is inconsistent in its statements concerning the disposition of impacts to water quality associated with the Golf Course. Pollution from the golf course is “found” to be less than significant with mitigation in the section on hydrology/water quality (DEIR at 5.9-17), but according to the cumulative discussion: “Although best management practices would be conducted as part of the golf course, the potential pollutants from golf course operations cannot be reduce to zero. Thus, significant cumulative water quality impacts would occur.” DEIR at 6-12. A revised DEIR must not only provide “analysis,” but also state why BMPs are sufficient to reduce golf course pollution to less than significant.

Finally, the significance of project-related impacts requires that the analysis of cumulative impacts to drainage and water quality be extensive. The DEIR fails to complete any analysis of these admittedly significant cumulative impacts, yet concludes that cumulative impacts would not be significant.

4. The DEIR Fails Adequately to Analyze and Mitigate Impacts to Biological Resources

The biological analysis section of the DEIR is inadequate for numerous reasons, including, but not limited to the following: First, the DEIR fails to adequately mitigate for the indirect and direct losses of biological resources. Mitigation measures largely consist of deferred studies and plans (e.g. Habitat Restoration Plan; Forest Management Plan; future pre-construction surveys and the like). DEIR Biology section. Because the DEIR fails to provide adequate mitigation to offset these impacts, project-related and cumulative impacts to biological resources should be identified as significant and unavoidable in a revised DEIR.

Second, the DEIR fails to identify feasible mitigation measures including, but not limited to:

- 1) Clustering development so that large, unfragmented open space areas remain intact and eliminating the golf course. Although this is partially addressed in an Alternative, it should be proposed as mitigation in the section on Biological resource impacts as well.
- 2) Relocating development to avoid all special status species and sensitive habitats. If this is considered infeasible, evidence must be provided to document that conclusion. Graphics illustrating project elements with sensitive resources should be provided to assist decision-makers in reconfiguring the project to avoid impacts to biological resources; an outcome that should be feasible on this large property.

- 2) Significantly increasing setbacks (e.g. to 1,000 feet minimum) from development to sensitive habitats on the project site.
- 3) Specific mitigation for loss and disturbance of wetlands, and other habitats. Mitigation measures improperly call for additional information about project impacts and mitigation to be developed after project approval.

With respect to cumulative impacts to biological resources, the DEIR lacks any information or analysis and fails to provide any mitigation. Even though the DEIR finds impacts to biological resources cumulatively significant, it does not excuse the document from analyzing these impacts or identifying mitigation that might address these impacts.

For all of the above reasons, a revised DEIR must be recirculated which contains an adequate analysis of project-related and cumulative impacts to biological resources and corridors. In the absence of more specific measures which will insure avoidance of impacts to species and their habitats as well as key wildlife corridors, a revised DEIR must also reclassify many of the impacts to biological resources as significant and unavoidable.

5. The DEIR Lacks Any Analysis of Population, Housing and Employment

The DEIR lacks any analysis of population, housing and employment. Where jobs and housing are imbalanced, the result is increased traffic, commute times and other effects such as declining air quality that can contribute to the significant impacts of a project.

A revised DEIR must respond to the following questions:

- What assumptions were used to calculate employee-related impacts (e.g. commute times, distances, total trips) on traffic, air quality and noise? Specifically, where will new homeowners work? To the extent assumptions are made about residents working in the RSJ community, thereby reducing overall trips, please provide support for those assumptions.
- What is the total estimated current and projected gap in affordable housing units in Monterey County, southern Santa Clara County, San Benito County and surrounding cities? New jobs should be broken out by type of job and salary range and compared with projected new housing costs (rental and purchase prices) in the region.
- How were the estimated number of construction jobs calculated for purposes of calculating traffic trips and other impacts? Over what period will these employees be working? Where are construction employees expected to reside? What is the cumulative total number of construction employees in the study area during the total construction period for the project?
- What are the likely commute trends in 15 years if the current trends continue in terms of the growing gap between affordable housing and new employment? Describe the likely total number of affordable units projected to be built in the

region and County over the next 15 years.

- Based on the above, characterize the project-related and cumulative jobs, housing and population impacts on traffic, air quality, etc., and describe any needed mitigation.

Such a revised analysis must be included in a revised DEIR.

6. The DEIR's Analysis of Landform Alteration and Visual Quality is Incomplete and Inadequate

The Specific Plan contains detailed specifications for project design and architecture. Yet, the visual analysis in the DEIR lacks any simulations or photo montages of the projects as proposed to support its conclusions concerning impacts to landforms and views. A revised DEIR must include images of the project at the completion of grading and after construction from at least the view points included in the DEIR. Absent this information, the DEIR's evaluation of impacts to these resources is incomplete. In addition, such graphic depictions are critical to informed decision-making concerning logical and feasible mitigation measures and alternatives that would reduce significant impacts to these resources (e.g. relocation or elimination of certain development areas or lots; additional screening or landscaping, and the like). While it is commendable that this section includes a couple of grading cross-sections, additional graphics illustrating project impacts on the landforms and ridgelines must be included in a revised analysis. All of the information needed to perform these simple graphics is readily available in the Specific Plan.

Finally, mitigation measures included in the DEIR to reduce or eliminate significant impacts are lacking. Additional measures should be included in a revised DEIR, including, but not limited to relocation of development from areas that would require excessive grading (e.g. areas where knolls would be lowered by 50 feet; ridgelines and areas of slopes over 30% at a minimum). Additional graphics that overlays development plans with these areas would assist the decision-makers in developing an alternative plan that would avoid these significant landform and visual impacts. If such measures/alternative(s) are considered not to be feasible, evidence of that should be provided in the Final EIR.

7. The DEIR Fails to Adequately Analyze Impacts to Agricultural Resources

The DEIR fails to accurately characterize the impacts of the project on farmland and agricultural operations and omits any analysis of the cumulative loss of farmland. The DEIR notes that the HYH Property would be located adjacent to ongoing agricultural areas, but fails to identify any impacts that might result from incompatible lands uses. The DEIR omits feasible mitigation measures, including a requirement that new residents sign a right to farm agreement. A revised section must analyze the short and long-term impacts of this project on agriculture in the region. Such an analysis must include quantification of potential losses due to city and County growth trends and trends in agricultural practices. Reliance on the designation of this property as an ADC is insufficient since there are no mechanisms in place to protect other important farmland in the region.

8. The DEIR Fails to Adequately Analyze Water Resources for the Project and Cumulative Development

The DEIR fails to evaluate a worst case analysis of impacts on water resources and omits any meaningful discussion or analysis of cumulative impacts to water resources. Specifically, the DEIR contains a summary breakdown of land use types and daily water demand factors, but fails to include a number of uses in that summary thereby underestimating total water demand. Such uses include, but are not limited to water use by landscaping for the project.

In addition, the DEIR fails altogether to identify cumulative demand for water resources that may draw upon the same groundwater sources. The sum of the DEIR's analysis of cumulative impacts -- related to the Specific Plan overall -- to water resources is:

“The development of areas in unincorporated County and in the City of Salinas would most likely have a direct impact upon groundwater availability in the groundwater basin and specifically in the Specific Plan area. Additional withdrawals of groundwater from the basin, especially in the immediate vicinity of the Specific Plan area, would further reduce the available groundwater supply for overall consumption in the general area. As discussed in Chapter 5.10 (Water Resources), groundwater levels in the vicinity of the proposed Specific Plan have been dropping steadily as demand has outpaced recharge. Although development of the Specific Plan will result in a reduction in overall water consumption over current usage, there would still be a net annual deficit. Therefore; the Specific Plan would result in a significant cumulative impact on water resources.” DEIR at 6-14.

On this critical topic, the DEIR is silent on total cumulative demand and the extent to which such demand could result in insufficient water for the projects and future development in the area. Specifically, the DEIR fails to discuss and analyze the *differences between water entitlement and actual supply*, particularly with consideration of cumulative demand on the same groundwater basin. Along these same lines, it is not clear how this basin interacts with other basins and the extent to which safe yield could be affected by water movement between basins. A revised DEIR must describe and analyze these potentially significant cumulative impacts to ground and surface water and identify and analyze any new sources of imported water, storage and other facilities (pipes, pumping, other) that will be needed to be planned, evaluated and built in order for cumulative projects, to proceed. Here again, the DEIR fails to satisfy CEQA's requirement that an EIR “must address the impact of supplying water for the project.” Stanislaus Natural Heritage, 48 Cal.App.4th at 205. The County may not defer that analysis to a later time. Id. at 203. The revised DEIR must also analyze in detail the physical impacts associated with the construction of the infrastructure needed to serve the project (e.g. the new water lines, other facilities etc.).

For the reason alone that the DEIR fails to demonstrate a realistically available water supply for the project, the project should be denied at this time.

9. The DEIR Fails to Provide Information Concerning Potential Impacts Associated with Serving the Project with Fire and Police Services

As part of the General Plan update, extensive information about the status of public services and facilities was developed indicating that there are extensive service deficiencies in the County and that additional development will likely further reduce services to existing residents and businesses. Notwithstanding this information, the DEIR for the projects concludes that all service impacts will be less than significant. There is no information provided in the DEIR concerning cumulative demand or for that matter, concerning how public services will be provided to serve the project and maintain adequate levels of service. Incredibly, key analysis is improperly postponed:

“Since the proposed Specific Plan will be developed in phases over an estimated 20 years, the Sheriff’s Office would analyze and determine facility and staffing needs and request phasing of additional staff and equipment as needed.” DEIR at 5.12-29.

A completely revised discussion is warranted concerning the adequacy of all public services, which must include, among other information

:

- a. The current status of all public services (e.g. response times; capacity vs. demand, etc.);
- b. The specific demands of the Specific Plan and HYH Property projects;
- c. Cumulative demand for services;
- d. Costs of new services necessary to serve the projects and maintain existing levels of service;
- e. Service deficiencies with and without the project;

Gaps in the ability to provide services in a timely manner to the projects must be disclosed. In addition, the impact of this project on existing service levels must be disclosed as a significant impact. Finally, a revised DEIR must disclose how all impacts related to public services have been reduced to less than significant by the proposed mitigation.

10. The DEIR Fails to Adequately Analyze the Impacts of Major Infrastructure Improvements Necessary to Serve the Project

The project involve development of major new infrastructure, including, but not limited to new water storage, pumps, wells, and delivery systems, a new wastewater treatment plant, major new roads and interchanges, detention basins and other drainage facilities. A revised DEIR must clearly identify infrastructure that is part of the project and fully and transparently analyze the impacts of these major facilities. For example, the DEIR includes some discussion of impacts of the wastewater treatment plant in some impact discussions (e.g. Noise, Water Quality), but not in others. The analysis of impacts that is included in the DEIR is far from adequate. For example, the sum total of the analysis of potential impacts associated with the treatment plant on water quality is:

“Water quality degradation from the use of reclaimed water from the proposed wastewater treatment plant would not result in a significant impact on water quality. The wastewater treatment plant would be required to obtain appropriate wastewater discharge permits to assure that the water quality would be suitable for irrigation. Total dissolved solids would be anticipated from the wastewater treatment plant and subsequent use of

reclaimed water for irrigation.” DEIR at 5.9-14.

These major facilities warrant much more intensive scrutiny in a revised DEIR. Among the impacts not adequately addressed include, but are not limited to: growth inducing impacts associated with the wastewater treatment, roads and water facilities; grading and air quality impacts associated with the wastewater treatment plant and new roads; air quality impacts associated with the treatment plan (the discussion of potential odors and other impacts is extremely cursory and without evidence to support conclusions reached that these impacts will be less than significant); among other impacts of these major new facilities.

11. The DEIR Defers Information Needed for a Complete Analysis of Impacts

In addition, the DEIR fails to analyze the significance of a number of other potential impacts due to a lack of information. Please include all of the following information in a revised DEIR as the basis for updated impact analyses or explain in the FEIR why this information can be delayed until a later date without compromising the adequacy of the DEIRs disclosure and analysis of impacts:

- Engineering specifications of traffic improvements at a level adequate to support impact analysis and disclosure. The DEIR should also clarify which of these improvements is part of the project and which are not. The impacts of these improvements must either be included as part of the analysis of project-related impacts or in the cumulative analysis. It does not appear that either approach has been taken in the DEIR.
- Extent of the floodplain and project-related and cumulative impacts associated with proposed fill and development in the floodplain.
- Identification of specific construction staging areas, which could contribute to project impacts. Their size, location and the uses proposed on them and for what duration must be disclosed and considered in revised analyses of impacts related to site disturbance, water quality, traffic, impacts to biological resources, and the like.
- Enumeration of traffic fees (in total dollars, not percent) to be paid by the project broken out by traffic improvement funded and gap in remaining funding. The DEIR/FEIR should also note how the gap in funding will be filled and the timing of completion of each needed improvement.
- Mitigation fee(s) to offset dust impacts, use of the fee and sufficiency of the fee.
- Final drainage report.
- Characterization of soils on site in a final geotechnical subsurface report.
- Completed SWPPP, without which the adequacy of water quality mitigation cannot be assessed or documented.

- Identification of BMPs and of responsible entities for BMPs.
- Golf course management regime without which, the potential impacts of the golf course and efficacy of mitigation measures cannot be evaluated or documented.
- Project plans which specify the buildable area of each lot, the need for retaining walls, total site grading and the like. This information could result in elimination of lots which necessitate driveways in excess of slope requirements and other constraints. Again, because the HYH Property project will “vest” with initial approvals, this information MUST be provided and analyzed at this time.
- Completed surveys for species and other biological resources on-site and in areas affected by project development. Mitigation should be avoidance unless there is a reason total avoidance is infeasible. If avoidance is not a feasible option, please indicate the number of units/amount of development that could not occur if avoidance was the policy of the County. An illustration of lots/development that would have to be eliminated would be helpful to this analysis.
- Location of trails and other recreational facilities and possible impacts on biological resources.
- Location of utilities and related roads and possible impacts on biological resources.
- The final Regional Development Impact Fee Program. This must be completed prior to approval of the Specific Plan so that the adequacy of traffic fees can be assessed prior to project approval.
- Detailed habitat restoration plan and Forest Management Plan. Without these plans, it is not possible to assess the sufficiency of mitigation for impacts to biological resources on the site.

This is an impressive list of information *missing* from the DEIR that must be completed in order for the analysis of impacts to be complete. Each of these missing items has the potential to result in additional or more severe impacts to biological resources, visual resources, water resources, among others. Again, the project will be vested upon initial approval. As such, the specific details of this project must be disclosed and analyzed at this time.

C. The DEIR Fails to Adequately Analyze Cumulative Impacts

The DEIR utterly fails to analyze cumulative impacts in the manner or to the degree required by CEQA. The CEQA Guidelines define cumulative impacts as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” CEQA Guidelines § 15355(a). “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” Id.

A legally adequate cumulative impacts analysis views a particular project over time and must consider the impact of the project combined with other projects causing related impacts, including past, present, and probable future projects. Projects currently under environmental review unequivocally qualify as reasonably probable future projects to be considered in a cumulative impacts analysis. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 74 & n. 13 (1984). In addition, projects anticipated beyond the near future should be analyzed for their cumulative effect if they are reasonably foreseeable. See Bozung v. Local Agency Formation Comm'n, 13 Cal.3d 263, 284 (1975). Alternatively, an EIR may utilize a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency. The discussion of cumulative impacts must include a summary of the expected environmental effects to be produced by those projects, a reasonable analysis of the cumulative impacts, and full consideration of all feasible mitigation measures that could reduce or avoid any significant cumulative effects of a proposed project.

The cumulative impacts concept recognizes that “[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum.” Whitman v. Board of Supervisors, 88 Cal.App.3d 397, 408 (1977). The requirement of a cumulative impacts analysis of a project’s regional impacts is considered a “vital provision” of CEQA. Bozung, 13 Cal.3d at 283. Moreover, an EIR must examine not only the anticipated cumulative impacts, but also reasonable options for mitigating or avoiding the project’s contribution to significant cumulative impacts. The DEIR does not come close to meeting these requirements for the reasons described below.

1. The DEIR Fails to Adequately Establish and Utilize in its Cumulative Analyses Adequate Geographic Study Areas

The failure to establish and utilize adequate geographic study areas underlies the DEIR’s lack of adequate analyses of cumulative impacts. In addition, the DEIR fails to include projects and planned developments beyond Monterey County but within an area where impacts will accumulate (e.g. Coyote Valley, San Jose and major projects in San Benito County).

A revised DEIR must identify a meaningful geographic study area and projects/anticipated development within that study area as a basis for analyzing cumulative impacts to land use, biological resources, transportation, hydrology and drainage, noise, growth inducement, public services and facilities and visual impacts, among others. While the DEIR describes a study area including development under the General Plans of the County and all 12 cities, this information is not taken into consideration in any of the cumulative impacts discussions. DEIR at 6-1 to 6-2. Moreover, as described in detail in LandWatch’s letter on the County GPU DEIR (a full copy of which is attached here, for your convenience), the level of potential development permitted by the GPU is underestimated because it does not fully consider cluster units, development in Special Treatment areas, second units, estate homes on agricultural parcels and the like.

For example, the cumulative discussion concerning the loss of agricultural land fails to identify the total loss of important farmland that could result from cumulative development: “The loss of 2,271 acres of Important Farmland which would result from development within the Specific

Plan area would combine with the loss of Important Farmland associated with other developments in the region.” DEIR at 6-3. No information is provided on historic annual losses in the County or beyond and no information is provided concerning the relative value (economic and otherwise) of the farmland within the Specific Plan area compared with threatened farmland in the County. This information is readily available and must be included in a revised DEIR along with a map illustrating important farmland in the County and beyond. Based on this information, a revised analysis must be completed concerning cumulative farmland and agricultural productivity impacts. No mitigation measure is provided for cumulative losses of farmland. Similarly, there is no quantification or even qualitative assessment of the total cumulative impacts to biological resources as a result of cumulative development. Nor is a map provided that illustrates the connections between areas of high resource value in the County and beyond. Again, this information is readily available from the State and private conservancies and must be included in a revised analysis of cumulative impacts.

A revised DEIR must also include mapped study areas and descriptions of potential development (development type; amount; etc.) for each impact. For example, for biological resources, the study area should include all areas in the region, which contain the same impacted habitats and species and corridors, at a minimum. For traffic, the geographic study area should at a minimum, include the areas where trips will be initiated and end, including employee trips to and from the site as well as trips to other attractions on the site. To the contrary, the traffic study area does not extend beyond the County lines. This is particularly insufficient since a likely source of jobs for new homeowners will be Santa Clara County. Thus, the trips generated by the project are likely to impact a far greater geographic area than included in the traffic study.

A revised cumulative section should include a detailed description and map of each geographic study area, including, but not limited to: growth inducement, water quality, water supply (including all water source areas), biological resources, jobs-housing balance, traffic, and the like. Questions that the revised cumulative analysis must address include: Why are some major projects excluded from review, such as Coyote Valley in San Jose? What major regional projects outside in the cities are excluded from the cumulative analysis and why? Finally, please clarify how the DEIR does consider cumulative projects/developments in the analyses?

2. The DEIR Fails to Analyze Cumulative Impacts Adequately

In addition to relying on a far too small geographic study area and essentially excluding cumulative development from the analyses, the level of analysis in the DEIR’s cumulative impacts analysis is far too cursory. An EIR must include objective measurements of a cumulative impact when such data are available or can be produced by further study and are necessary to ensure disclosure of the impact. See Kings County, 221 Cal.App.3d at 729. Despite this mandate, the DEIR fails to adequately analyze a number of cumulative impacts, including, but not limited to, impacts to biological resources, water quality and drainage, policy consistency, services, traffic, growth inducement, among others.

Conclusions reached in the DEIR concerning the significance of cumulative impacts are flawed and devoid of any real analysis, including the lack of adequate study areas. Examples of “conclusory analyses” include, but are not limited to the following:

“Reduced water quality associated with development of the Specific Plan would combine with urban runoff from other development projects in the area to degrade the quality of surface and ground water. Thus, cumulatively significant impacts to water quality would occur with implementation of the proposed Specific Plan.” DEIR at 6-12.

“Although HYH Project-level impacts may be mitigated to a less than significant level, the HYH project plus cumulative impacts from other development in the Specific Plan and region would result in a significant cumulative impact on water resources.” DEIR at 6-15.

“The development of areas in unincorporated County and in the City of Salinas would most likely have a direct impact upon groundwater availability in the groundwater basin and specifically in the Specific Plan area. Additional withdrawals of groundwater from the basin, especially in the immediate vicinity of the Specific Plan area, would further reduce the available groundwater supply for overall consumption in the general area. As discussed in Chapter 5.10 (Water Resources), groundwater levels in the vicinity of the proposed Specific Plan have been dropping steadily as demand has outpaced recharge. Although development of the Specific Plan will result in a reduction in overall water consumption over current usage, there would still be a net annual deficit. Therefore, the Specific Plan would result in a significant cumulative impact on water resources.” DEIR at 6-14.

Virtually all other cumulative impacts statements lack any information to support conclusions reached concerning the significance of these impacts. Again, with respect to each of these conclusory statements, the DEIR lacks analysis and supporting data for the conclusions reached concerning level of impact.

Finally, as described above, the DEIR fails to explore the full range of mitigation measures that could potentially reduce cumulative impacts below a level of significance. An EIR must examine reasonable options for mitigating or avoiding the project’s contribution to cumulative impacts. Such measures could include, at the least:

- Participation in the regional HCP process and delaying all “greenfield” projects until the HCP is completed;
- Implementation of the County General Plan to increase neighborhood friendly infill development to accommodate growth demands in lieu of greenfield development.

If these and other mitigation measures for cumulative impacts are not considered feasible and included in a revised DEIR or FEIR, please state why each is not considered feasible.

D. The DEIR’s Discussion of Growth-Inducing Impacts is Inadequate Under CEQA

The DEIR must consider the growth-inducing potential of the project in this undeveloped area. CEQA requires that an EIR include a “detailed statement” setting forth the growth-inducing impacts of the proposed project. See Public Resources Code § 21100(b)(5); City of Antioch v.

City Council of Pittsburg, 187 Cal.App.3d 1325, 1337 (1986). The statement must “[d]iscuss the ways in which the proposed project could foster economic growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” CEQA Guidelines § 15126.2(d). It must also discuss how a project may “encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively” or “remove obstacles to population growth.” Id.

In this case, the growth inducing analysis fails to adequately analyze the potential growth inducement associated with the project’s new and extended services and significant new infrastructure as well as new residents and employees and the demand for services and facilities by new residents. A revised environmental document must include an adequate analysis of the project’s potential for growth inducement, including, but not limited to the following:

- A complete list of infrastructure and road improvements funded in part or whole by the project and a determination of whether any of these will support additional growth beyond the project;
- A list of all other infrastructure improvements and expansions necessary to serve the project and a determination of whether any of these will support additional growth beyond the project;
- The status of development permitted on adjacent properties or on the project site under all applicable plan and policies;
- Other services in the area which may expand as a result of major new development on the RSJ site and HYH Property including, but not limited to: business services, retail services, churches, schools, home care services and the like. This analysis is particularly important since it is proposed that the HYH Property develop first. These new residents will rely on services and jobs outside the project area.
- The extent to which new jobs will foster demand for housing beyond that provided in the projects.

If no additional development is contemplated on the project site, a permanent conservation easement, development agreement or other legal instrument should be included as a mitigation measure to ensure that development on this site is permanently capped. In the alternative, a full analysis must be included in a revised DEIR of the impacts of development of the Future Development/Interim Agricultural area is allowed.” DEIR at 4-4.

A more thoughtful evaluation of these impacts is warranted given the scale of this project and other projects in the region. This analysis should also be used to inform a revised analysis of cumulative impacts.

E. The DEIR Improperly Attempts to Defer Mitigation to a Later Date, Fails to Identify Feasible Mitigation Measures, and Relies on Inadequate Mitigation Measures

CEQA requires that mitigation measures be identified and analyzed. “The purpose of an environmental impact report is . . . to list ways in which the significant effects of such a project might be minimized” Pub. Res. Code § 21061. The Supreme Court has described the mitigation and alternative sections of the EIR as the “core” of the document. Citizens of Goleta

Valley v. Board of Supervisors, 52 Cal. 3d 553 (1990). As explained below, the DEIR's identification and analysis of mitigation measures, like its analysis throughout, is thoroughly inadequate. An EIR is inadequate if it fails to suggest mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 79 (1984). Moreover, an EIR may not use the inadequacy of its impacts review to avoid mitigation: "The agency should not be allowed to hide behind its own failure to collect data." Sundstrom v. County of Mendocino, 202 Cal.App.3d 296, 361 (1988). Nor may the agency use vague mitigation measures to avoid disclosing impacts. See Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal.App.4th 182, 195 (1996). Lastly, the formulation of mitigation measures may not properly be deferred until after Project approval; rather, "[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments." 14 CCR § 15126.4 (a). In the present case, the DEIR does not come close to satisfying these basic CEQA requirements regarding impact mitigation. Most egregiously, it attempts to defer discussion and development of suitable mitigation measures until after the certification of the environmental document and the conclusion of public review.

1. The DEIR Improperly Defers Identification of Feasible Mitigation Measures

The DEIR impermissibly concludes that the majority of all of the project's environmental impacts are either less than significant or will be rendered less than significant by mitigation, while at the same time deferring necessary analysis of mitigation measures. Under CEQA, an EIR may conclude that impacts are insignificant only if it provides an adequate analysis of the magnitude of the impacts and the degree to which they will be mitigated. See Sundstrom, 202 Cal.App.3d at 306-07. Thus, if an agency fails to investigate a potential impact, its finding of insignificance simply will not stand. Id. Further, CEQA generally requires that all mitigation measures be adopted simultaneously with, or prior to, project approval. An agency may defer preparation of a plan for mitigation only when the agency commits itself and/or the project proponent to satisfying specified performance standards that will ensure the avoidance of any significant effects. Id.

In the present case, the DEIR violates CEQA by deferring critical analyses of project impacts and feasible mitigation. The following is a non-exhaustive list of mitigation measures that the DEIR improperly defers to a later date:

- Detailed floodplain delineation.
- Preparation of the SWPPP.
- Detailed BMPs.
- Mosquito abatement plan for the wastewater treatment facility.
- Detailed geotechnical investigation.
- Surveys, plans and studies related to biological resources.
- Regional Development Impact Fee Program.

In addition, lot plans, biological surveys, and many other measures are simply deferred until after initial project approval which will result in vesting development on this site. In many of the above cases of deferring specific mitigation, the DEIR finds that potentially significant impacts will be reduced to less than significant, even where the impact analysis is also deferred. Not only will this render the development of specific mitigation too late for public and decision-maker review to determine the adequacy and efficacy of the measure, this approach is improper under CEQA. Either specific mitigation measures must be developed at this time, based on complete project information and impact analyses, or a number of project-related and cumulative impacts must be listed as significant and unavoidable. Such impacts include, but are not limited to impacts to: biological resources, additional traffic impacts, impacts to water quality, transit impacts, growth inducement, impacts associated with lack of affordable housing, among other impacts.

The DEIR's failure to adequately analyze the potentially significant effects of the project, and to design proper mitigation measures prior to project approval, renders the document inadequate and vulnerable to legal challenge. With the DEIR in its current form, decision-makers, the public and permitting agencies cannot evaluate the advisability of project approval.

2. The DEIR Fails to Identify Feasible Mitigation Measures

The DEIR's consideration of mitigation is inadequate because it fails to identify several feasible measures that could reduce or eliminate identified significant impacts. Also, the DEIR fails to identify some impacts, such as impacts to land use, historical resources and water quality among others, as significant, and therefore omits identification of feasible mitigation. Mitigation is defined by CEQA as including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

CEQA Guidelines § 15370. The DEIR fails to consider measures, which could mitigate in the fashion described above significant impacts in several resource categories, including, but not limited to biology, loss of open space, hydrology and water quality, traffic, affordable housing among others. Furthermore, the DEIR improperly concludes that many impacts are mitigated to below a level of significance based either on deferred mitigation measures, as discussed above, incomplete and "future" project features, or on mitigation measures of unproven efficacy. These determinations are not supported by substantial evidence.

A partial list of impacts that should be identified as significant and unavoidable in a revised environmental document include, but are not limited to the following: 1) plan and policy inconsistencies; 2) changes in land use and land use compatibility; 3) project-related and cumulative drainage and water quality impacts; 4) impacts to biological species, species habitat and wildlife movement corridors; 5) impacts associated with inadequate affordable housing in the region (air quality and increased traffic); and 6) cumulative impacts associated with increased nighttime lighting, loss of habitat and wildlife movement corridors, water quality and traffic impacts, among others. Growth inducement should also be identified as a significant adverse result of the project unless an adequate analysis proves otherwise. The DEIR does not include sufficient evidence to identify these and other impacts as less than significant after mitigation.

Finally, the DEIR omits feasible mitigation measures for a number of impacts, including the following:

- Inadequate Affordable Housing – A feasible measure would be adoption of a more aggressive affordable housing policy for the County and a requirement to increase the affordability of project housing.
- Loss of Open Space – A feasible measure to offset the loss of habitat and open space would be to place an open space mitigation fee on all developed acres in combination with dedication of high value conservation areas.

Other feasible measures, in addition to those identified above, must be included in a revised DEIR. The efficacy of each measure should also be evaluated and proven in the revised DEIR.

3. The DEIR Fails to Document the Feasibility and Efficacy of Proposed Mitigation Measures

The DEIR fails to provide evidence that many of the mitigation measures proposed in the DEIR are feasible and will actually result in the reduction of significant impacts to less than significant. Since many of the measures simply “defer” actual mitigation to a future plan or survey (see partial list above), it is not possible to ascertain whether the measures will have the desired result. In such cases, the DEIR should identify impacts as significant (e.g. as the DEIR does with traffic impacts because of the uncertainty of funding to actually complete improvements in a timely manner).

Responses to comments should include a table indicating how each measure actually reduces or eliminates the corresponding impacts. Where such a demonstration cannot be made, additional mitigation measures should be identified or the impacts should be identified as significant and unavoidable.

F. The DEIR Does Not Adequately Discuss Alternatives to the Proposed Project

The DEIR fails to adequately analyze alternatives. Under CEQA, an EIR must analyze a reasonable range of alternatives to the project, or to the location of the project, that would feasibly attain most of the basic objectives while avoiding or substantially lessening the project’s significant impacts. See Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal.App.3d 433, 443-45 (1988). As stated in Laurel Heights I, “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA’s fundamental goal that the public be fully informed as to the consequences of action by their public officials.” 47 Cal.3d 376, 404 (1988). The DEIR’s discussion of alternatives fails to meet these standards for a number of reasons, including, but not limited to the following.

First, none of the development alternatives are “transparently” based on a comprehensive constraints map that identifies areas of high resource values and other areas that should be avoided based on County policy and regulations. While the Reduced Biological Impact/No Groundwater Deficit alternative begins to eliminate project-related impacts, it does not go far enough. A revised analysis should include an alternative based on a site constraints map, which illustrates current information about high value resources, wildlife corridors, habitat areas, hazard areas (landslides), among other environmental features on the site. This alternative should also cluster development in a true cluster development pattern, rather than the “sprawling” cluster pattern.

Second, a city-centered alternative must be included. In the cumulative section of the DEIR, the text identifies the range of potential development that could occur in Monterey County’s cities. Clearly, housing and other uses proposed for this site can be accommodated in “infill” areas and within existing cities, and particularly on the former Fort Ord. Moreover, this site is clearly not needed to accommodate urban development for many years to come. As to the demand for estate homes, there are over 5,000 existing lots of record in unincorporated Monterey County. In

combination with resales, these existing lots of record provide ample opportunity for this kind of residential development, for decades to come, without the need for development as called for in the projects.

In the absence of additional alternatives that address project-related impacts and local needs, the range of alternatives presented in the DEIR is inadequate.

G. Information on An Economic Feasibility Study Has Been Withheld By The County, Requiring More Time To Comment

During the period provided by the County for comments on the DEIR, LandWatch Monterey County and several of its members noted that the County Board of Supervisors was being asked to allocate money for an economic feasibility study of the HYH project. As noted earlier in this comment letter, an adequate environmental analysis of the projects in fact requires this kind of economic feasibility study, in order to define the project accurately, and to determine what alternatives and mitigations may be achievable. Many if not most of the mitigations proposed in the DEIR are based on proposed CFD or CSD funding. Because this is true, it was inappropriate to circulate the DEIR before studying the feasibility of those funding mechanisms. Inclusion of the results of such an economic feasibility study needs to be incorporated into a revised and recirculated DEIR.

There is, however, another point. The staff report prepared in connection with the agenda item asking the Board of Supervisors to fund a new economic feasibility study of the proposed HYH project revealed that such an economic feasibility study had in fact been produced earlier. A LandWatch staff member made a request in writing (by email) specifically identifying this earlier economic feasibility study at a “Community Facility Financing Analysis for Rancho San Juan,” prepared by Applied Development Economics, and dated June 5, 2003. LandWatch sought a copy of this earlier study in order to use that study as the basis for comments on the DEIR. County employee Bob Schubert confirmed to the LandWatch staff person, by telephone, that the study existed, but stated that it “would not be released” to LandWatch. This is a violation of the California Public Records Act, and by its refusal to provide this document when requested, the County has made it impossible for LandWatch fully to comment on the DEIR.

This is our request that the County forthwith furnish us with a copy of the economic feasibility study identified above, and extend our time to comment on the DEIR for a reasonable period (we suggest ten days after our receipt of the study), to allow us to make further comments on the DEIR related to and based on the study.

CONCLUSION

As set forth above, the DEIR suffers from numerous deficiencies, many of which would independently render it inadequate under CEQA. Taken as a whole, the deficiencies of the DEIR are so pervasive as to necessitate further extensive revision of the document – and recirculation for public comment. The project should not be considered further until a legally adequate EIR is prepared and a legally adequate General Plan is adopted for Monterey County.

Very truly yours,

Gary A. Patton, Executive Director
LandWatch Monterey County

Attachment: LandWatch Monterey Letter on GPU 3 DEIR

April 2, 2004

Monterey County Environmental Resource Policy
Attn: Genee Terada
230 Church Street, Bldg. 3
Salinas, CA 93901

Re: Comments on Draft Environmental Impact Report (DEIR) for the Proposed Monterey General Plan; SCH No. 2001051078

Dear Ms. Terada:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) of the proposed Monterey County General Plan. LandWatch Monterey County is joined in submitting these comments by the Planning and Conservation League.

The DEIR is legally inadequate in quite an amazing number of ways. Our detailed comments below explicitly address the DEIR's legal failings, internal inconsistencies, factual errors and gross faults in reasoning, including numerous deficiencies under the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§ 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.). These deficiencies are so obvious and pervasive as to demand extensive revision of the document and recirculation for public comment. Failure to do so will result in a legally indefensible document, expose Monterey County to substantial legal costs, and further delay what has already been an extraordinarily protracted planning process.

Despite its gross deficiencies, the DEIR does manage to make clear that the draft General Plan is itself internally inconsistent. That is, the specific General Plan policies and provisions do not advance the 12 Guiding Objectives that provide the ostensible framework for the plan. In fact, as proposed, the General Plan will promote development in the wrong areas, result in unacceptable impacts on resource lands, generate the kind of urban sprawl that is endemic to much of the state, and fail to provide much needed affordable housing.

According to the DEIR, the General Plan results in approximately 48 significant unavoidable impacts and approximately 23 "significant" cumulative impacts, including loss of farmland and habitat lands. In accordance with CEQA, when feasible the Board of Supervisors must require changes in a project to lessen or avoid significant effects. The majority of defects in the DEIR can be addressed by the adoption of feasible mitigation measures in the form of land use and policy changes and an alternative that will eliminate or reduce significant and unavoidable impacts of "the project," as required by CEQA "The project" and "the General Plan" are used interchangeably throughout this letter.

Comment letters on the Draft General Plan submitted by the American Farmland Trust, Sierra Club, Friends, Artists and Neighbors of Elkhorn Slough ("FANS") and the Multi-Group Sign-On Letter³ ("Sign-On Letter") contain specific recommendations for such policies. These include but

³ Submitted by the California Native Plant Society, Monterey Bay Chapter; Coalition to Protect Housing, Farmlands, Air & Water; League of Women Voters of the Monterey Peninsula; FANS; North County Citizens Oversight Coalition; Planning and Conservation League; Concerned Citizens of River Road; Citizens for

are not limited to following:

- Provide a land supply consistent with AMBAG population growth projections and phase growth based on the carrying capacity of the infrastructure and the environment. New Goal LU-1.⁴
- Direct new urban development to the Community Areas of Pajaro, Boronda, Castroville and Fort Ord. Together with existing lots of record, these areas provide a land supply that will meet the County's growth needs. Revised LU-1.2.
- At a minimum, maintain the 40-acre minimum. Policy Choice LU3.
- Permit subdivisions within Agricultural Lands only when a proposed subdivision can be demonstrated to preserve agriculture and not negatively impact the viability of adjoining lands. LU-7.7.
- Provide affordable housing to meet the needs of Monterey residents and workers. New Goal H-2 and Policies H-2.1, H-2.2, H-2.4, etc.
- Eliminate Rural Centers, the Affordable Housing Overlay areas, and Special Treatment Areas. These areas are not needed to accommodate growth.
- Limit winery uses to those that would not generate significant impacts and require Specific Plan(s) in advance of implementing Wine Corridors.

Although the DEIR identifies numerous significant and unavoidable impacts, the proposed mitigation measures and alternatives identified in the DEIR fail to recommend feasible policy choices such as those listed above that would reduce and in some cases eliminate significant and unavoidable impacts of the project. These policy choices are *prima facie* feasible and must be incorporated in a revised General Plan and DEIR.

1. The DEIR is inadequate under CEQA.

The DEIR is inadequate because it fails to provide sufficient information to enable informed decision-making by the County, the public, and the permitting agencies (see numerous examples below). CEQA requires that an EIR provide enough analysis and detail about environmental impacts to enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines § 15151; Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). Under the law, the lead agency must make a good faith effort to fully disclose the environmental impacts of the project. This requirement cannot be met unless the project is adequately described and existing setting information is complete. See County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 199 (1977). Both the public and decision-makers need to fully understand the implications of the choices presented by the project, mitigation measures, and alternatives. See Laurel Heights Improvement Ass'n v. Regents of University of California (Laurel Heights I), 6 Cal.4th 1112, 1123 (1988).

The DEIR also defers information about project-related and cumulative impacts, mitigation measures and alternatives. This approach is clearly improper and unacceptable given the types of activities and irreversible environmental harm that will result from the initial approval of the

Responsible Growth; Líderes Comunitarios de Salinas; Prunedale Preservation Alliance; Monterey County Pine Watch; LandWatch Monterey County; The Sierra Club, Ventana Chapter; Prunedale Neighbors Group; Carmel Valley Association; Highway 68 Coalition; and, Oceans Conservancy on March 26, 2004.

⁴ See Sign-On Letter submitted on the GPU for these specific policy recommendations, Exhibit 1 to this letter.

General Plan by the Board of Supervisors.

A. The DEIR fails to adequately describe the project and project setting.

The General Plan fails to adequately describe key aspects of proposed development, including but not limited to Clustered Residential development, Special Treatment Areas (STAs) and Rural Centers. Specifically, land uses and policies related to these proposed uses lack the specificity needed to comply with State planning law which requires land use elements to include standards of population density and building intensity. Gov't Code Section 65302(a). As a result, the DEIR fails to describe the project and its setting accurately and completely. It omits potential development that has the potential to result in significant impacts.

The CEQA Guidelines define "project" as "the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately ..." CEQA Guidelines § 15378. Among other components, an EIR's project description must contain a "general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." CEQA Guidelines § 15124(c). As the Court of Appeal has noted, "The defined project and not some other project must be the EIR's bona fide subject." County of Inyo, 71 Cal.App.3d at 185. An accurate and complete project description is indispensable because, "[a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." Id. at 192.

The DEIR also fails to provide an adequate description of the setting for the project. Such a failure is fatal under CEQA. CEQA and the CEQA Guidelines mandate that an EIR include a description of "the physical environmental conditions in the vicinity of the project . . . from both a local and a regional perspective . . . Knowledge of the regional setting is critical to the assessment of environmental impacts." CEQA Guidelines §§ 15125(a) and (c). This requirement derives from the principle that without an adequate description of the project's local and regional context, the EIR, and thus the decision-makers and the public who rely on the EIR, cannot accurately assess the potentially significant impacts of the proposed project.

The DEIR and General Plan fail to describe key aspects of the proposed project with the potential to result in significant environmental impacts. Additionally, both documents fail to describe accurately and completely the environmental setting impacted by the project. Accordingly, potentially significant environmental impacts cannot be adequately analyzed or addressed by the DEIR and, for this reason, the DEIR is fatally deficient under CEQA. Specific defects in the project description and setting include but are not limited to the following:

1) Clustering Policy. The proposed clustering policy states:

"The County shall develop a residential cluster subdivision program for Rural Lands and Agricultural Lands as an alternative to conventional subdivisions where clustering: 1)

would achieve greater permanent protection of agricultural land or significant environmental resources; 2) would protect the most valuable farmland from non-agricultural uses; 3) would not result in land use conflicts between the clustered homes and adjacent agricultural uses; and 4) would not overtax the County's ability to provide adequate infrastructure and services within rural areas..." Policy LU-9.9

The proposed policy language lacks the specificity needed to comply with State planning law, which requires land use elements to include standards of population density and building intensity. Gov't Code Section 65302(a).⁵ As a result, the DEIR cannot analyze the impacts of these potential cluster units because the policy is too vague. A revised General Plan and DEIR must either eliminate the policy or define the policy in sufficient detail to comply with both State planning and CEQA requirements.⁶ Our specific questions concerning this policy include: How many cluster units will result from the General Plan policy with and without the mitigation measure suggested in the DEIR? Where will they be located? How will they be served by infrastructure and services? What will be the "cost" to the County of providing services to these units? Will these units provide needed housing? What will be the likely purchase cost of these units? Without this information, the EIR's analysis of potentially significant impacts cannot be adequate. Elimination of the clustering policy would also address the significant impacts associated with implementing such a policy. Alternatively, the clustering policy must be revised to provide specific information about how many and where these Clustered Residential Units can be built. Based on this revised description, the DEIR must evaluate the impacts associated with the cluster policy.

2) Rural Centers. According to the Draft General Plan, Rural Centers are unincorporated areas that "in most cases, have inadequate public infrastructure and services to accommodate further subdivision or intensification of land uses on existing lots beyond the first single family home or small scale neighborhood serving commercial use." LU-2.4. Development in these centers is a range of 1-6 units per acre permitted based on a series of tiering and phasing requirements. Like the clustering policy, this policy lacks the specificity needed to comply with State planning law, which requires land use elements to include standards of population density and building intensity. Gov't Code Section 65302(a).⁷ As a result, the DEIR cannot analyze the impacts of potential Rural Center development (residential and commercial), because the Rural Centers policies are too vague. Our questions concerning Rural Centers include: How many new units/non-residential square feet will result from development in Rural Centers? What

⁵ The Traffic Appendix estimates that clustered residential units could accommodate a population of approximately 6,000 people based on a number of assumptions. These assumptions are not a requirement of the policy and therefore the estimated number of units appears to be arbitrary. Please provide additional information to support the estimate and revise the policy to ensure that number of new residents cannot be exceeded -- or, revise or eliminate the policy per our comments above.

⁶ The comment letter on the GPU submitted by the American Farmland Trust recommends that the policy should specify an upper limit of new building lots which may have one single family dwelling and additional conditions to ensure mitigation of all significant impacts. The AFT alternative should be studied as one of a range of specific clustering options. The bottom line is that if a cluster policy remains in the General Plan, it must satisfy the basic requirements for accountability under State planning laws and CEQA.

⁷ The Traffic Appendix estimates that STA development could accommodate a population of approximately 3,000 people based on a number of assumptions. These assumptions are not a requirement of the policy and therefore the estimated number of units appears to be arbitrary. Please provide additional information to support the estimate and revise the policy to ensure that number of new residents cannot be exceeded -- or revise the policy per our comments above.

assumptions did the DEIR make in analyzing the impacts of development in Rural Centers for purposes of traffic, air quality and other impacts? Without this information, the DEIR's analysis of potentially significant impacts is incomplete. To address this DEIR omission and the significant impacts associated with development in Rural Centers, the major land group "Rural Centers" could be eliminated and these areas included in Rural Lands as recommended by the Multi-Group Sign-On Letter on the General Plan. (Sign-On Letter is attached hereto as Exhibit 1).

3) Estate Units on Agricultural Lands. Policy LU-7 permits one single family home on agricultural lands. This is a change from the current General Plan that requires units to be for agricultural purposes. Our questions concerning this policy include: How many new units can be built in these areas? What assumptions did the DEIR make in analyzing the impacts of estate homes on agricultural lands for purposes of traffic, air quality and other impacts? What will be the impact on ongoing agricultural uses if these units are permitted (e.g. replace units needed for agricultural families and workers; create conflicts with agricultural uses, etc.). Potentially significant impacts of this policy must be addressed or the policy changed to require that new residential units on agricultural parcels be accessory to agricultural purposes.

4) Special Treatment Areas (STAs). Another policy of the General Plan that is not sufficiently defined is the policy that allows development in "Special Treatment Areas" (STAs). The DEIR states that it is not possible to know at this time how many STA projects there will be or what the specific impacts of these projects will be. What assumptions did the DEIR make in analyzing the impacts of development in STAs for purposes of traffic, air quality and other impacts? Removal of STAs from the General Plan would resolve this potential omission and eliminate the significant impacts associated with this type of development in the County.

5) Wine Corridors and Winery Policies. In addition to Wine Corridors, the General Plan allows "unlimited" wineries and adjunct uses throughout the County. These uses must be sufficiently defined or capped to comply with State law and to allow analysis of potential impacts in the General Plan DEIR. Our specific questions concerning these uses include: What is the assumed build-out capacity of wine-related uses, including so called adjunct uses? Please provide detailed information about the scale, type and quantity of winery uses as permitted by the General Plan with and without the proposed mitigation measure. For example, how much water will these uses require? How much traffic will these uses generate throughout the County, not just in the one Wine Corridor analyzed? It appears that the traffic analysis separately analyzed the traffic impacts associated with one proposed Wine Corridor from other development allowed in the General Plan. Was an analysis completed that included both full buildout of wine-related uses and all other land uses? If so, where can that analysis be found in the DEIR? A General Plan policy requiring that a specific plan be completed for Wine Corridor uses prior to implementation of these corridors would go a long way to address these omissions in the DEIR.

6) Infrastructure and Services "Planned" to Serve Planned Growth. Some information is included in the General Plan and DEIR concerning needed infrastructure and services. However, it is not clear what assumptions were used in calculating impacts associated with these facilities in the DEIR. These facilities are part of the proposed project and must be included in the impact analyses where relevant. To that end, please provide a table that lists each major new facility (including transportation, water, sewer, schools, etc.) and assumptions used concerning traffic

(e.g. number of trips generated by a new school), conversion of agricultural and habitat land (total acres for each facility), and the like. This information could be shown in a matrix form. Another equally transparent approach could also be used in responding to this comment. Clarification should also be provided concerning facilities that are needed (e.g. water supply facilities), but cannot yet be defined at a level of detail necessary to analyze the impacts. This information will assist the public and decision-makers to determine whether there are needed facilities to support planned growth that will result in unacceptable impacts and/or how to reduce growth so that such facilities are not needed.

7) Affordable Housing Overlays (AHOs). Information concerning total new development in AHOs is inadequate to support a complete assessment of potential impacts. How many new units will be built in AHOs under the General Plan? How was this information used in calculating impacts to air quality, traffic, services and the like?

8) Construction activities. The DEIR describes some construction period impacts (e.g. to air quality), but fails to provide a description of the assumptions concerning build out of the general plan land uses and infrastructure that was used in analyzing these impacts. A revised project description should include construction activity assumptions.

Complete and accurate project description information is a prerequisite to adequately analyzing and disclosing a number of project-related and cumulative impacts including, but not limited to: demand for services, traffic, jobs-housing balance, water use, water quality, loss of farmland, loss of habitat land, growth inducement among other impacts. A revised project description must include specific information about the project to allow full disclosure and analysis of all potentially significant impacts.

Finally, in addition to project description information, the DEIR fails to provide all of the setting information necessary to support an adequate analysis of project and cumulative impacts. Setting information missing from the DEIR, which must be included in a revised DEIR includes, but is not limited to, the list below. A revised DEIR should include this information and identify any new significant or more severe impacts as a result of its inclusion.

- l) Additional regional setting information for biological resources, including wildlife corridors, special status species such as Kit Fox and Steelhead, and other habitat for a sufficiently large geographic study area. The DEIR fails to include an adequate regional description of resources related to an adequate map of such resources outside the County boundaries.
- m) A complete list of cumulative projects for an adequate geographic study area. The study area for traffic, biological resources, agriculture and water at a minimum should include cumulative projects in Santa Clara, San Benito and San Luis Obispo counties. As such, a list of cumulative projects and/or general planned development must be included in the DEIR and used for expanded cumulative analyses of at least these impacts.
- n) A complete description of proposed and foreseeable water supply projects, including desalination.

B. The DEIR's analysis of environmental impacts is inadequate.

The DEIR's analysis of environmental impacts fails to provide the necessary facts and analysis

to allow the County, the agencies and the public to make an informed decision concerning the project and project alternatives. Without such detail, the DEIR is deficient under CEQA. The role of the EIR is to make manifest a fundamental goal of CEQA: to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” Laurel Heights I, 6 Cal.4th at 1123. To do this, an EIR must contain facts and analysis, not merely bare conclusions. See Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990). Any conclusion regarding the significance of an environmental impact not based on analysis of the relevant facts fails to achieve CEQA’s informational goal.

As set forth below, the DEIR contains conclusions regarding environmental impacts, unsupported by facts and necessary analysis. Furthermore, the DEIR attempts to defer analysis of project components and environmental impacts to a later date. As discussed below, such deferral is not an option. CEQA mandates that environmental impacts be identified and analyzed in the EIR, not at a later date. See Sundstom v. County of Mendocino, 202 Cal.App.3d 296 (1988) (holding that a negative declaration was invalid when county approved a project while postponing the resolution of uncertainties regarding environmental impacts to a later date).

1) The DEIR's analysis of air quality impacts is incomplete.

The DEIR’s analysis of air quality impacts is flawed for a number of reasons. First, because a number of proposed land uses are not sufficiently defined to analyze their impacts, air quality impacts are underestimated. These uses include, but are not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. See Project Description above.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant air quality impacts. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to both significant and unavoidable air pollution and together with City growth, will exceed Air Quality Management Plan (AQMP) projections. Even though these impacts are characterized as significant and unavoidable, it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. For example, an alternative should be identified and analyzed which directs all new urban development into the four community areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. Coupled with a revised affordable housing policy (See e.g. Sign-On Letter proposals concerning housing), impacts to air quality should be significantly reduced over the proposed General Plan which will result in development scattered all over the County and insufficient housing for Monterey County residents and workers.

Third, the DEIR concludes that construction activities will result in less than significant impacts, but fails to support that conclusion with evidence. The DEIR fails to adequately describe construction activities associated with planned development and infrastructure, and therefore, fails to adequately, transparently and fully describe air quality impacts associated with construction activities. The DEIR states:

“Construction and development activities will contribute to the current non-attainment

status for particulate matter (PM10) through increased emissions of dust, aerosols and metallic oxides.” DEIR at 5.3-15.

The DEIR points out those PM10 emissions often exceed the 82 pounds per day threshold when 2.2 acres of land are disturbed per day during earth working or 8.1 acres per day with minimal grading. DEIR at 5.3-15. Yet, no estimate is provided of the amount of grading that could be underway under a worst case development scenario in the General Plan (e.g. development of roads in combination with major development at Fort Ord or Rancho San Juan). Standard mitigation measures include *mitigate to the satisfaction of the Air Pollution Control District*. Policy HS-6.5. However, the DEIR continues on to state that the ability to achieve full mitigation cannot be ascertained. DEIR at 5.3-15. Notwithstanding this, the DEIR concludes that development under the General Plan will not expose sensitive receptors to substantial pollution concentrations (such as PM10 emissions next to a school) or create objectionable odors. The DEIR fails to provide substantial evidence to support a conclusion that these impacts will be less than significant. If additional information to support these conclusions is presented in the DEIR or its appendices, please identify the pages. If it is not, please provide this information so that the air quality analysis is transparent or change the disposition of these impacts accordingly.

A fourth major deficiency in the DEIR’s analysis of air quality impacts is the lack of any meaningful analysis of cumulative air quality impacts. A revised environmental document must include such an analysis (e.g. other construction projects in the area generating air pollutants; total cumulative project emissions, etc. for an adequate geographic study area).

Fifth, the DEIR fails to fully consider the air quality impacts of development trends in the County and region. Development trends in the region, which General Plans such as the proposed Draft GPU perpetuate, include the construction of high-end homes serving a “Bay area and beyond” market. These growth patterns in turn induce development of affordable workforce housing further and further away from job centers. The DEIR must also evaluate the air quality implications over the long-term of these trends in Monterey and the adjacent counties. If these trends continue and are not addressed by “better” planning, commutes both to high-end homes and employee residences will increase, with a resulting increase in traffic and air pollution. The DEIR lacks any analysis of these likely “trend” impacts. Nor does the DEIR suggest feasible mitigation measures to address these potentially significant impacts, including, but not limited to new policies that would truly achieve affordable housing goals such as the *new* housing goals and policies recommended in the Sign-On Letter to the GPU. See pages 8-10 of Exhibit 1.

Finally, because the General Plan fails to require a balance of jobs and housing taking into consideration job salaries and housing prices/rental rates, project-related and cumulative air quality impacts are likely to have been underestimated.

2) The DEIR fails to adequately analyze land use and planning impacts.

The DEIR identifies some, but not all, internal inconsistencies in the General Plan. A General Plan must be internally consistent:

- Policies must be consistent with the land uses illustrated on land use maps.
- Policies and land uses must be consistent with the Guiding Objectives.

- Elements and policies must be consistent with one another.
- All provisions must be consistent with State laws and policies.
- Data, projections and assumptions must be consistent throughout the Plan.

The DEIR fails to identify policies and land uses that are not consistent with the adopted 12 guiding objectives. For example, Guiding Objective #2 states:

#2 Identify land that is adequate and appropriate for the residential, commercial, and industrial development needs of Monterey County during the next twenty years, taking into account land located within the cities, existing legal lots of record, and resource and infrastructure constraints.

The General Plan as proposed would result in opening up 2 to 3+ times as much land as is “adequate and appropriate” for the development needs of the County. Specifically, according to the DEIR, the draft General Plan results in a total yield of 21,666 units or more than 2 times that needed to accommodate projected population growth. This yield does not consider all growth permitted by the proposed General Plan, including, but not limited to Cluster Residential Units, development in STAs and Rural Centers and in Wine Corridors, among other areas. The General Plan must be revised so that policies and land uses are consistent with the 12 Guiding Objectives and the General Plan is internally consistent. Again, we recommend that the General Plan policies be revised to limit and direct growth to the four Community Areas of Boronda, Pajaro, Castroville and Fort Ord. Together with development on existing legal lots of record, these areas are adequate to accommodate the development needs of the County over the next 20-years.

Another example of an internal inconsistency in the General Plan is that proposed growth areas fail to maintain a clear distinction between urban and rural areas as directed by Guiding Objective #3:

#3 Preserve a distinction between urban and rural areas. Channel new growth to areas already committed to an urban level of development (e.g. cities, areas directly adjacent to cities, and densely developed unincorporated communities). Preserve rural areas for resource-based industries (e.g. farming, livestock, grazing, mining), natural resource protection, and open space recreation uses.

Contrary to this objective, the General Plan would allow growth in a number of areas that would result in obscuring the distinction between urban and rural areas and in incompatible land uses. Such areas include but are not limited to development in:

- the 2,626 acres (6,068 units) in Pine Canyon and San Lucas and Expanded Rancho San Juan;
- Affordable Housing Overlay areas;
- Clustered Subdivisions;
- Rural Centers; and
- Special Treatment Areas.

The DEIR points out some of the inconsistencies related to these policies and the 12 Guiding Objectives, but fails to recommend feasible mitigation measures or an alternative that would

address these inconsistencies. Such measures include, but are not limited to those recommended in the Sign-On Letter (Exhibit 1) and summarized below:

- Provide a land supply to meet the population growth projections and phase growth based on the carrying capacity of the infrastructure and the environment. New Goal LU-1.⁸
- Direct new urban development to the Community Areas of Pajaro, Boronda, Castroville and Fort Ord. Together with existing lots of record, these areas provide a land supply that will meet the County’s growth needs. Revised LU-1.2.
- Maintain the 40-acre minimum at a minimum. Policy Choice LU3.
- Permit subdivisions within Agricultural lands only when a proposed subdivision can be demonstrated to preserve agriculture and not negatively impact the viability of adjoining lands. LU-7.7.
- Eliminate Rural Centers, the Affordable Housing Overlay areas, and Special Treatment Areas. These areas are not needed to accommodate growth.

These are just two examples of internal inconsistencies in the General Plan as currently proposed. A revised analysis should identify all potential inconsistencies and propose feasible measures in the form of land use and goal and policy changes to eliminate them. Such an analysis should also review the uses proposed in the Major Land Use Groups and land use map and reconcile any inconsistencies between proposed development areas and policies

3) The DEIR fails to adequately analyze transportation and traffic impacts.

The DEIR’s analysis of traffic and transportation impacts is flawed for a number of reasons. First, because a number of proposed land uses are not sufficiently defined to analyze their impacts, traffic and transportation impacts are underestimated. These uses include, but are not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. See Project Description above.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant traffic and transportation impacts. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to both significant project-related and cumulative impacts on roads in the County. Even though these impacts are characterized as significant and unavoidable, it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. For example, an alternative should be identified and analyzed which directs all new urban development into the four Community Areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. Coupled with a revised affordable housing policy (See e.g. the Sign-On Letter proposals concerning housing), impacts to traffic and transportation should be significantly reduced over the proposed General Plan which will result in development scattered all over the County and insufficient housing for Monterey County residents and workers. Mitigation measures and policies that attempt to “correlate” land uses and transportation are complicated and create uncertainty about how much and where development will occur. We recommend a “simpler” approach; one that provides clear policy direction on

⁸ See Sign-On Letter submitted on the GPU for these specific policy recommendations, Exhibit 1 to this letter.

when, where and what type of development is allowed.

Third, the DEIR fails to adequately analyze construction impacts to traffic and transportation, including construction activities associated with new transportation facilities. Additional information and analysis must be included in a revised DEIR concerning these potentially significant impacts.

Fourth, the DEIR fails to fully consider the traffic and transportation impacts of development trends in the County and region. Development trends in the region, which General Plans such as the proposed Draft GPU perpetuate, include the construction of high-end homes serving a “Bay Area and beyond” market. These growth patterns in turn induce development of affordable workforce housing further and further away from job centers. The DEIR must also evaluate the traffic and transportation implications over the long-term of these trends in Monterey and the adjacent counties. If these trends continue and are not addressed by “better” planning, commutes both to high-end homes and employee residences will increase, with a resulting increase in traffic and air pollution. The DEIR lacks any analysis of these likely “trend” impacts. Nor does the DEIR suggest feasible mitigation measures to address these potentially significant impacts, including, but not limited to new policies that would truly achieve affordable housing goals such as the NEW housing goals and policies recommended in the Sign-On Letter to the GPU. See pages 8-10 of Exhibit 1.

Fifth, the traffic analysis also appears to have underestimated traffic impacts associated with Wine Corridor development. Specifically, the traffic analysis suggests that a separate analysis was completed of only one of the Wine Corridors. The potential build out of winery related uses must be included in a revised traffic analysis that also includes full build out of all uses permitted by the General Plan.

Sixth, a revised cumulative analysis of transportation impacts must include adjacent counties and development trends in those counties.

Seventh, the DEIR fails to adequately analyze the impacts of the proposed new and expanded circulation system on the environment. As suggested in the project description above, a table should be included in a revised DEIR that lists each major new transportation facility and identifies the impacts associated with each major facility (e.g. conversion of agricultural and habitat land in total acres for each facility), and the like. This information could be shown in a matrix form. Another equally transparent approach could also be used in responding to this comment. Clarification should also be provided concerning facilities that are needed, but cannot yet be defined at a level of detail necessary to analyze the impacts. This information will assist the public and decision-makers to determine whether there are needed facilities to support planned growth that will result in unacceptable impacts and/or how to reduce growth so that such facilities are not needed.

Finally, because the General Plan fails to require a balance of jobs and housing taking into consideration job salaries and housing prices/rental rates, project-related and cumulative traffic impacts are likely to have been underestimated.

4) The DEIR fails to adequately analyze impacts to hydrology, drainage, and

water quality.

The DEIR's analyses project-related and cumulative impacts to hydrology, drainage and water quality are flawed for a number of reasons. First, because a number of proposed land uses are not sufficiently defined to analyze their impacts, impacts related to hydrology and water quality are underestimated. These uses include, but are not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. See Project Description above.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant impacts associated with hydrology and water quality. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to both significant and unavoidable impacts to drainage, runoff and sedimentation, flooding and water quality. Even though these impacts are characterized as significant and unavoidable, it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. Pollution carried by storm water and urban runoff is the largest source of contamination to surface water both in California and nationwide. Construction sites, in particular, have been identified as significant dischargers of polluted storm water, involving high concentrations of silt and turbidity, as well as oil and grease, trash, sewage, and other chemicals used in construction activities and equipment maintenance. Despite this well-known and well-documented problem, the DEIR fails to adequately describe feasible mitigation and alternatives that would reduce the total area of disturbance and the future development footprint thereby reducing impacts to hydrology and water quality. Such measures include, but are not limited to an alternative that directs all new urban development into the four community areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. In addition, such an alternative would eliminate development in areas of flooding and in rural watersheds where impacts from new development will be significant.

Third, the DEIR fails to adequately analyze and mitigate construction-related and cumulative impacts on hydrology and water quality. A revised DEIR must include this information.

5) The DEIR fails to adequately analyze and mitigate impacts to biological resources.

The biological analysis section of the DEIR is inadequate for numerous reasons, including, but not limited to the following: First, the DEIR concludes that a number of potentially significant impacts to biological resources, including Kit Fox and steelhead habitats will be less than significant with mitigation. Mitigation measures that purportedly reduce impacts to less than significant include requirements that Community Plans and Infrastructure and Financing Plans mitigate these impacts. This is not sufficient. A new policy should be included in the DEIR that requires complete avoidance of impacts to these resources and the land use map should be modified to identify areas that must remain in open space to ensure no impacts to Kit Fox, Steelhead and other sensitive habitats occur. In the alternative, these impacts must be identified as significant and unavoidable.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant impacts to biological resources. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to both significant project-related and cumulative impacts to habitats, species and corridors. Even though these impacts are characterized as significant and unavoidable, it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. For example, an alternative should be identified and analyzed which directs all new urban development into the four Community Areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. Elimination of development in Rural Centers, in Affordable Housing Overlays, and in STAs would also go a long way to eliminate these impacts. In addition, a Specific Plan should be completed in advance of implementing Wine Corridors. The Specific Plan should require dedication of wildlife corridors and high value habitat land in return for limited winery-related development.

Finally, the cumulative analysis should be revised to consider impacts beyond the County boundaries where habitats spill over into adjacent counties and development is proposed.

6) The DEIR fails to adequately analyze and mitigate impacts to water supplies and water supply facilities.

The DEIR's analysis of impacts to water supply is inadequate for at least the following reasons: First, the DEIR fails to fully describe project-related and cumulative water demand, including demand by foreseeable growth in the cities and all uses allowed by the proposed General Plan, including but not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. As a result, impacts related to water supply and water delivery are underestimated.

Second, the DEIR does not describe all likely sources of new water, and therefore fails to identify the significant impacts associated with development of new water, water distribution and storage facilities needed to serve planned development.

Third, the DEIR lacks "analysis" of cumulative water impacts and simply concludes that impacts will be significant:

"All potential sources of growth within constrained water basins contribute to the water supply impacts identified above (e.g. substantially deplete supplies, groundwater sources, create demands that exceed supply, etc.). These impacts are cumulatively significant for the same reasons the impacts of growth in the areas above are significant." DEIR at 5.13-29.

A revised analysis must provide additional information about the total countywide water demand and potential new supplies. Based on this information, what are the impacts associated with new water development necessary to serve proposed new development without adversely impacting environmental resources and ground and surface water sources? If water imports are a source of water, please disclose the out-of-county impacts associated with such water transfers.

The DEIR concludes that additional measures to help in mitigating cumulative impacts can be achieved through a project alternative that limits General Plan growth to a level necessary to achieve project objectives. What level of new development in the County unincorporated areas/in the whole County, can be served by existing “safe yield” water supplies? (e.g. without further degradation of environmental resources, and ground and surface water sources). Please analyze such an alternative. Planned development under the new General Plan should not exceed safe yield water supplies or result in significant adverse impacts as a result of water development, storage or transfer. That may require the General Plan to limit new development to existing lots of record in some areas.

7) The DEIR's analysis of visual impacts is inadequate.

The DEIR’s analysis of visual impacts is flawed for a number of reasons. First, because a number of proposed land uses are not sufficiently defined to analyze their impacts, visual impacts are underestimated. These uses include, but are not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. See Project Description above.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant visual impacts. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to both significant and unavoidable visual impacts. Even though these impacts are characterized as significant and unavoidable, it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. For example, an alternative should be identified and analyzed which directs all new urban development into the four Community Areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. Concentrating development in these areas would significantly reduce visual impacts related to development at Rancho San Juan, Pine Canyon, San Lucas, and in the STA and AHO areas. Eliminating or further limiting Clustered Residential and Winery Corridor development would also reduce significant visual impacts identified in the DEIR. Moreover, by concentrating development, infrastructure expansion would also be curbed, thereby further reducing significant visual impacts.

8) The DEIR’s analysis of impacts to other essential public services is inadequate.

The DEIR’s analysis of impacts associated with the provision of wastewater treatment, schools, library services, fire and sheriff, solid waste, and parks is flawed for a number of reasons. First, because a number of proposed land uses are not sufficiently defined to analyze their impacts, these impacts are underestimated. These uses include, but are not limited to Clustered Residential Units, Rural Center development, and development in STAs, Affordable Housing Overlays and in Wine Corridors. See Project Description above.

Second, the DEIR fails to identify all feasible mitigation measures and alternatives capable of reducing significant impacts to these services and facilities. Specifically, the DEIR correctly notes that the project (General Plan) will contribute to significant impacts related to public

services and facilities. Even though many of these impacts are characterized as significant and unavoidable (e.g. impacts related to wildland fire, solid waste disposal, wastewater services, schools, etc.), it does not excuse the DEIR from recommending mitigation measures and project alternatives that could further reduce these impacts. For example, an alternative should be identified and analyzed which directs all new urban development into the four Community Areas of Boronda, Pajaro, Castroville and Fort Ord as recommended in the Sign-On Letter, Exhibit 1. In combination with development on existing legal lots of record, these four areas provide adequate land to accommodate projected growth. Concentrating development in these areas would significantly reduce service demands and wildland fire hazards related to development at Rancho San Juan, Pine Canyon, San Lucas, and in the STA and AHO areas. Eliminating or further limiting Clustered Residential and Winery Corridor development would also reduce public service demands. Moreover, by concentrating development, infrastructure expansion would also be curbed, thereby further reducing significant impacts associated with new and expanded services.

Third, the DEIR notes that some impacts related to schools and parks are unknown at this time. Additional information must be provided or additional mitigation measures identified to ensure that mitigation measures for these impacts are not deferred until Community Plans are completed. This is not an acceptable approach because there is no assurance that Community Plans will fully mitigate these impacts.

C. The DEIR fails to adequately analyze cumulative impacts.

The DEIR utterly fails to analyze cumulative impacts in the manner or to the degree required by CEQA. The CEQA Guidelines define cumulative impacts as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” CEQA Guidelines § 15355(a). “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” Id.

A legally adequate cumulative impacts analysis views a particular project over time and must consider the impact of the project combined with other projects causing related impacts, including past, present, and probable future projects. Projects currently under environmental review unequivocally qualify as reasonably probable future projects to be considered in a cumulative impacts analysis. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 74 & n. 13 (1984). In addition, projects anticipated beyond the near future should be analyzed for their cumulative effect if they are reasonably foreseeable. See Bozung v. Local Agency Formation Comm’n, 13 Cal.3d 263, 284 (1975). Alternatively, an EIR may utilize a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency. The discussion of cumulative impacts must include a summary of the expected environmental effects to be produced by those projects, a reasonable analysis of the cumulative impacts, and full consideration of all feasible mitigation measures that could reduce or avoid any significant cumulative effects of a proposed project.

The cumulative impacts concept recognizes that “[t]he full environmental impact of a proposed

... action cannot be gauged in a vacuum.” Whitman v. Board of Supervisors, 88 Cal.App.3d 397, 408 (1097). The requirement of a cumulative impacts analysis of a project’s regional impacts is considered a “vital provision” of CEQA. Bozung, 13 Cal.3d at 283. Moreover, an EIR must examine not only the anticipated cumulative impacts, but also reasonable options for mitigating or avoiding the project’s contribution to significant cumulative impacts. The DEIR does not come close to meeting these requirements for the reasons described below.

1) The DEIR fails to adequately establish and support cumulative impacts analysis of geographic study areas.

A revised DEIR must identify a meaningful geographic study area and projects within that study area as a basis for analyzing cumulative impacts to land use, biological resources, transportation, hydrology and drainage, growth inducement, public services and facilities, among others. The revised DEIR must describe and ideally map the relevant study area for each impact analysis. For example, for biological resources, the study area should include all areas in the region, which contain the same impacted habitats and species and corridors, at a minimum. Without this level of analysis, a conclusion that the project will result in acceptable losses to habitat, species and wildlife corridors cannot be supported. For traffic, the geographic study area should at a minimum, include the areas where trips will be initiated and end, including employee trips to and from their homes, and recreation trips to the area.

2) The DEI fails to adequately analyze cumulative impacts.

In addition to relying on a far too small geographic study area, the level of analysis in the DEIR’s cumulative impacts analysis is far too cursory. An EIR must include objective measurements of a cumulative impact when such data are available or can be produced by further study and are necessary to ensure disclosure of the impact. See Kings County, 221 Cal.App.3d at 729. Despite this mandate, the DEIR fails to adequately analyze a number of cumulative impacts, including, but not limited to, impacts to biological resources, water quality and drainage, policy consistency, services, traffic, growth inducement, among others.

Conclusions reached in the DEIR concerning the significance of cumulative impacts are flawed and devoid of any real analysis, including the lack of adequate study areas. Moreover, the DEIR fails to explore the full range of mitigation measures that could potentially reduce cumulative impacts below a level of significance. An EIR must examine reasonable options for mitigating or avoiding the project’s contribution to cumulative impacts.

D. The DEIR’s discussion of growth-inducing impacts is inadequate.

The DEIR must consider the growth-inducing potential of the project within Monterey County and beyond, if relevant. CEQA requires that an EIR include a “detailed statement” setting forth the growth-inducing impacts of the proposed project. See Public Resources Code § 21100(b)(5); City of Antioch v. City Council of Pittsburg, 187 Cal.App.3d 1325, 1337 (1986). The statement must “[d]iscuss the ways in which the proposed project could foster economic growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” CEQA Guidelines § 15126.2(d). It must also discuss how a project may “encourage and facilitate other activities that could significantly affect the environment, either individually or

cumulatively” or “remove obstacles to population growth.” Id.

In this case, the growth inducing analysis fails to adequately analyze the potential growth inducement associated with new and extended services and infrastructure, as well as new residents and employees and the demand for services and facilities by new residents. A revised environmental document must include an adequate analysis of the project’s potential for growth inducement, including, but not limited to the following:

- a complete list of infrastructure and road improvements funded in part or whole by the project and a determination of whether any of these will support additional growth beyond the project and beyond the County boundaries;
- the status of development permitted in cities and adjacent counties that could contribute to cumulative and growth inducing impacts;
- other services in the County and region which may expand as a result of high end housing development in the County, including, but not limited to: business services, retail services, churches, schools, home care services and the like.

A more thoughtful evaluation of these impacts is warranted given the scale of this General Plan project and other projects in the region. This analysis should also be used to inform a revised analysis of cumulative impacts.

E. The DEIR fails to identify feasible mitigation measures.

CEQA requires that mitigation measures be identified and analyzed. “The purpose of an environmental impact report is . . . to list ways in which the significant effects of such a project might be minimized . . . ” Pub. Res. Code § 21061. The Supreme Court has described the mitigation and alternative sections of the EIR as the “core” of the document. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal. 3d 553 (1990). As explained below, the DEIR’s identification and analysis of mitigation measures, like its analysis throughout, is thoroughly inadequate. An EIR is inadequate if it fails to suggest mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 79 (1984). Moreover, an EIR may not use the inadequacy of its impacts review to avoid mitigation: “The agency should not be allowed to hide behind its own failure to collect data.” Sundstrom v. County of Mendocino, 202 Cal.App.3d 296, 361 (1988). Nor may the agency use vague mitigation measures to avoid disclosing impacts. See Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal.App.4th 182, 195 (1996). Lastly, the formulation of mitigation measures may not properly be deferred until after Project approval; rather, “[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments.” 14 CCR § 15126.4 (a). In the present case, the DEIR does not come close to satisfying these basic CEQA requirements regarding impact mitigation. Most egregiously, it fails to identify feasible mitigation measures in the form of land use changes and policies capable of reducing and/or eliminating significant impacts.

The DEIR’s consideration of mitigation is inadequate because it fails to identify several feasible measures that could reduce or eliminate identified significant impacts. Also, the DEIR fails to identify some impacts, such as impacts to land use, public services and water quality among

others, as significant, and therefore omits identification of feasible mitigation.

Mitigation is defined by CEQA as including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Examples of measures that are inadequate and could be replaced by feasible and effective mitigation include, but are not limited to the following:

Measure 1i: “Since the Use of an Affordable Housing Overlay concept is new for Monterey County and is not yet known how many projects may be proposed, the County *shall monitor* AHO projects as a component of the 5-year review and evaluate the cumulative land use impacts of projects relative to land use incompatibilities and consistency with adopted policies, in particular the fundamental objective of the Growth Management Policy to preserve the distinction between rural and urban lands.”

Feasible and Effective Mitigation to Address SU Impacts of AHO Development:

Delete the Affordable Housing Overlay policy and map (LU-5) and replace with a policy that gives priority to affordable housing developments located in the four Community Areas where services can be provided. See Housing Recommendations in Sign-On Letter, Exhibit 1.

Measure 1l: “Since future Special Treatment Area overlay designations may lead to the creation of more lots than could otherwise be created by the underlying land use designations and it is not known how many projects may be proposed and where they may be located, the County shall monitor new STA designations as a component of the 5-year review and evaluate the cumulative land use impacts of such projects relative to land use incompatibilities and consistency with adopted policies, in particular the fundamental objective of the Growth Management Policy to preserve the distinction between rural and urban lands. Based upon the results of each 5-year review, the Board of Supervisors shall decide whether revisions to Policy LU-11.1 are required.”

Feasible and Effective Mitigation to Address SU Impacts of STA Development:

Eliminate the STA policy and direct new growth into the four Community Areas where services can be provided and development will be consistent with the Growth Management Policy.

Other feasible measures which would directly reduce significant and unavoidable impacts to farmland, habitat, air quality, water quality, water supply, transportation among others, include

the following revised and new policies as summarized below:

- Provide a land supply to meet the population growth projections and phase growth based on the carrying capacity of the infrastructure and the environment. New Goal LU-1.⁹
- Direct new urban development to the Community Areas of Pajaro, Boronda, Castroville and Fort Ord. Together with existing lots of record, these areas provide a land supply that will meet the County's growth needs. Revised LU-1.2.
- Maintain the 40-acre minimum at a minimum. Policy Choice LU3.
- Permit subdivisions within Agricultural lands only when a proposed subdivision can be demonstrated to preserve agriculture and not negatively impact the viability of adjoining lands. LU-7.7.
- Provide affordable housing to meet the needs of Monterey residents and workers. New Goal H-2 and Policies H-2.1, H-2.2, H-2.4, etc.
- Eliminate Rural Centers, the Affordable Housing Overlay areas, and Special Treatment Areas. These areas are not needed to accommodate growth.
- Limit winery uses to those that would not generate significant impacts and require Specific Plan(s) in advance of implementing Wine Corridors.

Other feasible mitigation measures, in addition to those identified above, must be included in a revised DEIR. The efficacy of each measure should also be evaluated in the revised DEIR.

F. The DEIR fails to identify feasible alternatives.

The DEIR fails to adequately analyze alternatives. Under CEQA, an EIR must analyze a reasonable range of alternatives to the project, or to the location of the project, that would feasibly attain most of the basic objectives while avoiding or substantially lessening the project's significant impacts. See Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal.App.3d 433, 443-45 (1988). As stated in Laurel Heights I, "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." 47 Cal.3d 376, 404 (1988). The DEIR's discussion of alternatives fails to meet these standards for a number of reasons, including, but not limited to the following:

First, none of the development alternatives are "transparently" based on a comprehensive constraints map that identifies areas of high resource values and areas that should be avoided based on the 12 Guiding Objectives, environmental information and applicable policies and regulations. A revised analysis should include an alternative based on constraints map(s), which illustrate current information about high value resources, wildlife corridors, habitat areas, hazard areas (landslides), among other environmental features in the County that pose a hazard or constraint to development. New development under this alternative should be directed away from these constraints and into existing developed communities.

Second, the DEIR should include an "Infill First Alternative." This alternative should be based on an analysis of the "infill" potential within existing limits of Monterey County's incorporated

⁹ See Sign-On Letter submitted on the GPU for these specific policy recommendations, Exhibit 1 to this letter.

cities and within each cities existing sphere of influence AND within the existing unincorporated communities of Pajaro, Boronda, Castroville and Fort Ord. Policies directed at removing barriers to high quality infill should be included in this alternative.

Third, the DEIR should analyze “A combined 4 Community Area/Existing Lots of Record Alternative.” Analysis of the 5 Community Area and Legal Lots of Record alternatives as separate alternatives hides the potential for a combined alternative to meet the development needs of the County with fewer environmental impacts than the proposed General Plan.

All alternatives analyzed should include potential “mitigation measures/policies” that could improve their outcomes (e.g. stronger affordable housing requirements to make the most efficient use of limited land; etc.). In the absence of additional alternatives that address project-related impacts and local needs, the range of alternatives presented in the DEIR is inadequate.

Conclusion

As set forth above, the DEIR suffers from numerous deficiencies, many of which would independently render it inadequate under CEQA. Taken as a whole, the deficiencies of the DEIR are so pervasive as to necessitate extensive revision of the document and recirculation for public comment. We believe that the majority of defects in the DEIR can be addressed by the adoption of feasible mitigation measures and alternatives that will eliminate or reduce significant and unavoidable impacts of the project. Incorporation of these measures in the form of policies and land uses into a revised General Plan would go a long way to eliminate the defects in the DEIR’s analysis of impacts and identification of feasible mitigation and alternatives. Failure to address the inadequacies in DEIR would be both fiscally and environmentally irresponsible.

Monterey County residents support a General Plan that protects our quality of life and Monterey County’s values – clean air and water, our natural resources, world-renowned landscapes. They also want assurance that affordable housing will be provided for Monterey County residents and workers. Unless we effectively plan and manage growth, our quality of life will worsen. The County *can* adopt policies that will significantly advance the 12 Guiding Objectives in the General Plan and reduce significant and unavoidable impacts to the environment. We urge you direct your staff to follow the recommendations we have outlined.

Thank you for your consideration. Please do not hesitate to contact LandWatch if we can assist you in this very important endeavor.

Regards,

Roderic McMahan, President
LandWatch Monterey County

Exhibit 1: Multi-Group Sign-On Letter on the General Plan